S.C. 4/2011

IN THE SUPREME COURT OF SIERRA LEONE

IN THE MATTER OF THE CONSTITUTION OF SIERRA LEONE ACT NO.6 OF 1991 SECTIONS 127(1-4); 124; 137(5A); 135(3-5); 136(2-6);146(1) AND (2); 147(1) AND (2); 147(1-4); 148(1-3); 149(1-4) AND 146

AND

IN THE MATTER OF THE OMBUDSMAN ACT NO.2 OF 1997, SECTIONS 4(A&B) AND 7-15 OF THE SAID ACT IN THE MATTER OF THE SIERRA LEONE GAZETTE VOL. CXLI THURSDAY 17TH JUNE, 2010 NO.44 GOVERNMENT NOTICE NO.173 PAGES 840/1

AND

IN THE MATTER OF THE EXERCISE OF THE POWERS CONFERRED ON THE PRESIDENT BY SECTION 137 OF THE CONSTITUTION OF SIERRA LEONE 1991 (ACT NO.6 OF 1991) TO SET UP AND DID SET UP A TRIBUNAL CONSTITUTING OF:-

(1) JUSTICE EDMOND E. COWAN – CHAIRMAN
(2) WARDSWORTH FILO JONES – MEMBER
(3) ROLAND E. CAESAR – MEMBER
(4) JOSEPH GOMOI-VANDI-KOBBA – MEMBER

2A. TO INQUIRE INTO THE QUESTION OF THE REMOVAL OF JUSTICE ALUSINE SESAY AND JUSTICE ALLAN B. HALLOWAY, BOTH OF WHOM ARE JUDGES OF THE SUPERIOR COURT OF JUDICATURE AND TO REPORT TO THE PRESIDENT THE FACTS AD THE FINDINGS THEREOF, AND

B. RECOMMENDATION TO THE PRESIDENT WHETHER JUSTICE ALUSINE SESAY AND JUSTICE ALLAN B. HALLOWAY OUGHT TO REMOVED FROM OFFICE

3. THE TRIBUNAL SHALL COMMENCE ITS PROCEEDINGS ON THE 29TH DAY OF JUNE, 2010 AND SHALL SIT IN FREETOWN OR SUCH OTHER PLACE IN SIERRA LEONE AS THE TRIBUNAL MAY DETERMINE

4. THE TRIBUNAL SHALL REGULATE THE PROCEDURE FOR THE PROCEEDINGS

5. THE TRIBUNAL SHALL SUBMIT ITS REPORT WITHIN SIX WEEKS OF THE COMMENCEMENT OF THE PROCEEDINGS.

MADE AT FREETOWN THE 10TH DAY OF JUNE, 2010

BETWEEN:

JUSTICE ALLAN B. HALLOWAY - PLAINTIFF

AND

1. JUSTICE EDMOND E. COWAN - CHAIRMAN
2. WORDSWORTH FILO JONES - MEMBER
3. ROLAND E. CAESAR - MEMBER
4. JOSEPH GOMOI VANDI-KOBBA - MEMBER
5. ATTORNEY-GENERAL & MINISTER OF JUSTICE

} DEFEND

CORAM

HON. MRS. JUSTICE S. BASH-TAQI - JSC
HON. MR. JUSTICE P.O. HAMILTON - JSC
HON. MRS. JUSTICE V.A.D. WRIGHT - JSC
HON. MRS. JUSTICE M.E.T. THOMPSON - JSC
HON. MRS. JUSTICE A SHOWERS - JA

F.M. MARGAI ESQ., S.B. TEJAN-SIE ESQ. AND R.B. KOWA ESQ. FOR THE PLAINTIFF

JOSEPH G. KOBBA FOR DEFENDANTS

RULING DELIVERED ON THE DAY OF JULY, 2011.

HON. MR. JUSTICE M.E.T. THOMPSON JSC

By Originating Notice of Motion, the Plaintiff applied to this Court pursuant to *Section 127 and 124 of The Constitution 1991, Act No.6 of 1991 (*which I shall herein after: refer to as *The Constitution)* for an interpretation of certain provisions of the Constitution and declarations thereof.

BACKGROUND

The background facts of this case briefly is as follows:

That pursuant to *Section 137(5) of the Constitution* the President of the Republic of Sierra Leone setup a tribunal to investigate the conduct of the ***Hon. Justice Allan Halloway*** and ***Hon. Justice Alusine Sesay*** two judges of the superior Courts of Judicature. The members of the Commission appointed were ***Justice Edmond Cowan, Chairman; Mr. Wordsworth Filo Jones, Mr. Roland E. Ceasar and Mr. Joseph Gomoi-Vandi-Kobba***. All Barristers and Solicitors of the High Court of Sierra Leone. The tribunal commenced its sitting under the first three members of the commission. At a particular stage of the sitting objection was taken by Mr. Margai learned Counsel for Justice Halloway on many issues. The tribunal delivered a ruling dismissing the several objections. Subsequent to the tribunals ruling on the objection the Chairman recorded these words in his notes.

"In the light of Mr. Margai request for an adjournment to enable him to follow a line it is our view that an adjournment should be taken in the matter for the period requested by Mr. Margai as his line of action will in the final analysis affects the composition of the panel".

It seams to me by these words Mr. Margai was given a *carte blanche* adjournment not only to come to this Court, but to choose under which jurisdiction he should come.

JURISDICTION

The Constitution is not the ordinary law of the land. It is the fundamental law of Sierra Leone. It is the source and gives legitimacy to our laws and the exercise thereof. For the avoidance of doubt the supremacy of the Constitution is clearly emphasized by *Section 171(15) of the Constitution".*

Section 171(15) states:

"This constitution shall be the supreme law of Sierra Leone and any other law found to be in consistent with any provision of this Constitution shall to the extent of the inconsistency be void and of no effect".

As said in *Samuel Hinga Norman v. Dr. Sama Banya and others SC No.2/2005 unreported* the due section being a substantive enactment give ..... to the Constitution by emphasizing that *"The Constitution is the supreme law of the land".* This section does not however vest original jurisdiction on the Supreme Court".

The frame work of the constitution bestows on the Supreme Court various jurisdiction i.e. certain legal powers which the Supreme Court exercises. This is found in Section 122(1) of the Constitution which provides.

The Supreme Court shall be the final court of appeal in and for Sierra Leone and shall have such appellate and other jurisdiction as may be conferred upon it by this constitution and any other law.

Knowing from this provision, the court enjoys the following jurisdiction appellate, Section 123 supervisory Section 125 original *Sections 28, 124 and 127 of the Constitution.* From time to time the court is called upon to adjudicate on reference matters. This "reference jurisdiction" though pursued under Section 124(2) is neither appellate, nor supervisory or original. However hasten to concede here that the ruling of the tribunal is not a reference matter for the simple reason, it does not emanate from a court, preferably the High Court.

As regards the supervisory jurisdiction of the court I note from the statement of the plaintiff case that a large segment of it, contains the ruling of the tribunal; it therefore been the question as to why the supervisory jurisdiction was not invoke, I shall answer, by referring to Section 125 of the constitution.

Section 125 provides:

> *"That the Supreme Court shall have supervisory jurisdiction over all other courts in Sierra Leone and over any adjudicating authority and in exercise of its jurisdiction shall have power to issue such direction*

orders or writs including writs of habeas corpus, of certiorari, mandamus and prohibition as it may consider appropriate for the purpose of enforcing or securing the enforcement of its supervisory jurisdiction".

There is no dispute that the tribunal set up by the president is an adjudicating authority within the context of the above provision and for the avoidance of any doubt the orders named in the provision are not only confined to the prerogative orders.

Subjects to appeal the constitution, attributes autonomy to inferior courts and adjudicating authority the performance of their duties and functions within their delineated (designated) area. However the counterpart of this is that the constitution ensures by the intervention of the Supreme Court, the interior courts and adjudicating authority observe the limits of their operation. In our jurisdiction this is done by invoking the provision. Section 125.

See: Re Northumberland Compensation Appeals tribunal experte show: 1952. 1 KB. 388.

It is also an obvious principle of law: that when on inferior court or an adjusting authority act without authority or jurisdiction in a way or in a particular matter and gives what appears to be a decision and is no decision at all: the Supreme Court can invoke it supervisory jurisdiction and squash the decision. *See Amimic (Amimic) v. Foreign Compensation Commission 1969 2. WLR. 163 at 176.*

In my judgment therefore the supervisory jurisdiction of the Supreme Court would have been in tune with the issues raised in the objection by Mr. Margai and the tribunals ruling. Be that as it may the Plaintiff has come to this court under another jurisdiction of the Supreme Court. I shall now consider, the application within the context of the original jurisdiction of the Supreme Court and say that every citizen reserve the right to commence an action if he thinks that his right has been infringed: The issue is whether the action will succeed: The Supreme Court however, will not deal with hypothetical or academic issues not grounded: on reality or fact.

It therefore follows that the Supreme Court in its original jurisdiction cannot indulge in any action which from the start would be completely a wasteful and useless exercise: All courts are jealous of there jurisdiction and will not indulge in any exercise that would bring about ridicule or contempt. complaint....*See Rv: Hutchings (1891) 6 PBD 300 at Page 304:*

The action before us is the interpretation of the constitution and declaration and it is the Supreme Court in its original jurisdiction which can entertain such an action. This power is not vested in any other court, that being the case: I hold that such action can be brought to the Supreme Court; in its original jurisdiction, for adjudication. This conclusion then leads me to capacity/standing of the Plaintiff.

The general principle is that the Plaintiff must have the capacity/standing to institute an action: Also it is trite law: that if a person has no capacity or standing to litigate a matter the court will have no jurisdiction to entertain or try it consequently capacity/standing and jurisdiction are intertwined.

Capacity or standing suggest that the Plaintiff must have real or personal interest in the matter. In Baron Dictionary of Legal term real interest is defined as person will be entitled to the benefit of the legal action if it is successful, One who is actually and substantially interested in the subject matter as opposed: to one who has only a nominal formal or technical interest."

This principle of real/personal interest in the subject matter has been the essential aspect of capacity/standing. In Russian Commercial and Industrial Bank v. British Bank 1921 AC 438 the court adopted the above definition of real interest:

> *"The question to be decided: must be real and not theoretical and the person raising it must have real interest to raise it".*

Where ever such interest cannot be sustained or identified the plaintiff will not succeed in his action as was the case of *Abraham Adesanya v. The President of Nigeria and others: 1981 2 NWLR 358.*

The Supreme Court of Nigeria held that "the appellant cannot challenge the appointment of the president as he has no right or interest personal to him which had been violated."

In some jurisdiction it seems that the Interest of the Plaintiff is not of any significance so long as the Plaintiff is a citizen of the Country. This is implying demonstrated by *Atuguba JSC of the Ghana Supreme Court in the case of Sam v. Attorney General of Ghana GLR page 300; He said:*

"As the plaintiff is a citizen of Ghana suffices it to enable him bring the personal action and I need not consider the question of locus standi in a wider dimension once a citizen".

I shall adopt the above approach and say it is clear to me from the Plaintiff's an Affidavit and statement of case that he is citizen of Sierra Leone. He is also a judge of the superior court of judicature under investigation by the tribunal whose competence is being challenged by this action before us.

In my view: the Plaintiff has the capacity and standing to institute the action. He definitely has interest in the out come of the matter. I hold therefore that Plaintiff has the capacity/standing to institute the action.

I shall now proceed to consider the interpretation of the various provisions and the declaration thereof; but before doing so let me give a brief resume of the principle of interpretation of Statute and Constitutional Instrument. But first let me note the words of caution from an erudite jurist of no mean standing *Tejansie C.J. (deceased) in John Akar v. Attorney General: 1968 – 69 ALR SL. 374* had this to say on interpretation of statute:

"In interpretation of statute the court has to tread wearily and with circumspection".

With these words in mind, I shall start by referring to one of the oldest principle of interpretation that if the words of a statute are plain, clear and unambiguous they must be taken to be the intention of the framers and no need to look else where: to also discover their meaning: see *Halsbury Laws*

of England 4th Edition Volume 44 Page 857, Paragraph 522. This principle went as far back as the 19th century as was ~~observed by~~ observed by *Tindele C.J. (deceased) in the Sussex Pearage Case 1844 11. C1 & F 85, in* which he said:

> *"If the words of a statute are in themselves precise and unambiguous, then no more can be necessary to expound those records in the natural and ordinary sense. The law themselves is such a case best declare the intention of the law lawyers."*

This principle was adopted by our own Supreme Court in the case of ~~Charrai~~ *Charrai & Co. Ltd. V. Palmer 1990. 71 ALR S.L. 391* in which ~~whereby~~ *Livesey Luke C.J. (deceased)* said:

> *"In my judgment if the words in a statute are plan and unambiguous the court is bound to construe them in their ordinary sense having regard to the context".*

Recently another approach to interpretation has gained currency. This is referred to as the purposive approach to interpretation. This approach is adopted to give meaning to ambiguous and misleading words in a statute, by examine the background scope subject matter and the purpose of the statute.

See Pepper v. Hart 1993 1 AER 42 ....let me however ~~hasten~~ to add that in some cases and this is one such case there is no marked difference between purposive and literal approaches to interpretation. In my view, the words and phases used in this provisions of the constitution under scrutiny and which calls for interpretation are clear plain and unambiguous therefore it

shall apply the literal approach and that is they will to carry the usual, basic and ordinary meaning in the light of the declarations prayed for in the application. It is obvious to me that the declarations prayed for is in pursuit of *Section 127(1) of the Constitution which states:*

> *"A person: who alleges that an enactment or anything contain or done under the authority of that or any other enactment is inconsistent with or contravention of the provision of this constitution may at any time bring an action in the Supreme Court".*

As said earlier in this ruling when dealing with the capacity/ sanding of the Plaintiff, that the Plaintiff is a citizen of Sierra Leone and a judge for that matter of the Superior Court of judicature. In my view he is a person alleging inconsistency in the provision of the constitution and urges the Court to make a declaration of his behalf.

The thrust of the submission in the Plaintiff's statement of case is that appointment and the setting up of the tribunal are inconsistent with *Section 135, 136, 137 and 146 and 170 of the Constitution* and for the purpose of clarity, intend to deal with the declarations seriatim.

The first declaration refers to the appointment of the three members of the commission Cowan, Filo-Jones and Caesar pursuant to *Section 137(5)(a)* of the constitution in that their qualification do not meet the requirement of *Section 135 of the Constitution* which should be read together with *Section 137(2)(a) and (b) and 136(4) of the Constitution.* I shall here under quote the above provisions of the *Constitution.*

Section 135 (3) provides:

A person shall not be qualified for appointment as a Judge of the Superior Court of judicature unless he is entitled to practice as Counsel in a court having unlimited jurisdiction in civil and criminal matters in Sierra Leone or any other country having a system of law analogous to that of Sierra Leone and approved by the Judicial and Legal Service Commission and has been entitled as such counsel in the case of appointment to:

(a) the Supreme Court for not less than 20 years

(b) .....

Section 136 (4) "where the office of justice of the Supreme Court or Court of Appeal is vacant or for any reason a justice thereof is unable to perform the functions of his office or if the Chief Justice advises the President that the state of business in the Supreme Court or the Court of Appeal as the case may be so requires the president may acting in accordance with the advise of the Judicial and Legal Service Commission appoint a person who hold office as or a person qualified for appointment as a Judge of the Superior Court of judicature: to act as a **Justice of the Supreme Court or the Court of Appeal** as the case may be notwithstanding the fact that he has already attained the retiring age: prescribed by *Section 137.*

Section 137 (2) states:

A person holding office as a judge of the Supreme Court of Judicature:

(a) May retire as a judge at anytime after attaining the age of sixty (60) years;

(b) Shall vacate that office on attaining the age of sixty five years."

Section 137 (5) states:

"*If the Judicial and Legal Service Commission represent to the President that the question of removing a judge of the Supreme Court of Judicature other than the chief Justice under Section (4) ought to be investigated: then;*

(a) "*The President acting in consultation with the Judicial and Legal Service Commission shall appoint a tribunal which shall consist of a Chairman and two others members all of who shall be persons qualified to hold office or have held office as a Justice of the Supreme Court.*"

(b) "*The tribunal appointed under paragraph (a) enquire into the matter and report on the thereof and the finding thereon to the president and recommend to the president; whether the Judge ought to be removed from office under Section 137 (7)*"

These provisions herein referred to deal with the appointment and retirement of Judges and Justices, and it is without any doubt germane to the application before this court. In the statement of case much play has been made of appointment conditions of service and the retirement of Judges and whether the retiring age of sixty-five disqualifies Judges and Justices from holding appointment as Judges and Justices and by extension becoming members of a judicial tribunal, within the context of the Constitution.

The Plaintiff in his statement submitted that they are not so entitled relies on the relevant provisions of the Constitution, to support his contention Section 135(3) stipulate the category of person who may be appointed as Supreme Court Justice each person must be eligible to practice as counsel in our Courts of Jurisdiction and have done so for twenty years and over and approved by the Judicial and Legal Service Commission as counsel. He must also be admitted as such. He should not have been also barred or removed from the rolls of counsel.

In my opinion this qualification is applicable to Supreme Court Justices appointed pursuant to Section 135(2) and those appointed pursuant to Section 136(4). However, Section 136(4) refers to two categories of persons namely those who have held office and those who are qualified to hold office.

Again before a person is appointed pursuant to Section 13(4) are of three situation must exist namely:

(1) if there is a vacancy

(2) inability to perform as a justice

(3) if the state of business requires such appointment.

The (2) and (3) simultaneously are contingent upon something happening while the trust is not.

As regards the persons pursuant to Section 136(4) the first is limited to Justices who have held office and the second is limited to legal practitioners.

Another area which is which to touch up is the sentence and "not withstanding the fact he has already attained the retiring age prescribed by Section 7". The word notwithstanding is usually used in the legislative drafting. In normal English it means despite and the translated version is that despite the fact the person has attained the retiring age prescribed by Section 137, ~~137 stipulate age at which Judge retire~~ from the forgoing it seems to me that age in *Section 136(4)* is not an impediment to the appointment under *Section. 137 (4)*.

I acknowledge the fact that the three members of the tribunal have passed but in pursuant of Section 136(4) they are persons entitled to practicing in our Court as there is no evidence prior to their appointment as members of the tribunal they have not been disbarred.

It is not the business of the Court to inject new material into a Constitutional Provision. If I do that I will be interfering with the function and duty of another place. I mean Parliament.

I hold therefore that three members are eligible to be Supreme Court Justice and by extension members of the tribunal.

For these reasons the declaration fails.

The second declaration prayed for by the Plaintiff is the appointment of Mr. Joseph Gomoi-Vandi Kobba. He submitted in his statement of case that his appointment as Member of the Commission contravenes *Section 137 5(a) of the Constitution* in that he is not qualified to hold office as a Justice of the

Supreme Court. To hold office as a Justice of the Supreme Court a person must have practice without any impediment which will lead to him been disbarred for not less than 20 years as provided in *Section 135(3) of the Constitution.*

The defendant admitted the ineligibility in his appointment and said he has never participated in the deliberation of the tribunal, up to this moment. The Members sitting Justice E. Cowan, Mr. Wordsworth Filo Jones and Mr. Roland Caesar. This is evident by the signature of the Ruling of the tribunal delivered on the 29th March, 2011.

In my view appointment without participation will not render the appointment of the other members or the creation of the tribunal without more ~~mere~~ *null and void.*

In the result I hold that *Section 135 5(a)* has not been contravene. The declaration fails.

As regards the third declaration, the submission by the Plaintiff in his statement of case is that Justice Edmond E. Cowan named in the *Public Notice 173 Page 840 in the Gazette* as Chairman is not the same Justice Edmond K. Cowan who signed the tribunals ruling on 29th March, 2011.

This is a clear case of misnomer. The meaning of misnomer in the Oxford Advanced Learners Dictionary is given as "a word or name that is not appropriate or accurate". The Dictionary of Modern Legal Usage gives the

legal meaning as a mistake in naming a person or place. It seem to me in both cases it is the misdiscription of a person or thing.

When a misnomer arises in an action the test to be applied was laid down by *Delvin L.J. (deceased) in Davies v. Elsby Brothers Ltd. 1961 1 WLR P.176* which was quoted with approval in the case of *Mobil Oil Sierra Leone Ltd. V. Texaco Africa Ltd. and United Africa Company 1964-66 ALR. SL. P.133 at P.134:* he said:

> *"The test must be ~~how~~ would a reasonable person receiving the document take it? In all the circumstances of the case and looking at the document as a whole he would say of course it must mean one but they have got my name wrong, then there is a case of a mere misnomer, if on the other hand he would say I cannot tell from the document itself whether they mean me or not and I shall have to make ~~requires~~ them it seems to me that one is getting beyond the realms of misnomer".*

I am persuaded by the above test and I shall adopt it and apply to the issue at hand. There is no other Justice who had been a Justice of the Superior Court of Judicature, Speaker and now Ombudsman of Sierra Leone. I hold that Justice Edmond E. Cowan and Edmond K. Cowan are one and the same person indeed, even the Plaintiff concedes his fourth declaration that Edmond E. Cowan and Edmond K. Cowan are one and the same person by referring to Justice Edmond E. Cowan as the Ombudsman knowing fully well that the Ombudsman is Justice Edmond K. Cowan. In any case this is a trivial issue which in my view does not call for interpretation.

In the result I have come to the conclusion that is a mere misnomer bordering on typographical error no confusion is caused by the misdiscription.

The declaration therefore fails.

I shall now go on to the fourth declaration, the Plaintiff submits in his statement of case that the appointment of Justice Cowan the Ombudsman as Chairman of the tribunal is tantamount to a conflict of interest.

Chapter VIII of the Constitution makes provision for the establishment of the Office of Ombudsman. The Provisions are contained in Section 146 (1) & (2).

Subsection 1 states:

> *Subject to the provisions of this Constitution Parliament shall not later than twelve months from the commencement of this Constitution or so soon thereafter as Parliament may determine by an Act of Parliament establish to the office of Ombudsman.*

Subsection 2 states:

> *The Act of Parliament shall determine ~~determine~~ the function and duties of the Ombudsman which shall include the investigation of any action taken or omitted to be taken by or on behalf of*
>
> *(a) Any Department of Ministry of Government;*

(b) Any Statutory Cooperation or Institution of Higher Learning or Education set up entirely or partly out of Government funds.;

(c) Any member of the Public Service being an action taken or omitted to be taken in the exercise of the administrative function of that department ministry, statutory cooperation institution or person.

The above provisions established the office and gave certain functions to the office of Parliament following this the Ombudsman. Act was passed in 1997. "Caption the Ombudsman Act No.2 of 1997", *Part 3* of the said Act sets out the function and duties of the Ombudsman. His duties basically are administrative or shall I say non judicial.

The Plaintiff in his statement of case submitted that the Ombudsman acting as Chairman of the tribunal or ordinary member of the tribunal has by his conduct shut the door to any recourse to him by the Plaintiff in the event of a complaint arising from mal administration resulting in injustice emanating from his superior namely the Chief Justice or the Judicial and Legal Service Commission regarding the setting up of the tribunal. Thus the Plaintiff claim is the denial of justice.

Let me say right away that the situation envisaged is this submission is based on hypothesis an intention which is possible and imagined rather than that or true, I hasten to remind the Plaintiff of what I said earlier on in this ruling that the Court Original Jurisdiction will not deal with hypothetical academic matters not grounded in reality or facts. To my mind the situation envisage is more hypothetical than real.

The tribunal is charged to carry out judicial function as contained in *Section 137 (5)(a)* of the constitution recommends to removal than he will be removed in accordance with *Section 137(7a)&(b) of the Constitution.*

In my judgment the point of denial of justice by the Ombudsman is not taken and is no moment in this application. In any case *Section 8(1) of the Ombudsman Act 1997* clearly preludes or prevents investigating or dealing with any matter pending before the Court or already decided by the Court. In the result I am reluctant to grant the declaration. It therefore fails.

I shall now consider the right declaration. The short but important point here is that the tribunal did not commence the date which was the 29th June, 2010. It should complete it work six weeks from the commencement date 29th June, 2010. The tribunal commenced its sitting on the 10th January, 2011 and it is still sitting.

It cannot be argued that the President derived it power to appoint members of the tribunal from the Constitution to be precise Section 137 5(a) his power is I agree with the defendant that no time limit is stipulated in the provision in Section 137 5(a). I cannot therefore read or insert into the Constitution words which are not part of the provision.

As was said by Claudse JSC in the Chairman case of the Republic v. Fast Track High Court exparte Danniel 2001-2002 SC GLR P.62.

"We cannot under the cloak Constitutional interpretation rewrite the Constitution of Ghana in the area of Constitutional interpretation. We cannot

amend a piece of legislation because we dislike it terms or because we suppose that the law giver ~~his~~ es mistaken or unwise, we cannot and must not substitute our wisdom for the collective wisdom of the framers of the Constitution".

I am persuaded by these words and I shall adopt this and say that gazette ..... ~~the time limit of the tribunal is an order pursuant to~~ is not caught by Section 170 of the Constitution ~~of any thing~~ and the non extension of time in the Gazette in my humble opinion it was a directive.

In view of what I have said in this ruling I shall dismiss the application. The application is accordingly dismissed.

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HON. MRS. JUSTICE S. BASH-TAQI - JSC

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HON. MR. JUSTICE P.O. HAMILTON - JSC

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HON. MRS. JUSTICE V.A.D. WRIGHT - JSC

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HON. MRS. JUSTICE M.E.T. THOMPSON - JSC

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HON. MRS. JUSTICE A SHOWERS - JA

REF: MET/HJ