

IN THE COURT OF APPEAL OF SIERRA LEONE
IN THE MATTER OF THE PROVISIONS OF SECTIONS 147-149 OF THE CONSTITUTION
OF SIERRA LEONE (ACT NO. 6 OF 1991);
IN THE MATTER OF THE CONSTITUTIONAL INSTRUMENT NO. 64 OF 2018; THE
COMMISSION OF INQUIRY (EXAMINATION, INQUIRY AND INVESTIGATION)
NOTICE (1) 2018
IN THE MATTER OF THE FINDINGS OF THE HON. MR. JUSTICE BIOBELLE
GEORGEWILL COMMISSION OF INQUIRY DTED MARCH 2020
IN THE MATTER OF THE WHITE PAPER PUBLISHED BY GOVERNMENT OF SIERRA
LEONE DATED SEPTEMBER 2020

BETWEEN:

LIMKOKWING UNIVERSITY OF CREATIVE - APPELLANT
TECHNOLOGY LIMITED
HILL STATION
FREETOWN

AND

THE ATTORNEY-GENERAL AND - RESPONDENT
MINISTER OF JUSTICE
LAW OFFICERS DEPARTMENT
GUMA BUILDING
LAMINA SANKOH STREET
FREETOWN

CORAM

HON.MRS JUSTICE F.B. ALHADI - JA PRESIDING
HON. JUSTICE K. KAMANDA - JA
HON.MRS JUSTICE T. BARNETT - JA

COUNSEL:

I.KANNEH ESQ APPELLANT.
M.P.BANGURA ESQ RESPONDENT.

KAMANDA - J.A.

RULING DELIVERED THIS 2ND DAY OF NOVEMBER 2022

Pursuant to Section 147 (1) of the Constitution of Sierra Leone Act No. 6 of 1991, the President of the Republic of Sierra Leone, his Excellency Julius Maada Bio, by Constitutional Instrument No. 64 of 2018 (hereinafter referred as 'CI No. 61') set up the Justice Biobelle Georgewill



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Commission of Inquiry sitting as a Sole Commissioner to investigate the allegations against the government from November, 2007 to April, 2018. The terms of reference (TOR) of the COI were thus:

- a. To examine the assets and other related matters in respect of;
 - i. Persons who were President, Vice Presidents, Ministers, Ministers of State, Deputy Ministers; and
 - ii. Heads and Chairmen of Boards of Parastatals, Departments and Agencies within the period from November 2007 to April 2018.
- b. To inquire into and investigate whether assets were acquired lawfully or unlawfully
- c. To inquire into; and
 - i. Persons who were President, Vice Presidents, Ministers, Ministers of State, Deputy Ministers; and
 - ii. Heads and Chairmen of Boards of Parastatals, Departments and Agencies within the period from November 2007 to April 2018.
- d. To ascertain as to whether the Persons referred to in paragraphs (a)-(c)
 - i. Maintained a standard of life that which was commensurate to their official emoluments
 - ii. Owned or were in control of pecuniary resources or property disproportionate to their official emoluments or there are evidence of corruption, dishonesty or abuse of office for private benefit by them;
 - iii. Collaborated with any person in respect of such corruption, dishonesty or abuse of office.
 - iv. Acted willfully or complacently in such a manner so as to cause financial loss or damage to the Government, Local Authority or Parastatal, including a Public Corporation
 - v. Acquired directly or indirectly financial or material gains fraudulently, improperly or willfully to the detriment of the Government, Local Authority or Parastatal, including a Public Corporation, statutory Commission, Body or any University in Sierra Leone.
 - vi. To inquire into and investigate any persons or matter as may from time to time be referred to the Commission by His Excellency, the President.

The Sole Commissioner Hon. Justice Biobele Georgewill, in the course of his investigation found the Appellant wanton and at page 16.5 of the COI report made the following recommendations:

“... The following persons shall jointly and severally refund and pay into the Consolidated Revenue Fund of the Government of Sierra Leone the sum of USD\$324,000 overpaid by the Government of Sierra Leone for 1200 students when only 1092 were registered students in the 2016/2017 academic session namely Dr. Minkailu Bah; Umara A. Conteh and iii Linkokwing University, Freetown campus and they shall be referred to the Criminal Jurisdiction and or Anti-Corruption Commission for investigation and likely prosecution...”

A perusal of the terms of reference of the COI which are crystal clear and unambiguous show that the Appellant does not fall within the said terms of reference of the COI. This uncontested position in my view was also articulated by learned Solicitor R.B. Kowa at page 34 of his synopsis of argument. However, the investigation was conducted and adverse findings were made against the Appellant.

The Appellant being dissatisfied with the adverse findings approached the Court of Appeal by way of an appeal against the adverse findings conclusions and recommendations by filing a Notice and Grounds of Appeal on Two Grounds namely:

- (1) That the Sole Commissioner failed to consider and appreciate the evidence adduced before him and proceeded to conclude that the sum of USD\$324,000.00 was paid to the Appellant by the Government as excess fees for the 2016/2017 academic years which said sum the Appellant must refund.
- (2) That the adverse findings and recommendations of the judge sitting as Commissioner was against the weight of the evidence adduced at the hearing.

In my considered view, the grounds of appeal before the Court are intertwine touching and concerning the same evidence adduced. I have critically examined the records of appeal in its entirety. It is obvious that the findings and recommendation of the said COI stemmed from the Internal Audit Report from the Ministry of Finance: LAD/03/2018 recorded on page 10 Labelled Review Report of Government of Sierra Leone Grant-in-Aid to students of Limkokwing". However, at page 3 of the said Audit Report which is found on page 1019 of the court records herein, it state that "We also noted that the total number of verified students for 2016/2017 academic year amounted to 1,092 even though the Government paid for 1,200 students. It therefore implies that the Government has paid for an excess for 108 students amounting to Le1,827,000,000 shown in Table C below", which is contained in page 1020 of the records.

The Internal Audit also reveal that the Appellant submitted an invoice to Government totaling USD\$ 3,406,000 (Le25,915,266,260) as tuition for the 2017/2018 academic year. It states further that "the excess sum of USD\$ 315,000 over paid to the Appellant by Government of Sierra Leone for the 2016/2017 academic year was deducted by way of set off from the USD3,406,000 (Le25,915,266,260) payable to the Appellant by the Government for the 2017/2018 academic year. In fact at Table H on page 6 of the Internal Audit Report found on page 1022, Volume 3 of the records show that the amount due to the Appellant by the Government of Sierra Leone as at 31st December 2017/2018 academic year after deductions of the USD\$ 315,000 amounted to Le25,772,882,220 equivalent to USD\$3,387,287) after deduction of 10% percent.

The records show that "The settlement terms by way of a Public Notice from the Ministry of Finance was even preceded and authorized by an Executive clearance from the office of the President dated 24th September, 2018.

With such preponderance of evidence and the willingness on the part of Government to pay the Appellant the arrears owed in 2017/2018 academic year, it beats my imagination that adverse findings and recommendations were made against the Appellant. In my considered view, the action


of the Ministry of Finance to enter into a set off arrangement with the Appellant was not only done in good faith but was meant to promote and improve education in the country, being that it is the bastion of growth and sustainable development and the flagship program of the Government. The Sole Commissioner ought to have taken that into consideration coupled with the efforts made by the Ministry of Finance to own up to their responsibility. If the Appellant was not an educational institution which Government owns money, the situation would have been different. The key factor that ought to be considered is that Government did not lose a single cent and with the discovery of excess payment the setoff arrangement took care of any impending loss to Government. Both parties did not lose anything and therefore went away happy.

The Respondent has not led any evidence contrary to what is before the Court to show that the Appellant owes the Government any amount of money as to the date of the Appeal or the Commission of Inquiry. As I have reiterated, there was no need for the Sole Commissioner to have made adverse findings and recommendations against the Appellant. The Appeal herein is potent, laced with cogent legal arguments and submissions. This could not be said about the case for the Respondent. In the circumstance I order as follows:

- 1) That the appeal herein is upheld on both grounds
- 2) That the adverse report, findings and recommendations against the Appellant are hereby dismissed.
- 3) No order as to Costs


HON. JUSTICE KOMBA KAMANDA JA

I agree



(Presiding)

HON. JUSTICE FATMATA BINTU ALHADI JA

I agree 

HON. MRS JUSTICE TONIA BARNETT JA

