



TRANSPARENCY INTERNATIONAL-PAKISTAN

26th August, 2016

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,
Defence Housing Authority, Karachi.
Tel: (92-21)-35390408, 35390409, Fax: 35390410
E-mail: ti.pakistan@gmail.com
Website: www.transparency.org.pk
TL16/2608/1B

Mr. Zahir Shah,
DG NAB, Rawalpindi & Operations,
National Accountability Bureau,
Islamabad.

Sub: Non Implementation of Accountability Court Order by Minister Finance, Chairman
Privatization Commission and Institute of Chartered Accounts Pakistan.

Dear Sir,

Transparency International Pakistan has to report the default by the Minister Finance, Chairman Privatization Commission and Institute of Chartered Accounts Pakistan, of not implementing the Accountability Court orders dated 1-9-2001, in the NAB Reference No.31/2000 (old case No. 80/99 Banker Equity), declaring Mr. Ashfaq Yousaf Tola as guilty of Corruption under NAO 1999, which may have caused losses to exchequer of billions of rupees for illegal annual audits carried out by the firm where he is senior partner as perks drawn from exchequers as member of PVC and TAX Commissions.

On 22nd July 2016, Mr. Hafiz Mohammad Yousaf Chairman Institute of Chartered Accounts Pakistan was informed that Transparency International Pakistan has received a complaint against ICP on the illegal registration of Ashfaq Yousf Tola as ICAP registered Chartered Accountant, who was convicted in 2001 by accountability court under NAB Law. Similar letters were also sent to Mr. Ishaq Dar Minister Finance and Mr. Zubair Muhammad Chairman Privatization Commission, for illegal appointing a convict as member of Privatization Commission and Tax Commission FBR. **Annex-A,B,C.**

It appears that all office bearers of ICAP from 2001 to 2016, and officials responsible to appoint a convict as member Privatization Commission as well as Chairman PC and Secretary PC, and ministers/officials responsible to appoint a convict as member Tax Review Committee as well as Tax Reforms Committees have acted in conspiracy with a convict of accountability court in his aid, and committed the offence of corrupt practices as defined under following subsections of NAO 1999, Section 9.

Sub-Section vi if he misuses his authority so as to gain any benefit or favour for himself or any other person, or renders or attempts to render or willfully fails to exercise his authority to prevent the grant, or rendition of any undue benefit or favour which he could have prevented by exercising his authority and

Sub Section xii if he aids, assists, abets, attempts or acts in conspiracy with a person or a holder of public office accused of an offence as provided in clauses (i) to (xi).;

ICAP Statuary Requirements.

1961 (X OF 1961), Chapter II, The Institute of Chartered Accountants of Pakistan, Article 6, no member of the Institute shall be entitled to practice as an auditor of a public company as



defined in the Companies Act, 1913 (VII of 1913), unless he has obtained from the Council a certificate of practice.

And the following condition is defined in the Chartered Accountants Ordinance, 1961, Chapter II, for non registration of a person on the basis of moral turpitude;

*Article 8 (v) a person shall not be entitled to have his name entered or born on the Register if he has been convicted by a competent Court, whether within or without Pakistan of an offence involving **moral turpitude** and punishable with transportation or imprisonment or of an offence,*

Privatisation Commission Ordinance, 2000 requirements for a Member of PC

Chapter III Article 7, (6),

*(6) No person shall be appointed or continue as a Chairman, Secretary or member if he-
(a) has been convicted of an offence involving **moral turpitude** or **has been found guilty of misconduct**;*

Appointment as Member of Tax Review Committee/Tax Reforms Committees

How could Minister of Finance appoint as person to any committee of Tax matters, who has been convicted by Accountability Court No 1, and in view of the following remakes of the Judge its Order dated 4 December 2001;

POINT No.5

110. In view of my finding on point no.3 & 4, I am of irresistible view that the accused person being bankers, of bank equity limited (financial institution) were entrusted with bank affairs and having dominion over financial matters have committed criminal breach of trust and accused Ashraque Y. Tola is solely responsible for falsification if the books of account of the bank, thus, they are liable to be punished.

The punishment provided under section 409 PPC are imprisonment of life or with the imprisonment either description for a term, which may extend to ten Years and shall also be liable to fine. Whereas the same section being a scheduled offence under NSAB ordinance, 1999 at serial No. 6 has provided 14 Years or less imprisonment. Admittedly accused were initially challaned under banking offences in the special courts (offences in banks) wherein second schedule for the words 'may extend to' the words 'shall' not be less than years has been substituted.

Whereas co-accused Ashfaq Y. Tola who has already been released under Section 25 of NAB Ordinance vide separate order dated: 1.9.2001, subject to the condition U/s 15 of NAB Ordinance, as he had voluntarily returned sum of Rs 10,00,000/- (Rupees ten lac).

Also act of fraud committed by Mr Tola is stated in Reference No.31/2000, old case No 80/99, State vs Rauf Qadri and Asfaq Yousf Tola, in the Accountability Court Order dated on 1-9-2011.



It is also alleged that accused Asfaq Y. Tola in connivance and collusion with co-accused Rauf. B. Qadri booled in miscellaneous payable project amount of Rs. 2,000,000/- received from lessee for full and final settlement of premature termination of lease alongwith cheque of Rs. 9,764,671/- instead of depositing in BEL account against receivable account. Amount of Rs. 2,000,000/- was withdrawn vide cheque No. 19191266 dated in account no. 530-9 of MCB Limited, FTC Branch Karachi, standing in the name of BEL was signed by accused Ashfaq Y. Tola being authorized signatory. Payee account was cancelled on the above cheque and cheque was made bareer and was enchashed and amount of it was misappropriated by both the accused

ICAP is also responsible for the suspected legality of hundreds of annual Audits conducted by the firms in which Mr. Tola, who could not be a ICAP registered Chartered Accountant after Sep. 2011, has been Senior Partner M/s. Naveed Zafar Ashfaq Jaffery (NZAJ) & Co, which is placed/included in ,the Category 'A' in the list of panel of auditors maintained by State Bank of Pakistan (SBP), the approved panel list of auditors for Modarba & Mutual Funds by (SECP), Category 'B' in the list of panel of auditors for Insurance Companies maintained by Securities & Exchange Commission of Pakistan (SECP), the panel list of auditors of Stock Exchanges for system audit of the brokerage houses, and is also an approved firm on the panel list of auditors of the following institutions UNDP /Pakistan, UNFPA / Pakistan, UNDP /Tajikistan, USAID/Pakistan and DIFID. M/s NZAJ has conducted audits of various projects funded by the above mentioned Institutions. Professional services are also being rendered to World Bank and Asian Development Bank by its Senior Partner.

Transparency International Pakistan request the DG NAB to take action under NAO 1999 against all the officers who have committed offence under Sub Sections vi and xii in this case.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,

Sohail Muzaffar
Chairman

Copies forwarded for the information with request to take action under their mandate to:

1. Secretary to Prime Minister, Islamabad.
2. Mr. Ishaq Dar, Finance Minister, Islamabad.
3. Muhammad Zubair, Chairman, Privatization Commission, Islamabad,
4. Chairman, PMIC, Islamabad,
5. Registrar, Supreme Court of Pakistan, Islamabad.
6. Dr. Waqar Masood Khan, Secretary Finance, Karachi.
7. Mohammad Zafar-UI-Haq Hijazi, Chairman SECP, Islamabad.
8. Mr. Nisar Muhammad Khan, Chairman, FBR, Karachi.



TRANSPARENCY INTERNATIONAL-PAKISTAN

22nd July, 2016

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,
Defence Housing Authority, Karachi.
Tel: (92-21)-35390408, 35390409, Fax: 35390410
E-mail: ti.pakistan@gmail.com
Website: www.transparency.org.pk

Mr. Hafiz Mohammad Yousaf,
Chairman ICAP Council,
Karachi

Sub: Illegal registration of Ashfaq Yousf Tola as ICAP registered Chartered Accountant, who has been convicted in Bankers Equity Corruption Case, by Accountability Court on 2001, for criminal breach of trust and was held solely responsible along with Rauf Qadri for falsification of the account books of the bank

Dear Sir,

Transparency International Pakistan has received a complaint against ICP for the illegal registration of Ashfaq Yousf Tola as ICAP registered Chartered Accountant, who has been convicted in Bankers Equity Corruption Case, by Accountability Court on 2001, for criminal breach of trust and was held solely responsible along with Rauf Qadri for falsification of the account books of the bank.

The complainant has made following allegations;

That,

1. ICAP has on its register name of Ashfaq Yousf Tola as Charter Accountant, and he is practicing as partner of M/s Naveed Zafar Ashfaq Jaffery & Co .
2. In the NAB Reference No.31/2000, old case No 80/99, State vs Rauf Qadri and Asfaq Yousf Tola, on 1-9-2011, Justice Dr. Qammaruddin Bohra, announced the Judgment, which also includes the following paras;
 - *It is also alleged that accused Asfaq Y. Tola in connivance and collusion with co-accused Rauf. B. Qadri booked in miscellaneous payable project amount of Rs. 2,000,000/- received from lessee for full and final settlement of premature termination of lease along with cheque of Rs. 9,764,671/- instead of depositing in BEL account against receivable account. Amount of Rs. 2,000,000/- was withdrawn vide cheque No. 19191266 dated in account no. 530-9 of MCB Limited, FTC Branch Karachi, standing in the name of BEL was signed by accused Ashfaq Y. Tola being authorized signatory. Payee account was cancelled on the above cheque and cheque was made bareer and was encashed and amount of it was misappropriated by both the accused.*
 - *In light of the above, this court is of the opinion that as the above accused has voluntarily returned under plea bargaining the alleged amount of Rs. 1000,000/- on account of loss suffered by BEL due to cancellation of crossing /payees account by the said accused being an employee and co-signatory. The accused stated before this court that he entered into plea bargaining without any influence and under pressure or threats or any promise, therefore, in view of the above facts and in light of the section 25 of NAB Ordinance, 1999 and in view of latest amendment, the application in hand stands allowed, after accepting his request for plea bargaining by approving the consent of Chairman NAB, and accordingly approved by this Court as it meets ends of Justice and not opposed to the principles of public policy.*
 - *The above accused Ashfaq Y. Tola shall stand disqualified for 10 years for seeking or from being elected, chosen, appointed or nominated as a member or representative of any public office or any statutory or local authority of the Government of Pakistan under section 15 of the NAB Ordinance, 1999.*



4. ICAP must know the following provision of the Chartered Accountants Ordinance, 1961, Chapter II, Article 8 (v) a person shall not be entitled to have his name entered or born on the Register if he,

v) has been convicted by a competent Court, whether within or without Pakistan of an offence involving moral turpitude and punishable with transportation or imprisonment or of an offence,

6. ICAP has not removed the name of Ashfaq Yousf Tola from its register in 2001, or till now, which is an illegal act by the whole Committee of ICAP, which also includes Secretary Finance, Chairman FBR and Chairman SECP, and person convicted by Accountability Court in 2001 is allowed to practice as Chartered Accountant against the Law.

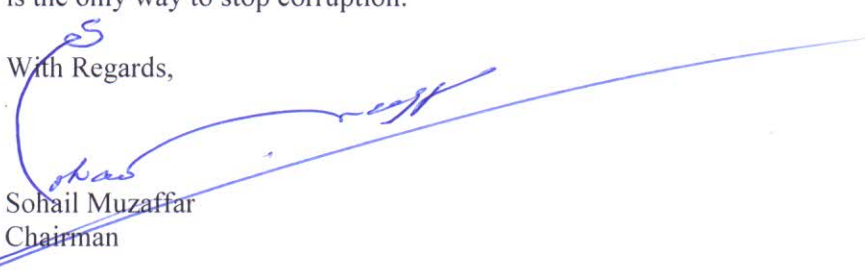
Transparency International Pakistan has examined the complaint, and also reconfirmed the Accountability Court orders dated 1-9-2001 in the NAB Reference No.31/2000, old case No 80/99. The Chartered Accountants Ordinance, 1961, Chapter II, Article 8 (v) has also been checked.

Transparency International Pakistan is of the view that the illegal act of ICAP and its Council Members of not striking off from the register of members Ashfaq Yousf Tola convicted by Accountability Court in 2001, is prima facie illegal act and his company has conducted illegal audits of hundred of companies since September 2001.

The Chairman ICAP Council is requested to follow the provision of Chartered Accountants Ordinance, 1961, Chapter II, Article 8 (v), and immediately strike off from the register of members names of Ashfaq Yousf Tola, and also take remedial measure to set right the audits done by his firm.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,


Sohail Muzaffar
Chairman

Encl: Copy of Court Order .

Copies forwarded for the information with request to take action under their mandate to:

1. Secretary to Prime Minister, Islamabad.
2. Chairman, NAB, Islamabad.
3. Chairman FBR, Islamabad
4. Registrar, Supreme Court of Pakistan, Islamabad.
5. Dr. Waqar Masood Khan, Member ICAP, Secretary Finance, Islamabad.
6. Mohammad Abdullah Yusuf, Member ICAP, Karachi
7. Muhammad Zafar-Ul-Haq Hijazi, FCA, Member ICAP, Chairman SECP, Islamabad,
8. Mr. Nisar Muhammad Khan, Member ICAP, Chairman FBR, Islamabad .

12

Page: 12

**IN THE ACCOUNTABILITY COURT NO. I PROVINCE OF SINDH
KARACHI.**

Before: Dr. Qammaruddin Bohra.

Reference No. 31/2000.
Old Case No. 80/99.

The State. Vs.

1. **Rauf B. Qadri son of Wahid Bux Qadri,**
2. **Ashfaqe Yousuf Tola son of Yousuf A. Karim.**
Accused.

Mr. Shaukat Hayat, Special Prosecutor for the State. Mr. M. Shafi Muhammadi Advocate for the accused Rauf B. Qadri. Mr. Shahab Sarki, Advocate for the accused Ashfaqe Yousuf Tola.

ORDER.

This order will dispose of application for voluntarily return (plea bargaining) U/S 25 of National Accountability Bureau Ordinance, 1999, moved by co-accused Ashfaqe Y. Tola, dated 28th February, 2001.

The perusal of record shows that the present case having old case No. 67/99, alongwith four other cases/references was transferred from the Special Court (offences in Banks), Sindh at Karachi, U/s; 16-A (a) of NAB Ordinance, 1999 by a common order dated 12.4.2000. On receiving the case from the transferee court it was re-numbered as 31/2000 and the ad-interim challan was treated as final challan.

Brief facts of the case/reference are that during inspection / examination of the record by the State Bank of Pakistan through Internal auditor, it transpired that leasing financing facilities were sanctioned to the

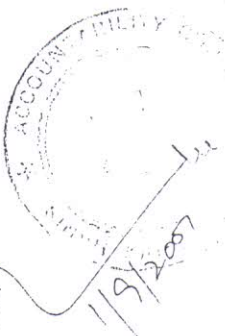


extent of Rs.12,786,155/- to M/s Quality knits (Pvt.) Ltd. Karachi, on 7.10.1996 duly approved by accused Rauf B.Qadri being the then President and CEO BEL Karachi, by waiving terms and conditions of financing and violating company's policy and rules for leasing machinery for a period of 5 years repayable in 20 quarterly installments which was availed by borrower/lessee vide cheque No.331222, dated 6.10.1996, from BEL account No.40137801 of Habib Bank Ltd. Corporated Branch FTC Karachi.

It is further alleged that subsequently accused Rauf B.Qadri who was the then Group Chairman BEL at the request of Lessee (M/s. Quality Knits (Pvt.) Ltd. approved a premature termination of lease agreement and on his instructions a final settlement of Rs.1,17,64,671/- was made between lessee and BEL to which lessee M/s; Quality Knits (Pvt.)Ltd. Paid the full and final settled amount by two cheques I.e. for an amount of Rs. 9764,671/- vide cheque No.13118327.

It is further alleged that accused Rauf B.Qadri the then Group Chairman and accused Ashfaque Y.Tola S.V.P BEL, in collusion, connivance and abatement with each other out of the aforesaid cheque related to account No.6511-1 of Muslim Commercial Bank LTD. Corporate Branch Shaheen Complex, standing in the name of M/s BEL, cheque NO.13118327 for an amount of Rs.9,764,671/- was deposited on 5.1.1999 at Emirates Bank International in account No.150571001 and accounted for in the record of BEL towards adjustment of the outstanding dues of BEL against lease in the light of premature settlement out of Rs.11,764,671/- while cheque No.13118326 for an amount of Rs.2000,000/- was deposited on 5.1.1999 at MCB Ltd., FTC Branch Karachi in account NO.529-1 received from the lessee and was booked in miscellaneous payable project account code 3-7081. The outstanding in the miscellaneous payable was off set through a journal entry on 10th July 1997 by debiting the payable account and crediting the MCB Ltd. Payment account at FTC Branch.

It is also alleged that accused Ashfaque Y.Tola in connivance and collusion with co-accused Rauf B.Qadri booked in miscellaneous payable project amount of Rs.2, 000,000/- received from lessee for full and final settlement of premature termination of lease alongwith cheque of Rs.9, 764,671/- instead of depositing in BEL account against receivable account. Amount of Rs.2,000,000/- was withdrawn vide cheque No.19191266 dated 8.1.1999 in account No.530-8



133

of MCB Ltd. FTC Branch Karachi, standing in the name of BEL was signed by accused Ashfaque Y.Tola being authorized signatory. Payee account was cancelled on the above cheque and cheque was made bearer and was encashed and amount of it was misappropriated by both the accused.

Before framing of charge on 22-03-2001, the present applicant / accused No.2 has moved present application, praying therein that applicant aged 35 years is an Associate Chartered Accountant and a Fellow Cost and Management Accountant and is one of the co-accused in the aforesaid Reference with total allegation is amounting to Rs.1,000,000/- on account of loss suffered by Bankers Equity Limited (BEL) due to cancellation of crossing by the applicant as an employee co-signatory on cheque No.19191266 dated: 8th January 1999.

He further has prayed that however, due to deteriorating health conditions of himself (being a cardiology and vertigo patient) and that of his aged parents coupled with his ailing economic conditions, being the only bread winner of his family, he request to kindly settle the matter on humanitarian grounds and save his family and himself from further embarrassments.

He has offered one Million worth Defence Savings Certificates lying in this court deposited by his wife while standing his surety and also filed No objection Undertaking on the adjustment of the proceed to the extent of Rs.1,000,000/- towards settlement.

The statement of Mrs.Lubna Ashfaque wife of accused has been recorded by this court as CW-1 at Ex.9 wherein she has reiterated regarding utilizing her deposited amount of Rs.1 million in shape of Defence Savings Certificates towards the settlement / plea bargaining of her husband accused Ashfaque Y.Tola.

Section 25 of the National Accountability Bureau Ordinance, 1999, which is about voluntary return (plea bargaining) is re-produced as under;-

25(a) where at any time whether before or after the commencement of trial the holder of a public office or any other person, accused of any offence under this ordinance, returns to the NAB the assets or gains acquired through corruption or corrupt practices;-



135

- (i) If the trial has not commenced, the chairman NAB may release the accused; and
- (ii) If the court has taken cognizance of the offence or the trial has commenced, the chairman NAB may, with the approval of the court, release the accused.
- (b) The amount deposited by the accused, with the NAB shall be transferred to the Federal Government or, as the case may be, a provincial Government or the concerned bank or financial institution, etc., within one month from the date of such deposit.
- (c) Notwithstanding any thing contained in section 15 or in any other law for the time being in force, where a holder of a public office or any other person voluntarily comes forward to return the illegal gain made by him or loss caused by him to the state exchequer through corruption and corrupt practices, the Chairman NAB may accept the offer and after determination of the amount of illegal gain or loss caused, as the case may be and its deposit with NAB, discharge such person of all his liabilities, relating to the matter or transaction in issue:

Provided that the matter is not under inquiry or investigation or subjudice in any court of law.

Recently Honorable Supreme Court in Const:Petition Khan Asfandyar Wali V/s federation of Pakistan held that consent of Chairman NAB for accepting plea bargaining should be subject to approval of the Accountability Court. And by latest amendment vide Order:XXXV dated 10.8.2001 Sub section (a) the following substitution in Section 25 (a) have been made:-

Section 25 (a) " Where at any time whether before or after the commencement of trial the holder of a public office or any other person accused of any offence under this Ordinance returns to the NAB the assets of gains acquired through corruption or corrupt practices, the Court or the Chairman NAB with the approval of the Court or the Appellate Court, as the case may be, may release the accused"

The application of accused for acceptance of plea bargaining was noticed to the Prosecutor for obtaining consent of the Chairman NAB as required U/s;25 of NAB Ordinance.

ACCOUNTABILITY COURT
MARCH 2007
19/2007

137

The said application was placed before Committee which held their meeting at NAB Conference Room on 17.7.2001 and recorded minutes of the meeting, copy of the said minutes has been filed ^{Presided over by} ~~by~~ ^{by} Learned Prosecutor on 23.7.2001, which shows at page No.5 that the plea bargaining of accused Ashfaq Y.Tola in present reference as well in another reference pending in this Court bearing No.27/2000 that the accused has offered for plea-bargain in both references and offered an amount of Rs.1.676 million through this Court and has deposited a bank draft in the name of Chairman for a sum of Rs.0.676 million as down payment and the remaining amount of Rs.1 million payable in shape of Defense Saving Certificates. The said offer was recommended by Commander RAB Sindh, which has been accepted by the Committee.

Today the learned Prosecutor has also filed statement alongwith two letters dated 23/7/2001 and 21/8/2007 respectively requesting for formal order/consent of Chairman NAB accepting bargaining plea.

I agree with the learned prosecutor and counsel of accused Ashfaq Y. Tola that in view of latest amendment only approval of Accountability Court or appellate Court as the case may be is required.

In light of the above, this court is of the opinion that as the above accused has voluntarily returned under plea bargaining the alleged amount of Rs.1000,000/- on account of loss suffered by BEL due to cancellation of crossing/payees account by the said accused being an employee and co-signatory. The accused stated before this Court that he entered into plea bargaining without any influence and undue pressure or threats or any promise, therefore, in view of the above facts and in light of the section 25 of NAB Ordinance, 1999 and in view of ^{latest} ~~that~~ amendment, the application in hand stands allowed, after accepting his request for plea bargaining by approval the consent of Chairman NAB, and accordingly approved by this Court as in the ends of Justice and not opposed to the principles of public policy.

The accused is directed to accompany the Registrar of this Court or his representative alongwith his wife/surety to get encashed the Bank Draft of Rs.100,0000/- under lien and out of such amount to get prepare the Bank Draft of Rs.1000,000/- (at the cost of accused), in favour of NAB Accountability Bureau which be sent to Chairman NAB accordingly. The accused is however entitled to get the profit accrued over the above certificates till date.

13/8/2007

13/8/2007

139

The Metropolitan Bank is required to comply with the above Order to the extent of preparation of Demand Draft and disbursement of profit if any to the certificate holder of ^{after} the deduction of Government taxes if any.

The above accused Ashfaque Y.Tola shall stand disqualified for 10 years for seeking or from being elected, chosen, appointed or nominated as a member or representative of any public office or any statutory or local authority of the Government of Pakistan under section 15 of the NAB Ordinance, 1999.

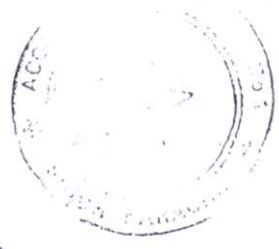
He is present on bail, his bail bonds stand cancelled and surety discharged.

This order will be effective from the date, the demand draft of Rs.1000,000/- is prepared/received by this Court.

Office is directed to send the original Demand Draft to the Chairman National Accountability Bureau Islamabad, through Deputy Prosecutor General, Sindh Karachi, under proper receipt.

Announced in open Court.

Given under my hand and the seal of the Court this, 1st day of September 2001.



(Handwritten signature)
11/9/2001

(Dr. Qammaruddin Bohra.)

Judge,
Accountability court No. I, Province
Sindh, Karachi.

Accountab
(Sind)

21/11/01



TRANSPARENCY INTERNATIONAL-PAKISTAN

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,
Defence Housing Authority, Karachi.
Tel: (92-21)-35390408, 35390409, Fax: 35390410
E-mail: ti.pakistan@gmail.com
Website: www.transparency.org.pk

22nd July, 2016

Senator Ishaq Dar,
Federal Minister of Finance,
Government of Pakistan,
Ministry of Finance
Secretariat Block F
Islamabad

Sub: Unconstitutional Appointment of Ashfaq Yousf Tola as member of Tax Reforms Core Group (TRCG) since 2011, Member of the Tax Advisory Council (TAC) since 2014, member of Tax Reform Group 2011 to 2014, since 24th May 2015 member Committee on broadening of Tax who has been convicted in Bankers Equity Corruption Case, by Accountability Court on 2001, for criminal breach of trust and was held solely responsible along with Rauf Qadri for falsification of the account books of the bank

Dear Sir,

Transparency International Pakistan has received a complaint against Minister of Finance Unconstitutional Appointment of Ashfaq Yousf Tola as FBR member of Tax Reforms Core Group (TRCG) since 2011, Member of the Tax Advisory Council (TAC) since 2014, member of Tax Reform Group 2011 to 2014, since 24th May 2015, member Committee on broadening of Tax who has been convicted in Bankers Equity Corruption Case, by Accountability Court on 2001, for criminal breach of trust and was held solely responsible along with Rauf Qadri for falsification of the account books of the bank.

The complainant has made following allegations;

That,

1. Minister of Finance in 2010, Dr. Abdul Hafeez Shaikh appointed Ashfaq Yousf Tola as member of Tax Reforms Core Group (TRCG).

2. In the NAB Reference No.31/2000, old case No 80/99, State vs Rauf Qadri and Asfaq Yousf Tola, on 1-9-2001, Justice Dr. Qammaruddin Bohra, announced the Judgment, which also includes the following paras;

- *It is also alleged that accused Asfaq Y. Tola in connivance and collusion with co-accused Rauf. B. Qadri booted in miscellaneous payable project amount of Rs. 2,000,000/- received from lessee for full and final settlement of premature termination of lease alongwith cheque of Rs. 9,764,671/- instead of depositing in BEL account against receivable account. Amount of Rs. 2,000,000/- was withdrawn vide cheque No. 19191266 dated in account no. 530-9 of MCB Limited, FTC Branch Karachi, standing in the name of BEL was signed by accused Ashfaq Y. Tola being authorized signatory. Payee account was cancelled on the above cheque and cheque was made bareer and was enchashed and amount of it was misappropriated by both the accused.*



- *In light of the above, this court is of the opinion that as the above accused has voluntarily returned under plea bargaining the alleged amount of Rs. 1000,000/- on account of loss suffered by BEL due to cancellation of crossing /payees account by the said accused being an employees and co-signatory. The accused stated before this court that he entered into plea bargaining without any influence and under pressure or threats or any promise, therefore, in view of the above facts and in light of the section 25 of NAB Ordinance, 1999 and in view of latest amendment, the application in hand stands allowed, after accepting his request for plea bargaining by approving the consent of Chairman NAB, and accordingly approved by this Court as it meets ends of Justice and not opposed to the principles of public policy.*
- *The above accused Ashfaq Y. Tola shall stand disqualified for 10 years for seeking or from being elected, chosen, appointed or nominated as a member or representative of any public office or any statutory or local authority of the Government of Pakistan under section 15 of the NAB Ordinance, 1999.*

4. However, Senator Ishaq Dar, Minister of Finance on 12 March 2014 appointed Asfaq Yousf Tola as a Member of 22 members the Tax Advisory Council (TAC), which was formed by the Minister with aimed at giving billionaires, who are direct beneficiaries of these policies, a formal role of advising on tax policy.

5. Ministry of Finance has also appointed on 24th May 2015 Asfaq Yousf Tola as member of a Committee on broadening of Tax Base. The Committee has the task to review and rationalize direct and indirect taxes with a view to broadening the net.

5. Senator Ishaq Dar, as Chartered Accountant knows the following provision of the Chartered Accountants Ordinance, 1961, Chapter II, Article 8 (v) a person shall not be entitled to have his name entered or born on the Register if he,

v) has been convicted by a competent Court, whether within or without Pakistan of an offence involving moral turpitude and punishable with transportation or imprisonment or of an offence,

6. All Tax amnesty schemes since 2008 (to support of Tax Evaders) have been initiated by either Asfaq Yousf Tola or he has supported them. These are whitening @ 2% in 2013 (in which a media Group illegally whitened its about Rs. 1.56 Billion Tax Evaded income, and a Businessman in his Family names about 7/8 members whitened about Rs 1.1 Billion Tax Evaded Income) , Exemption from penalties and surcharges on due taxes ST, GST,IT etc. in 2011, (in which a media Group managed illegal exemption from payment of due taxes its about Rs. 1.2 Billion) and whitening of upto Rs 5 million at payment of Rs. 40,000 in 2013 opposed by Senator Ishaq Dar in Senate and not approved, Amnesty for Smuggled Cars in 2013, whitening of Rs. 5 million by paying 1% in 2015 which has failed as against 3 million businessmen only about 9,000 businessmen availed it, and now again in 2016 one time tax amnesty for properties at 2% .

Transparency International Pakistan has examined the complaint, and also reconfirmed the Accountability Court orders dated 1-9-2001 in the NAB Reference No.31/2000, old case *in*



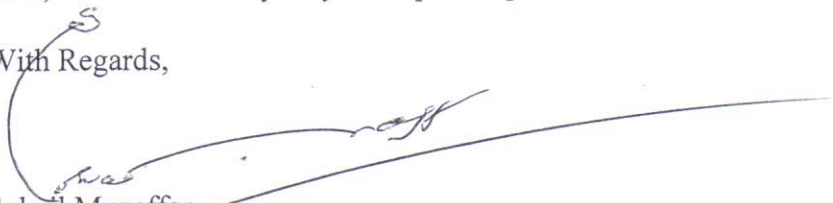
No 80/99. The Chartered Accountants Ordinance, 1961, Chapter II, Article 8 (v) has also been checked.

Transparency International Pakistan is of the view that the allegations of unconstitutional appointment of Ashfaq Yousf Tola convicted by Accountability Court in 2001, is prima facie illegal as Member of FBR Commissions on Tax Reforms since 2001.

The Minister of Finance is requested to follow the provision of Chartered Accountants Ordinance, 1961, Chapter II, Article 8 (v), and check this complaint, and if the complaint is true, take immediate action, terminate the appointment as member of any Committee of GoP or as Director of any PSE.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,


Sohail Muzaffar
Chairman

Encl: Copy of Court Order

Copies forwarded for the information with request to take action under their mandate to:

1. Secretary to Prime Minister, Islamabad.
2. Chairman, NAB, Islamabad.
3. Chairman, PAC, Islamabad.
4. Chairman FBR, Islamabad
5. Registrar, Supreme Court of Pakistan, Islamabad.



TRANSPARENCY INTERNATIONAL-PAKISTAN

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,
Defence Housing Authority, Karachi.
Tel: (92-21)-35390408, 35390409, Fax: 35390410
E-mail: ti.pakistan@gmail.com
Website: www.transparency.org.pk

22nd July, 2016

Mr. Mohammad Zubair,
Chairman,
Privatisation Commission,
Islamabad.

Sub: Unconstitutional Appointment of Ashfaq Yousf Tola as Member Privatization Commission, who has been convicted in the Bankers Equity Corruption Case, by Accountability Court on 2001, for criminal breach of trust and was held solely responsible along with Rauf Qadri for falsification of the account books of the bank

Dear Sir,

Transparency International Pakistan has received a complaint against Privatization Commission for appointing Mr. Ashfaq Yousf Tola as Member Privatization Commission, who has been convicted in Bankers Equity Corruption Case by Accountability Court on 2001, for a criminal breach of trust and was held solely responsible along with Rauf Qadri for falsification of the account books of the bank.

The complainant has made following allegations;

That,

1. Privatization Commission of Pakistan has jeopardized the process of Privatization by appointing Mr. Ashfaq Yousf Tola as Member of Privatization Commission who has been convicted by Accountability Court in 2011 in the NAB Reference No.31/2000.
2. According to Article 7 (6) of the Privatisation Commission Ordinance, 2000, no person shall be appointed or continue as a Chairman, Secretary or member if he has been convicted of an offence involving moral turpitude or has been found guilty of misconduct.
3. In the NAB Reference No.31/2000, old case No 80/99, State vs Rauf Qadri and Asfaq Yousf Tola, on 1-9-2011, Justice Dr. Qammaruddin Bohra, announced the Judgment, which also includes the following paras;
 - *It is also alleged that accused Asfaq Y. Tola in connivance and collusion with co-accused Rauf. B. Qadri pooled in miscellaneous payable project amount of Rs. 2,000,000/- received from lessee for full and final settlement of premature termination of lease alongwith cheque of Rs. 9,764,671/- instead of depositing in BEL account against receivable account. Amount of Rs. 2,000,000/- was withdrawn vide cheque No. 19191266 dated in account no. 530-9 of MCB Limited. FTC Branch Karachi, standing in the name of BEL was signed by accused Ashfaq Y. Tola being authorized signatory. Payee account was cancelled on the above cheque and cheque was made bareer and was encashed and amount of it was misappropriated by both the accused.*
 - *In light of the above, this court is of the opinion that as the above accused has voluntarily returned under plea bargaining the alleged amount of Rs. 1000,000/- on account of loss suffered by BEL due to cancellation of crossing /payees account by the said accused being an employees and co-signatory. The accused stated before this*

A NON-PARTISAN, NON-PROFIT COALITION AGAINST CORRUPTION

Donations exempted from tax U/S 2 (36) (c) of I. Tax Ordinance 2001



court that he entered into plea bargaining without any influence and under pressure or threats or any promise, therefore, in view of the above facts and in light of the section 25 of NAB Ordinance, 1999 and in view of latest amendment, the application in hand stands allowed, after accepting his request for plea bargaining by approving the consent of Chairman NAB, and accordingly approved by this Court as it meets ends of Justice and not opposed to the principles of public policy.

- The above accused Ashfaq Y. Tola shall stand disqualified for 10 years for seeking or from being elected, chosen, appointed or nominated as a member or representative of any public office or any statutory or local authority of the Government of Pakistan under section 15 of the NAB Ordinance, 1999.

4. Privatisation Commission of Pakistan by illegally appointing Ashfaq Yousf Tola as Member, has casted doubts on the whole privatization process in Pakistan.

5. Also following provision of the Privatisation Commission Ordinance, 2000, Chapter III Article 7, (6), debars Mr Tola to be appointed ad member,

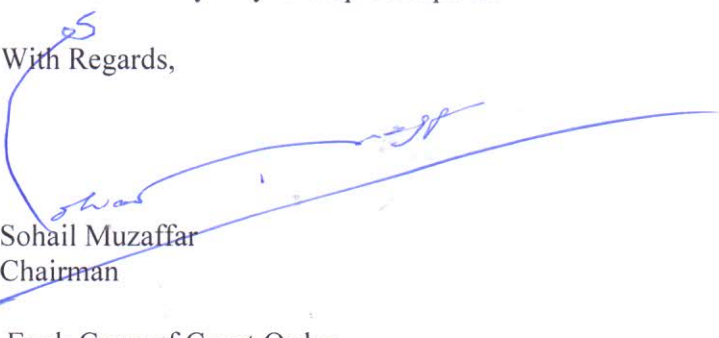
*(6) No person shall be appointed or continue as a Chairman, Secretary or member if he-
(a) has been convicted of an offence involving moral turpitude or has been found guilty of misconduct;*

Transparency International Pakistan has examined the complaint, and also reconfirmed the Accountability Court orders dated 1-9-2011, in the NAB Reference No.31/2000, old case No 80/99, and the allegations of unconstitutional appointment of Ashfaq Yousf Tola as Member of Privatization Commission prima facie are true, and void ab into.

The Privatisation Commission is requested to follow the provision of Privatisation Commission Ordinance, 2000, and check this complaint, and if the complaint is true, take immediate action, terminate the appointment, take refund of all ex exchequer funds used on him, and to safeguard the actions/decisions taken by Privatisation Commission in his presence, may be got rectified by full Board of Privatisation Commission.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,


Sohail Muzaffar
Chairman

Encl: Copy of Court Order

Copies forwarded for the information with request to take action under their mandate to:

1. Secretary to Prime Minister, Islamabad.
2. Chairman, NAB, Islamabad.
3. Chairman, PAC, Islamabad.
4. Minister Finance, Islamabad
5. Registrar, Supreme Court of Pakistan, Islamabad.

12

Page: 12

**IN THE ACCOUNTABILITY COURT NO. I PROVINCE OF SINDH
KARACHI.**

Before: Dr. Qammaruddin Bohra.

Reference No. 31/2000.
Old Case No. 80/99.

The State. Vs.

1. **Rauf B. Qadri son of Wahid Bux Qadri,**
2. **Ashfaqe Yousuf Tola son of Yousuf A. Karim.**
Accused.

Mr. Shaukat Hayat, Special Prosecutor for the State. Mr. M. Shafi Muhammadi Advocate for the accused Rauf B. Qadri. Mr. Shahab Sarki, Advocate for the accused Ashfaqe Yousuf Tola.

ORDER.

This order will dispose of application for voluntarily return (plea bargaining) U/S 25 of National Accountability Bureau Ordinance, 1999, moved by co-accused Ashfaqe Y. Tola, dated 28th February, 2001.

The perusal of record shows that the present case having old case No. 67/99, alongwith four other cases/references was transferred from the Special Court (offences in Banks), Sindh at Karachi, U/s; 16-A (a) of NAB Ordinance, 1999 by a common order dated 12.4.2000. On receiving the case from the transferee court it was re-numbered as 31/2000 and the ad-interim challan was treated as final challan.

Brief facts of the case/reference are that during inspection / examination of the record by the State Bank of Pakistan through Internal auditor, it transpired that leasing financing facilities were sanctioned to the

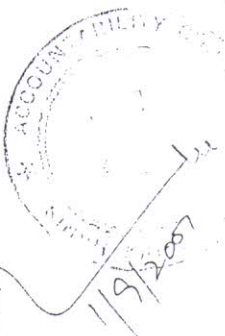


extent of Rs.12,786,155/- to M/s Quality knits (Pvt.) Ltd. Karachi, on 7.10.1996 duly approved by accused Rauf B.Qadri being the then President and CEO BEL Karachi, by waiving terms and conditions of financing and violating company's policy and rules for leasing machinery for a period of 5 years repayable in 20 quarterly installments which was availed by borrower/lessee vide cheque No.331222, dated 6.10.1996, from BEL account No.40137801 of Habib Bank Ltd. Corporated Branch FTC Karachi.

It is further alleged that subsequently accused Rauf B.Qadri who was the then Group Chairman BEL at the request of Lessee (M/s. Quality Knits (Pvt.) Ltd. approved a premature termination of lease agreement and on his instructions a final settlement of Rs.1,17,64,671/- was made between lessee and BEL to which lessee M/s; Quality Knits (Pvt.)Ltd. Paid the full and final settled amount by two cheques I.e. for an amount of Rs. 9764,671/- vide cheque No.13118327.

It is further alleged that accused Rauf B.Qadri the then Group Chairman and accused Ashfaque Y.Tola S.V.P BEL, in collusion, connivance and abatement with each other out of the aforesaid cheque related to account No.6511-1 of Muslim Commercial Bank LTD. Corporate Branch Shaheen Complex, standing in the name of M/s BEL, cheque NO.13118327 for an amount of Rs.9,764,671/- was deposited on 5.1.1999 at Emirates Bank International in account No.150571001 and accounted for in the record of BEL towards adjustment of the outstanding dues of BEL against lease in the light of premature settlement out of Rs.11,764,671/- while cheque No.13118326 for an amount of Rs.2000,000/- was deposited on 5.1.1999 at MCB Ltd., FTC Branch Karachi in account NO.529-1 received from the lessee and was booked in miscellaneous payable project account code 3-7081. The outstanding in the miscellaneous payable was off set through a journal entry on 10th July 1997 by debiting the payable account and crediting the MCB Ltd. Payment account at FTC Branch.

It is also alleged that accused Ashfaque Y.Tola in connivance and collusion with co-accused Rauf B.Qadri booked in miscellaneous payable project amount of Rs.2, 000,000/- received from lessee for full and final settlement of premature termination of lease alongwith cheque of Rs.9, 764,671/- instead of depositing in BEL account against receivable account. Amount of Rs.2,000,000/- was withdrawn vide cheque No.19191266 dated 8.1.1999 in account No.530-8



133

of MCB Ltd. FTC Branch Karachi, standing in the name of BEL was signed by accused Ashfaque Y.Tola being authorized signatory. Payee account was cancelled on the above cheque and cheque was made bearer and was encashed and amount of it was misappropriated by both the accused.

Before framing of charge on 22-03-2001, the present applicant / accused No.2 has moved present application, praying therein that applicant aged 35 years is an Associate Chartered Accountant and a Fellow Cost and Management Accountant and is one of the co-accused in the aforesaid Reference with total allegation is amounting to Rs.1,000,000/- on account of loss suffered by Bankers Equity Limited (BEL) due to cancellation of crossing by the applicant as an employee co-signatory on cheque No.19191266 dated: 8th January 1999.

He further has prayed that however, due to deteriorating health conditions of himself (being a cardiology and vertigo patient) and that of his aged parents coupled with his ailing economic conditions, being the only bread winner of his family, he request to kindly settle the matter on humanitarian grounds and save his family and himself from further embarrassments.

He has offered one Million worth Defence Savings Certificates lying in this court deposited by his wife while standing his surety and also filed No objection Undertaking on the adjustment of the proceed to the extent of Rs.1,000,000/- towards settlement.

The statement of Mrs.Lubna Ashfaque wife of accused has been recorded by this court as CW-1 at Ex.9 wherein she has reiterated regarding utilizing her deposited amount of Rs.1 million in shape of Defence Savings Certificates towards the settlement / plea bargaining of her husband accused Ashfaque Y.Tola.

Section 25 of the National Accountability Bureau Ordinance, 1999, which is about voluntary return (plea bargaining) is re-produced as under;-

25(a) where at any time whether before or after the commencement of trial the holder of a public office or any other person, accused of any offence under this ordinance, returns to the NAB the assets or gains acquired through corruption or corrupt practices;-



135

- (i) If the trial has not commenced, the chairman NAB may release the accused; and
- (ii) If the court has taken cognizance of the offence or the trial has commenced, the chairman NAB may, with the approval of the court, release the accused.
- (b) The amount deposited by the accused, with the NAB shall be transferred to the Federal Government or, as the case may be, a provincial Government or the concerned bank or financial institution, etc., within one month from the date of such deposit.
- (c) Notwithstanding any thing contained in section 15 or in any other law for the time being in force, where a holder of a public office or any other person voluntarily comes forward to return the illegal gain made by him or loss caused by him to the state exchequer through corruption and corrupt practices, the Chairman NAB may accept the offer and after determination of the amount of illegal gain or loss caused, as the case may be and its deposit with NAB, discharge such person of all his liabilities, relating to the matter or transaction in issue:

Provided that the matter is not under inquiry or investigation or subjudice in any court of law.

Recently Honorable Supreme Court in Const:Petition Khan Asfandyar Wali V/s federation of Pakistan held that consent of Chairman NAB for accepting plea bargaining should be subject to approval of the Accountability Court. And by latest amendment vide Order:XXXV dated 10.8.2001 Sub section (a) the following substitution in Section 25 (a) have been made:-

Section 25 (a) " Where at any time whether before or after the commencement of trial the holder of a public office or any other person accused of any offence under this Ordinance returns to the NAB the assets of gains acquired through corruption or corrupt practices, the Court or the Chairman NAB with the approval of the Court or the Appellate Court, as the case may be, may release the accused"

The application of accused for acceptance of plea bargaining was noticed to the Prosecutor for obtaining consent of the Chairman NAB as required U/s;25 of NAB Ordinance.

ACCOUNTABILITY COURT
MARCH 2007
19/2007

137

The said application was placed before Committee which held their meeting at NAB Conference Room on 17.7.2001 and recorded minutes of the meeting, copy of the said minutes has been filed ^{Presided over by} ^{by} Learned Prosecutor on 23.7.2001, which shows at page No.5 that the plea bargaining of accused Ashfaq Y.Tola in present reference as well in another reference pending in this Court bearing No.27/2000 that the accused has offered for plea-bargain in both references and offered an amount of Rs.1.676 million through this Court and has deposited a bank draft in the name of Chairman for a sum of Rs.0.676 million as down payment and the remaining amount of Rs.1 million payable in shape of Defense Saving Certificates. The said offer was recommended by Commander RAB Sindh, which has been accepted by the Committee.

Today the learned Prosecutor has also filed statement alongwith two letters dated 23/7/2001 and 21/8/2007 respectively requesting for formal order/consent of Chairman NAB accepting bargaining plea.

I agree with the learned prosecutor and counsel of accused Ashfaq Y. Tola that in view of latest amendment only approval of Accountability Court or appellate Court as the case may be is required.

In light of the above, this court is of the opinion that as the above accused has voluntarily returned under plea bargaining the alleged amount of Rs.1000,000/- on account of loss suffered by BEL due to cancellation of crossing/payees account by the said accused being an employee and co-signatory. The accused stated before this Court that he entered into plea bargaining without any influence and undue pressure or threats or any promise, therefore, in view of the above facts and in light of the section 25 of NAB Ordinance, 1999 and in view of ^{latest} ~~that~~ amendment, the application in hand stands allowed, after accepting his request for plea bargaining by approval the consent of Chairman NAB, and accordingly approved by this Court as in the ends of Justice and not opposed to the principles of public policy.

The accused is directed to accompany the Registrar of this Court or his representative alongwith his wife/surety to get encashed the Bank Draft of Rs.100,0000/- under lien and out of such amount to get prepare the Bank Draft of Rs.1000,000/- (at the cost of accused), in favour of NAB Accountability Bureau which be sent to Chairman NAB accordingly. The accused is however entitled to get the profit accrued over the above certificates till date.

13/8/2007

13/8/2007

Details of agenda for the 48th Board of Trustees Meeting on
Friday, 22nd July, 2016

- 1. Confirmation of Minutes of 46th BOT 47th Emergent meeting.**
Minutes attached

- 2. Activities of TI-P since last BOT meeting**

AFH Project

- 'Fraud Awareness & Prevention' Workshop organized for sub grantees of USAID implementing partners in collaboration with OIG/USAD/NAB on July 12, 2016 at Movenpick Hotel Karachi. 94 participants attended
- Workshop organized for implementers of OTI (office of Transition Initiative) in collaboration with OIG/USAID/NAB at Hotel Avari, Karachi. 86 participants attended
- Calls received in Apr-Jun 2016...3442. Uploaded cases 109

- 3. Selection of Auditors for the year ended June 30, 2016**

TI Pakistan had sent letters to 15 firms of auditors for the audit of its accounts for the period ended June 30, 2016. The lowest firm was M/s Naveed Zafar Ashfaq Jaffrey and Co. This organization's name was put up to the trustees for approval. Mr Khurram S. Abbas pointed out that the senior partner for the firm, Ashfaq Tola was arrested by NAB in the Bankers Equity Ltd Case. Mr Sohail Muzaffar and Mr Adil Gilani also sent articles of newspaper highlighting the case. This firm was therefore disqualified. It was therefore decided to recommend the second lowest firm M/s Muniff Ziauddin & Co for approval by the Board. An email was sent to all the trustees who approved the appointment of M/s Muniff Ziauddin as auditors for the year ended June 30, 2016. The name was subsequently sent to USAID, who also approved them.

- 4. Finalization of date for presentation of Integrity Award**

The Board had decided to present the TI Pakistan's Integrity Award 2016 to Lt Col (R) Sirajul Naeem in the 46th BOT meeting and to invite the Chief Justice of the Supreme Court of Pakistan as the Chief Guest. A letter was sent to the CJ. He has not given any date on which he is available. The date, venue and the Chief Guest for the presentation has to be finalized.

- 5. Funding for ALAC from DFAT grant by TIS**

TI Pakistan developed proposals and competed with other chapters of the Asia Pacific region for funding from DFAT (Department of Foreign Affairs & Trade, Australia) grant given to TIS. TI Pakistan was able to obtain a funding of Euro 136,402 from July 2016 to June 2019.

6. ACA Strengthening Initiative Project

TI Pakistan was asked to submit a proposal for the Anti-Corruption Agency Strengthening Initiative Project. The ACA is a research project to assess the strengths and weaknesses of National Accountability Bureau according to a methodology developed by TIS. TI Pakistan has already obtained approval from NAB to be a part of the project. TI Pakistan submitted a proposal with a budget of Euro 31000 for an 18 months period. TIS has approved the budget. TI Pakistan is awaiting the signing of the agreement.

7. Cotechna & SGS Case of Zardari

TI Pakistan noted from the news item that the LHC Registrar closed a case against the judges, who had acquitted former President Zardari, writing same judgments in certain paras. LHC formed a commission for inquiry in the matter. The LHC Registrar closed the case stating that as the accountability court judges had retired, according to court procedures the inquiry stood closed. The Accountability Court subsequently closed the reference in the Cotechna and SGS cases on the pleas that the original documents submitted by NAB in the accountability court are not available. TI Pakistan wrote a letter to the CJ SCP to take Suo Moto action against the acquittal of the judges and the hearing of the Cotechna & SGS case against Zardari.

8. Expiry of Term of Trustee Justice(R) Zia Perwez on August 15, 2016

The term of Trustee Justice (R) is expiring on August 15, 2016. The Chairman, Mr Sohail Muzaffar has nominated his name for election as Trustee for another term of three years.

9. Any other matter.