JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

C.M. No. 05/2025 in Crl. Appeal. 202/2025

Brigadier (R) Qaiser Shahzad
Vs.
National Accountability Bureau, etc.

Present: **Mr. Ahsan Jahangir Khan, Advocate for appellant.**

Date of Hearing: **21.10.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the main appeal, the Appellant has assailed the order dated 18.02.2025 **("Impugned Order")**, passed by the learned Judge, Accountability Court-I, Islamabad, whereby the freezing of six properties belonging to the Appellant, by Respondent No. 2 under Section 13 of the National Accountability Ordinance, 1999 **("Ordinance")**, was confirmed by the said Court. The appeal was admitted for regular hearing by this Court vide order dated 21.05.2025. Subsequently, through the present Criminal Miscellaneous Application, the Appellant has prayed that the appeal be remitted to a learned Single Judge of this Court, instead of being heard by a Division Bench as per the Islamabad High Court Practice and Procedure Rules, 2025. The Appellant contends that the nature of the Impugned Order is interim, not final, and therefore does not attract the jurisdiction of a Division Bench under the relevant provisions of law.

2. The learned counsel for the Applicant/Appellant contends that the Ordinance provides specific forums of redress for an aggrieved person. Under Sections 5(g) and 16 of the Ordinance, the Accountability Court is vested with original jurisdiction to try offences, whereas Section 32 of the Ordinance prescribes the appellate mechanism before the High Court. The said provision reads as follows:-

> *"**32. Appeal and Revision.** - (a) Any person convicted or the Prosecutor General Accountability, if so directed by the Chairman NAB, aggrieved by the final judgment and order of the Court under this Ordinance may, within 107 [thirty] days of the final Judgment and order of the Court prefer and appeal to the High Court 108under whose jurisdiction 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. The provisions contained in section 426 of the Code shall apply mutatis mutandis in case of an appeal filed against order of conviction.]

(c) No revision shall lie against any interlocutory order of the Court."

3. Relying upon the above provision, learned counsel argues that Section 32(b) of the Ordinance mandates a hearing by a Division Bench only in respect of final judgments of the Accountability Court. There exists, according to him, no express or implied statutory requirement that an appeal or petition arising from an interim or interlocutory order be placed before a Division Bench. He submits that since the present appeal questions a purely interlocutory order, namely, confirmation of a freezing order under Section 13 of the Ordinance, it should, in the absence of any legislative bar, be heard by a learned Single Judge of this Court. Learned counsel further submits that the legislature, in its wisdom, has consciously restricted the Division Bench requirement to appeals against final judgments only; therefore, it would be contrary to the express intent of the law to extend such a requirement to interlocutory proceedings by judicial interpretation.

4. When confronted with the query as to what prejudice would be caused if the matter is heard by a Division Bench, learned counsel for the appellant submits that the right to be treated in accordance with law encompasses two fundamental components: (i) access to justice, and (ii) availability of corrective remedies. If interim or interlocutory matters are to be heard directly by a Division Bench, the aggrieved party would stand deprived of its statutory right to file an intra-court appeal against a Single Bench decision. This, he maintains, would amount to denial of access to justice and curtailment of a litigant's remedial avenue. Learned counsel further placed reliance upon the judgment of the Lahore High Court passed in Writ Petition No. 1027 of 2025, wherein, according to him, a similar matter arising out of proceedings under the National Accountability Ordinance was directed to be heard by a learned Single Bench of the High Court.

5. We have heard the learned counsel at considerable length and examined the relevant provisions of the Ordinance, as well as the High Court Rules and Orders governing the constitution and distribution of judicial business amongst Benches.

6. In order to properly appreciate the contention advanced by the learned counsel for the Appellant, it is imperative to refer to the constitutional and procedural framework that governs the constitution of Benches and the allocation of judicial business within this Court. Under Article 202 of the Constitution of the Islamic Republic of Pakistan, 1973 **("**Constitution**")**, every High Court is vested with the power to frame rules regulating the practice and procedure of the Court and of the courts subordinate to it. This constitutional provision institutionalizes the High Court's autonomy over its internal judicial administration, enabling it to determine the manner in which cases are distributed among Single Benches, Division Benches, and Larger Benches, as well as the categories of cases each Bench is competent to hear. For ease of reference, Article 202 is reproduced below:-

> *"**202.** Subject to the Constitution and law, a High Court may make rules regulating the practice and procedure of the Court or of any court subordinate to it."*

7. This framework ensures both judicial discipline and administrative coherence. It safeguards the principle that the exercise of judicial power must proceed strictly in accordance with institutional procedures rather than the preferences of individual litigants or judges. The arrangement under Article 202 thus reflects the constitutional recognition that the High Court, through its Chief Justice, retains supreme administrative control over its internal functioning and the constitution of Benches, a safeguard designed to preserve uniformity, prevent forum shopping, and maintain the orderly dispensation of justice.

8. Likewise, Sections 122 and 123 of the Code of Civil Procedure, 1908 **("**CPC**")** further reinforce the constitutional framework by delegating statutory authority to the High Courts to regulate their own procedure and that of the civil courts subject to their superintendence. The mechanism provided in the Code is reproduced below for ease of reference:-

> *"122. The High Courts may, from time to time after previous publication, make rules regulating their own procedure and the procedure of the civil Courts subject to their superintendence, and may by such rules annul, alter or add to all or any of the rules in the First Schedule.*

123. Constitution of Rules Committees in certain Provinces. — (1) A Committee, to be called the Rule Committee, shall be constituted at the town which is the usual place of sitting of each of the High Courts referred to in section 122.

(2) Each such Committee shall consist of the following persons, namely: —

(a) three Judges of the High Court, one of whom at least has served as a District Judge or Divisional Judge for three years;

(b) two advocates practicing in that Court; and
(c) a Judge of a civil court subordinate to the High Court.

(3) The members of each such Committee shall be appointed by the Chief Justice, who shall also nominate one of their members to be President:

Provided that, if the Chief Justice elects to be himself a member of a Committee, the number of other Judges appointed shall be two, and the Chief Justice shall be the President of the Committee.

(4) Each member shall hold office for such period as may be prescribed by the Chief Justice; and whenever any member retires, resigns, dies, or ceases to reside in the Province, the Chief Justice may appoint another person in his stead.

(5) There shall be a Secretary to each such Committee who shall be appointed by the Chief Justice and shall receive such remuneration as may be provided in this behalf by the Provincial Government."

9. These provisions complement the constitutional power conferred under Article 202, forming a coherent statutory scheme that vests the High Court with both constitutional and legislative competence to regulate its internal judicial process. The rule-making authority envisaged under these provisions ensures that the procedural framework of the High Court remains dynamic, consistent, and responsive to the evolving demands of justice.

10. Within this scheme, the Chief Justice occupies a central administrative and supervisory role, as he not only constitutes the Rule Committee but also appoints its members, presides over its deliberations, and oversees the implementation of the rules so framed. Thus, the Chief Justice's position as Master of the Roster is not a matter of convention but one firmly anchored in statutory delegation and constitutional design. A combined reading of Article 202 of the Constitution and Sections 122 and 123 of the CPC makes it abundantly

clear that the Chief Justice alone possesses the authority to determine the composition of Benches, classify cases for hearing, and decide whether any matter merits reference to a Division or Larger Bench.

11. However, the mechanism for the framing of rules under Article 202 of the Constitution is fundamentally distinct from that envisaged under Sections 122 and 123 of the Code of Civil Procedure, 1908. Rules framed under Article 202 are a manifestation of the High Court's constitutional autonomy to regulate its own practice and procedure, both in judicial business and administrative functioning. These rules are made for the internal governance of the Court, to streamline the distribution of work, formation of Benches, and conduct of proceedings. Such rule-making is exercised by the High Court in its institutional capacity and does not require prior publication, participation, or consultation with the Bar or the public. The process is administrative and internal to the judiciary, ensuring independence in the management of judicial affairs.

12. In contrast, the mechanism contemplated under Sections 122 and 123 of the CPC involves a participatory process. The statute expressly requires the constitution of a Rules Committee comprising Judges of the High Court, members of the subordinate judiciary, and representatives of the Bar. This statutory framework introduces a consultative dimension, ensuring that procedural reforms affecting civil litigation are framed with input from the legal community. Consequently, any order passed in violation of rules framed under the CPC would be open to challenge for illegality, since those rules possess a quasi-legislative character and bind all subordinate courts.

13. Conversely, rules framed under Article 202 are internal and regulatory in nature. A procedural deviation or administrative irregularity under such a framework would not vitiate judicial proceedings or render an order void, and at most may constitute an irregularity not affecting the merits of the case.

14. Analysing both provisions in juxtaposition, it is clear that no litigant has *locus standi* to object to the internal rules framed under Article 202 or to claim a right to have his case fixed before a particular Bench or before a Bench of specific

numerical strength. The constitution of Benches and the allocation of cases fall exclusively within the prerogative of the Chief Justice, who, being the Master of the Roster, exercises this discretion to ensure orderly and balanced distribution of judicial work. If a Bench seized of a matter considers that a question of law of exceptional complexity or constitutional importance arises, it may record such opinion and refer the matter to the Chief Justice for consideration of placing it before a Larger Bench. However, such a reference or recommendation is not binding; it merely invites the Chief Justice's administrative judgment. The Chief Justice, upon examining the nature of the question referred, may either constitute a Larger Bench or decline to do so, as he deems appropriate.

15. This structured hierarchy preserves the discipline, coherence, and institutional integrity of the judicial system, ensuring that no party or Bench assumes powers beyond those vested by the Constitution and the governing rules of the Court.

16. A careful reading of the relevant Rules and Orders of this Court reveals that appeals and petitions are placed before either the Division Bench or the Single Bench in accordance with the nature of the questions raised and the category of jurisdiction invoked. The determination of whether a matter is to be heard by a Single Bench or a Division Bench is guided by the statutory or constitutional framework under which the proceedings are initiated. In cases where the governing law does not expressly prescribe that a matter be heard by a Division Bench or a Single Bench, the classification and fixation of such matters fall within the administrative discretion of the Chief Justice, who regulates the roster of Benches under the Rules framed pursuant to Article 202 of the Constitution.

17. By way of illustration, petitions filed under Article 199 of the Constitution, commonly referred to as Constitutional Petitions, are entertained by this Court in the following terms:-

> ***"199. Jurisdiction of High Court.***— *(1) Subject to the Constitution, a High Court may, if it is satisfied that no other adequate remedy is provided by law,—*

(a) on the application of any aggrieved party, make an order—
(i) directing a person performing, within the territorial jurisdiction of the Court, functions in connection with the affairs of the Federation, a Province, or a local authority, to refrain from doing anything he is not permitted by law to do, or to do anything he is required by law to do; or

(ii) declaring that any act done or proceeding taken within the territorial jurisdiction of the Court by a person performing functions in connection with the affairs of the Federation, a Province, or a local authority has been done or taken without lawful authority and is of no legal effect; or

(b) on the application of any person, make an order—
(i) directing that a person in custody within the territorial jurisdiction of the Court be brought before it so that the Court may satisfy itself that he is not being held in custody without lawful authority or in an unlawful manner; or

(ii) requiring a person within the territorial jurisdiction of the Court holding or purporting to hold a public office to show under what authority of law he claims to hold that office; or

(c) on the application of any aggrieved person, make an order giving such directions to any person or authority, including any Government exercising any power or performing any function in, or in relation to, any territory within the jurisdiction of that Court, as may be appropriate for the enforcement of any of the Fundamental Rights conferred by Chapter 1 of Part II of the Constitution."

18. Similarly, Section 410 of the Code of Criminal Procedure, 1898 vests jurisdiction in the High Court to entertain appeals arising from convictions recorded by the Courts of Session. The language of the provision is explicit and reads as follows:-

*"**410. Appeal from sentence of Court of Session. —**Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge may appeal to the High Court."*

19. In the same manner, Section 96 of the Code of Civil Procedure, 1908, which provides the general right of appeal in civil matters, is analogous in principle. It stipulates:-

***"96. Appeal from original decree.**—(1) Save where otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie from every decree passed by any court exercising original jurisdiction to the court authorized to hear appeals from the decisions of such court.*

(2) An appeal may lie from an original decree passed ex parte.

(3) No appeal shall lie from a decree passed by the court with the consent of parties."

20. A plain reading of the above provisions shows that, while these enactments confer jurisdiction upon the High Court to hear appeals, the legislature has not prescribed the manner or numerical composition of the Bench, that is, whether such appeals are to be heard by a Single Bench or a Division Bench. Consequently, each High Court, in exercise of its powers under Article 202 of the Constitution and Sections 122–123 of the Code of Civil Procedure, has framed rules and standing orders for the efficient conduct of judicial business. These rules are administrative in nature and are designed to regulate internal procedure, the distribution of cases, and the allocation of judicial work among the Benches of the Court.

21. The object of these practice and procedure rules is to lay down the manner in which the High Court proposes to exercise its jurisdiction, ensuring uniformity and convenience in the transaction of judicial work. However, if by inadvertence or mistake a matter is heard in a manner not strictly consistent with such rules, the proceedings are not necessarily void or coram non judice. In the case reported as **PLD 1973 S.C. 368**, the apex Court has held that: -

"Now the jurisdiction to hear appeal' against conviction in criminal matters Is derived from section 410 of the Code of Criminal Procedure which provides as follows: -

"Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge, may appeal to the High Court."

This is the section which gives the jurisdiction, but It does not say as to how that jurisdiction is to be exercised. Indeed, there is nothing in the Code of Criminal Procedure with regard to the manner of the exercise of the jurisdiction save that by clause (c) of subsection (2) of section 554 every High Court has been given the power to make rules "for regulating its own practice and procedure and the practice and procedure of all criminal Courts subordinate to it" with the previous sanction of the Provincial Government, provided that the rules and forms so made are not inconsistent with any of the provisions of the Code or any other law for the time being in force.

Similar power to make rules had also been given to the High Courts by Article 101 of the Constitution of 1962 which read as follows: -

"Subject to this Constitution and the law, a High Court of a Province may, with the approval of the Governor of the Province, make rules regulating the practice and procedure of the Court or of any other Court subordinate to it."

Similar provisions for vesting the Court with rule-making powers were contained in the Constitution of 1956 and the Government of India Acts beginning with section 108 of the Act of 1915. In exercise of the powers conferred upon it by these Acts and by the Letters Patent granted to the High Court of Judicature at Lahore in 1919, the High Court of Lahore had framed rule 1(19)(a) of Chapter III of the Lahore High Court Rules, printed in Volume V of the High Court Rules and Orders, providing that all appeals involving sentences of death and transportation for life should be heard by a Bench other than a Single Bench. Subsequently by Correction Slip No. 173 a change was introduced on 3-1-1966 confining the operation of the above rule to cases involving death sentences only. This correction was, however, itself deleted by Correction Slip No. 180 on the 21st of October 1967, and the original position was reverted to Unfortunately, the information regarding the last change did not reach the office of the Additional Registrar, Karachi, until the 12th of March 1968, with the result that during this period appeals involving sentences of transportation for life continued to be heard by a Single Judge in accordance with the provisions of Correction Slip No. 173 of the 3rd of January 1966. Subsequently, when this mistake was discovered, the matters were all placed before two different Division Benches for re-consideration. The judgment now under appeal is from one of these Division Benches. Both the Division Benches took the same view, namely, that though the hearing was irregular, it was not without jurisdiction and that the proceeding before the Single Judge were Coram non judice.

The reason given for reaching this conclusion was that since section 410 of the Criminal Procedure Code gave jurisdiction to the High Court to hear appeals against convictions and this jurisdiction of the High Court, under Clause 26 of the C Letters Patent of the Lahore High Court of 1919, could b performed by any Judge or any Division Bench of the Court as may be determine by the rules for convenience of business, no vested right accrued to any litigant to demand that a particular case should be heard by a particular number of Judges of the High Court. The rules were merely rules of business and could not add to, or subtract from, the provisions of the Letters Patent or the Statute by which the right to appeal was conferred. The rules could not, therefore, divide the jurisdiction of the High Court. The decision still remained a decision of the High Court, whether it was made by a Single Judge or by a Division Bench.

Clause 26 of the Letters Patent is in these terms: -

"26. And we do hereby declare that any function which is hereby directed to be performed by the High Court of Judicature at Lahore; In the exercise

of its original or appellate jurisdiction, may be performed by any Judge, or by any Division Court, thereof, appointed or constituted for such purpose in pursuance of section one hundred and eight of the Government of India Act, 1915; ant if such Division Court is composed of two or more Judges and the Judges are divided in opinion alt to the decision to be given on any point, such point shall be decided according to the opinion of the majority of the Judges, if there be a majority, but, if the Judges be equally divided, they shall state the point upon which they differ and the case shall then be heard upon that point by one or more of the other Judges and the paint shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it."

In support of this contention, reliance has been placed on a Fall Bench decision of the High Court itself in the case of Muhammad Nagin v. Haji Nawab Khan, where the question arose as to whether a petition relating to a case from the District of Campbellpur, an area allotted to the Peshawar Seat of the High Court of West Pakistan under Article 4(1)(a) of the West Pakistan (Establishment) Order, 1955 read with Chief Justice's Notification No. 107S./IV-A-13, dated 14-10-1955, could be entertained or heard at the Lahore Seat of the High Court. The Division Bench took the view that "the petition could be instituted at Lahore, though it may have been instituted at Peshawar, and that the Chief Justice has power, which can be dele gated, to order transfer of a case from one Bench of the High Court of West Pakistan to another and that on the making of an order of transfer of the case or of a matter arising out of it can be disposed of by a Judge of another Bench of court, and not otherwise."

22. The principle that emerges is that no litigant possesses any vested right to demand that his appeal or petition be heard by a Bench constituted in a particular manner or consisting of a particular number of Judges. This power necessarily and exclusively rests with the Chief Justice, who, in light of the Rules of the Court and administrative exigencies, determines whether a matter should be fixed before a Single Bench, a Division Bench, or a Larger Bench.

23. With reference to the view taken by the Lahore High Court, it may be observed, with utmost respect, that under Article 201 of the Constitution, the decisions of one High Court are not binding upon another. Article 201 operates subject to Article 189, which mandates that the decisions of the august Supreme Court of Pakistan are binding on all High Courts and subordinate courts. Therefore, the judgments rendered by a High Court carry persuasive value only and are not obligatory upon other High Courts.

24. At this stage, it would be appropriate to take a broader constitutional view of the referred judgment in the light of the framework provided under the Constitution. Article 192 of the Constitution establishes the High Court as a constitutional body comprising the Chief Justice and such other Judges as are appointed according to law. The Article further provides that the High Court shall exercise such jurisdiction as is conferred upon it by the Constitution or by or under any law. When read together with Article 202, which empowers each High Court to make rules regulating the practice and procedure of the Court, the constitutional scheme becomes abundantly clear: the authority to regulate internal functioning, frame procedural rules, and allocate cases among Benches lies with the High Court as an institution, while its administrative control vests exclusively in the Chief Justice, who acts as the Master of the Roster.

25. In this constitutional backdrop, the direction contained in paragraph 11 of the referred judgment, directing the Additional Registrar (Judicial), an administrative officer, to "fix this matter before the learned Single Judge" and to "ensure categorization of cases", appears inconsistent with the institutional hierarchy envisaged by the Constitution. Such a directive effectively delegates judicial and administrative discretion to a ministerial functionary, which the Constitution does not sanction. The Additional Registrar may act under rules framed pursuant to Article 202 or under express directions of the Chief Justice, but cannot, by virtue of a judicial order, assume or exercise the constitutional prerogatives vested in the Chief Justice. The fixation and categorization of cases are matters of internal judicial administration falling squarely within the administrative domain of the Chief Justice; any judicial order to the contrary risks encroaching upon that exclusive authority.

26. Moreover, Article 202 expressly provides that the power to regulate the practice and procedure of the Court vests in the High Court itself—not in an individual Judge, a Bench, or an administrative officer. The distribution of judicial business, including the fixation of cases before a Single or Division Bench, forms part of that procedural regulation. It is implemented through the Chief Justice's administrative authority in accordance with rules framed by the Full Court. Therefore, when a Bench, by way of judicial order, directs that a matter be heard by a particular category of Bench or instructs the Registrar to classify or fix cases

in a specified manner, it exceeds its judicial mandate and intrudes upon the administrative sphere reserved by the Constitution for the Chief Justice.

27. Viewed thus, paragraph 11 of the referred judgment stands at variance with the constitutional provisions contained in Articles 192 and 202. Article 192 defines the High Court as comprising the Chief Justice and the Judges collectively, thereby affirming that the exercise of powers and functions conferred upon the High Court is institutional, not individual. Article 202, in turn, entrusts the framing of procedural rules to the High Court acting through its Full Court, not to a Division Bench or any subordinate officer. Consequently, the fixation and categorization of cases, whether before a Single Judge or a Division Bench, constitute administrative prerogatives to be exercised exclusively by the Chief Justice in accordance with the constitutional and institutional framework.

28. When viewed in this constitutional perspective, it becomes evident that two Judges sitting as a Division Bench cannot assume powers that constitutionally belong to the High Court as an institution or to the Chief Justice as its administrative head. The authority to frame rules, regulate practice and procedure, and determine the classification or fixation of cases emanates directly from Article 202, to be exercised collectively by the Full Court or administratively by the Chief Justice. Any attempt by a Bench to alter or direct these matters through a judicial order would amount to an assumption of administrative jurisdiction not conferred by the Constitution or any law.

29. The august Supreme Court in **PLD 1973 SC 368** lucidly explained that while jurisdiction to hear appeals vests in the High Court under the statute, the manner of exercising such jurisdiction, whether by a Single Judge or a Division Bench, is governed by internal rules framed for the convenience of business. These rules of business do not divide or fragment the High Court's jurisdiction; they merely prescribe the mode of its exercise. Importantly, the power to determine how such jurisdiction is to be distributed among different Benches is an administrative function lying exclusively with the Chief Justice or the Full Court under Article 202.

30. A well-recognized principle of constitutional and administrative law is that "what cannot be done directly cannot be done indirectly." This maxim, rooted in

the doctrine of substance over form, prohibits the circumvention of constitutional or statutory limits through indirect means. Where the Constitution expressly vests a particular power or function in a designated authority, such as the Chief Justice or the High Court acting collectively, no other person, forum, or Bench may assume that power, whether openly or by implication, under the guise of procedural direction or administrative convenience.

31. In the present context, since the Constitution through Articles 192 and 202 vests the power to regulate the practice, procedure, and internal administration of the High Court in the institution itself, to be exercised collectively by the Full Court or administratively by the Chief Justice as the Master of the Roster, no Bench, however composed, can through a judicial order assume or direct the exercise of that authority. If a Bench cannot directly amend or create rules governing bench composition and case allocation, a power that constitutionally belongs to the Chief Justice and the Full Court, it equally cannot do so indirectly by instructing an administrative officer, such as the Additional Registrar, to fix or classify cases in a particular manner. Such an act, even if cloaked as a procedural direction, effectively achieves through indirection what the Constitution forbids being done directly, thereby undermining the constitutional separation between judicial adjudication and judicial administration.

32. This principle has been consistently affirmed by the superior courts of Pakistan, holding that constitutional or statutory limitations cannot be defeated by form or device. A judicial order, however well-intentioned, cannot confer upon itself an administrative authority which the Constitution reserves elsewhere. Thus, a Division Bench cannot, in the name of convenience or efficiency, issue directions that indirectly encroach upon the exclusive administrative prerogative of the Chief Justice. To hold otherwise would render the carefully crafted constitutional scheme under Articles 192 and 202 nugatory, disturb the balance between judicial and administrative domains, and erode the institutional integrity of the High Court itself.

33. Viewed in this constitutional and institutional framework, the ratio of the referred judgment cannot be relied upon to support the appellant's contention. The directions issued therein, particularly in paragraph 11, traverse beyond the

permissible constitutional limits and blur the distinction between judicial adjudication and administrative regulation. The authority to regulate the internal functioning of the Court, including the fixation, categorization, and allocation of cases, is constitutionally vested in the Chief Justice under Articles 192 and 202. A Bench, while exercising judicial power, cannot assume administrative jurisdiction over matters reserved to the Chief Justice or the Full Court. Consequently, the ratio of the referred judgment, being inconsistent with the constitutional design, holds no persuasive value in the present context and cannot override the express mandate of the Constitution or the statutory framework governing appellate proceedings under the Ordinance.

34. Further, the appellant has misconceived and misapplied the interpretation of the judgment of the Lahore High Court relied upon in support of his contention. A careful reading of the said judgment reveals that it was delivered in a fundamentally different legal and factual context, having no bearing on the present appeal. The cited judgment was rendered in a writ petition filed under Article 199 of the Constitution, seeking the issuance of writs of mandamus and certiorari against the National Accountability Bureau (NAB) authorities. The reliefs claimed in that petition, as recorded in the said judgment, were as follows:–

> *"a. Declare that the inordinate delay in proceeding with the inquiry on the complaints of the petitioners by respondent No.1 is unlawful and in violation of their statutory duties.*
>
> *b. As a consequential relief, direct respondent No.1 to expeditiously proceed with the inquiry pending before it as per the law.*
>
> *c. Declare that the respondent No.1, as an investigative agency, cannot initiate voluntary return or plea bargain arrangements with any accused persons at any stage of the matter and only consider the offers of such arrangements made by accused persons.*
>
> *d. Direct respondent No.1 to ensure transparency and formulate a mechanism through which updates regarding the status of the proceedings are provided to complainants, in compliance with their right to information under Article 19A of Constitution."*

35. In contrast, the present proceedings arise from a statutory appeal filed by the appellant under Section 13(c) of the Ordinance, challenging the order of the

Accountability Court confirming the freezing of properties. The prayers made by the appellant in this case are reproduced below for clarity:-

> *"In light of the averments made herein above, it is most humbly prayed that the instant Appeal may be accepted and thus:*
>
> *a) The Impugned Order be set aside;*
>
> *b) The six properties (listed herein above) of the Appellant be de-frozen;*
>
> *c) The Respondents be restrained from harassing the Appellant;"*

36. It is, therefore, manifest that the nature, scope, and relief sought in the judgment of the Lahore High Court are materially distinct from those involved in the present appeal. The earlier judgment dealt with administrative inaction and the performance of statutory duties by NAB under the writ jurisdiction of the High Court, whereas the instant matter concerns a judicial order passed by the Accountability Court under a special law. Hence, the cited authority is neither analogous in context nor applicable in law to the present case.

37. To arrive at a just and proper conclusion, it is necessary to examine the statutory framework governing the present proceedings, particularly Sections 13(c) and 32 of the Ordinance. Section 13(c) says that: -

> *"[Section 13(c) The accused or any other aggrieved party, whose claim or objection against freezing of property has been dismissed by the Court, may, within ten days' file an appeal against such order before the High Court]."*

38. For ease of reference, Section 32 of the Ordinance is reproduced below:-

> *"32 (a) Any [person convicted or the Prosecutor General Accountability, if so directed by [the Chairman] 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 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 Judgement filed before the High Court will be heard by a Bench of not less than two judges constituted by the Chief Justice of High Court and shall be finally disposed of within thirty days of the filing of the appeal."*

39. A plain reading of Section 32 reveals that the legislature has expressly provided that appeals arising out of final judgments under the Ordinance shall be heard by a Bench of not less than two Judges, to be constituted by the Chief Justice. However, the provision is silent with regard to interlocutory orders. Similarly, Section 13(c) merely confers the right of appeal upon an aggrieved person against an order relating to the freezing of property but does not prescribe the forum strength, i.e., whether such an appeal is to be heard by a Single Bench or a Division Bench.

40. In circumstances where the governing statute does not expressly stipulate the composition of the Bench for hearing a particular category of cases, the matter necessarily falls within the administrative discretion of the Chief Justice, who, as the Master of the Roster, exercises exclusive authority to regulate the distribution and fixation of judicial business. This power emanates from the Rules framed under Article 202 of the Constitution of the Islamic Republic of Pakistan, which empowers each High Court to frame rules regulating its practice and procedure.

41. Accordingly, in the absence of a specific legislative mandate, the classification and allocation of appeals under Section 13(c) of the Ordinance, whether to a Single Bench or a Division Bench, is an administrative matter within the exclusive prerogative of the Chief Justice, to be exercised in accordance with the institutional rules and established judicial practice.

42. Secondly, the contention advanced by the learned counsel for the Appellant, that if the matter is not heard by a learned Single Bench, his right of appeal before a Division Bench would stand extinguished, is wholly misconceived, legally untenable, and contrary to the statutory scheme. A careful examination of the appellate framework reveals that the right of an intra-court appeal (ICA) ordinarily arises only against judgments rendered by the High Court in the exercise of its original jurisdiction, such as under Article 199 of the Constitution. The present proceedings, however, do not emanate from the Court's original jurisdiction; rather, they stem from a statutory appeal filed under Section 13(c) of the Ordinance, assailing an order passed by the Accountability Court, a subordinate judicial forum established under the said Ordinance.

43. Furthermore, neither Section 13(c) nor Section 32 of the Ordinance confers any right of a second appeal. Both provisions employ the expression "appeal" in the singular form, signifying a single, self-contained appellate remedy before the High Court. Once such an appeal is filed, it falls within the High Court's appellate jurisdiction under the special law, not its original jurisdiction under the Constitution. Thus, the possibility of a further intra-court appeal is excluded by necessary implication.

44. The legislative intent in Section 32(b) is explicit and leaves no room for interpretation: all appeals under the Ordinance are to be heard by a Bench of not less than two Judges. The statutory language itself prescribes the forum, and it is not open to a litigant to seek alteration of that forum on the ground of perceived procedural disadvantage. The framework of appeals within the High Court recognizes two distinct categories:-

> *(i) appeals arising from its original jurisdiction, where an intra-court appeal lies under Section 3 of the Law Reforms Ordinance, 1972; and*
>
> *(ii) statutory appeals arising from special enactments, such as the Ordinance, which prescribe their own appellate structure.*

45. The present appeal clearly falls within the latter category. The NAB Ordinance does not create, recognize, or even imply a further right of appeal against a decision rendered by the High Court in its appellate capacity under Sections 13(c) or 32. Hence, the Applicant/Appellant's apprehension that his right of appeal would be lost if the matter is not heard by a Single Bench is legally unfounded. The appeal before this Court constitutes the final statutory remedy under the Ordinance, and the question of any intra-court appeal against an order passed in such appellate jurisdiction simply does not arise.

46. The argument that, since Section 13(c) of the Ordinance, does not expressly state that the appeal shall be heard by a Bench of not less than two Judges, it should therefore be heard by a Single Bench, is legally misconceived and contrary to the settled canons of statutory interpretation. Silence of a statute on the numerical composition of a Bench cannot, by implication, be construed to confer jurisdiction upon a Single Judge where a coordinate provision within the same law, namely Section 32(b), expressly prescribes that all appeals under the Ordinance are to be heard by a Bench of not less than two Judges.

47. Section 13(c) of the Ordinance merely creates a right of appeal to the High Court against an order relating to the freezing of property; it does not establish a distinct appellate hierarchy or procedure. The procedural mechanism governing such appeals is supplied by Section 32 of the same Ordinance, which deals comprehensively with appeals and revisions arising under the NAB framework. Statutes forming part of a single legislative scheme must be read together and harmoniously construed so as to give effect to the intent of the legislature. Reading Sections 13(c) and 32 conjointly leaves no ambiguity that appeals under the Ordinance, whether arising from conviction, acquittal, or ancillary orders of the Accountability Court, are to be heard by a Division Bench.

48. Therefore, the legislative intent is clear and consistent: all appeals under the Ordinance, including those filed under Section 13(c), fall within the ambit of Section 32(b) and are to be heard by a Bench of not less than two Judges, as constituted by the Chief Justice.

49. For the foregoing reasons, and in view of the constitutional and statutory framework discussed hereinabove, this Court finds that the Applicant/Appellant's contentions are wholly misconceived. Accordingly, the instant Miscellaneous Application is devoid of substance and fails to make out any case for interference. Hence, the same is **dismissed**.

MAIN CASE:

Relist on 12.11.2025.

(MUHAMMAD ASIF)
JUDGE

(MUHAMMAD AZAM KHAN)
JUDGE

Approved for reporting
Blue slip added