

## EQUALITY OF CITIZENS

**Citation Name:** 2007 PLD 139 KARACHI-HIGH-COURT-SINDH

**Side Appellant:** SALEEM RAZA and 31 others

**Side Opponent:** State

### **Issue:**

The petitioners convicted by Accountability Courts and serving out their sentences in the Central Prison Karachi, have assailed validity and vires of several provisions containing in the National Accountability Ordinance, 1999 (“NAB”), on the ground that they are violative of the fundamental rights enshrined in the Constitution, more particularly in Articles 12 and 25.

### **Rule:**

Article 25 of the constitution of Pakistan

National Accountability Ordinance – sections 12, 23, 25, 25(A), 31-D & Preamble

Pakistan Prison Rules of 1978 – section 401

Prevention of Corruption Act of 1947 --- sections 14, 9(a)

### **Application:**

.....where legislature lays down law and indicates the persons or things to whom its provisions are intended to apply and leaves the application of law to an administrative authority while indicating policy and purpose of law and laying down standards or norms for guidance of designated authority in exercise of its powers, no question of violation of Art. 25 of the Constitution arises---In case, however, the designated authority abuses its powers or transgresses the limit when exercising the power, the actual order of such authority and not the State would be condemned as unconstitutional.

.....all person subjected to law should be treated alike under all circumstances and conditions both in privileges conferred and in liabilities imposed .....

..... presumption is always there in favour of constitutionality of an enactment.....

### **Conclusion:**

..... having heard the petitioner and the learned counsel we are of the view that section 10(d) of the NAB Ordinance is **ultra vires the Constitution and liable to be struck down** and all prisoners convicted under the NAB Ordinance would be entitled to such remission as persons convicted under the ordinary law. At the same time we also find great force in the petitioner’s contention that he was discriminated against inasmuch as another prisoner Qurban Jatoi convict

of NAB offence was given the benefit of remission..... I am, therefore, entirely unable to subscribe to the view of the learned Deputy Attorney-General that a reasonable classification could be effected through conferment of unbridled power under section 18 and find great merit in the contention of the learned Deputy Prosecutor General that the dominant object of the statute is to recover ill-gotten wealth rather than make people rot in jails.....