

MISC. APP. 503 /15

2015 F. NO. 46

IN THE HIGH COURT OF SIERRA LEONE

IN ITS SUPERVISORY JURISDICTION PURSUANT TO SECTION 134 OF THE
CONSTITUTION ACT NO. 6 OF 1991.

AND

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW
PURSUANT TO SECTION 134 OF THE 1991 CONSTITUTION ACT NO. 6 OF
1991.

IN THE MATTER OF THE LEGAL PRACTITIONERS ACT 2000 AS
AMENDED BY THE LEGAL PRACTITIONERS (AMENDMENT) ACT 2004.

IN THE MATTER OF AN APPLICATION FOR AN ORDER OF CERTIORARI
AND MANDAMUS PURSUANT TO SECTION 134 OF THE CONSTITUTION
ACT NO. 6. OF 1991.

BETWEEN: -

ADRIAN FISHER
3, RIGHT PATH STREET
FREETOWN

- APPLICANT

AND

GENERAL LEGAL COUNCIL OF SIERRA LEONE - RESPONDENT
C/O NO. 7, WALPOLE STREET
FREETOWN

K. Metzger Esq. and F. B. Kelfala Esq. for Applicant.
Y. H. Yada Williams Esq. and A. S. Marah Esq. for the Respondent.

JUDGMENT DELIVERED THE 28th DAY OF November, 2016

The Applicant issued an Originating Notice of Motion dated 9th December 2015
seeking the following Orders:

1. A Declaration that the Applicant, Citizen of Sierra Leone with dual British Nationality is qualified to be admitted to practice law in Sierra Leone and his name entered into the Register of Legal Practitioners' in Sierra Leone, pursuant to the provisions of Section 15 of the Legal Practitioners Act 2000 as amended by the Legal Practitioners (Amendment) Act 2004.

2. A Declaration that the words “the applicant is a citizen of a commonwealth country” in Section 15 (2) of the Legal Practitioners Act, 2000 does include citizens of Sierra Leone. Further and/or in the alternative, a declaration that any interpretation that excludes citizen of Sierra Leone from the provisions of section 15 (2) of the 2000 Act amounts to unlawful discrimination pursuant to section 27 of the Constitution of Sierra Leone Act No 6 of 1991.
3. A Declaration pursuant to section 27(i) of the Constitution of Sierra Leone Act No. 6 of 1991 that the interpretation of the Respondent which failed to take into account the Applicants’ Sierra Leone Nationality does amount to unlawful discrimination under the provisions of section 27 (i) and section 171 (15) of the Constitution in such a manner, that would, if permitted, render section 15 (2) inconsistent with the provisions of section 27 (1) aforesaid and therefore “null and void” and of no effect.
4. An Order of Certiorari questioning the decision of the Respondent dated 1st October, 2015 refusing the Plaintiff’s application for admission to practice law in Sierra Leone.
5. An Order of Mandamus directed at the Respondent requiring it to admit the Applicant to practice law in Sierra Leone.
6. An Order requiring the Respondent to
 - a) File and serve upon the court and the Applicant forthwith after service of this motion all documents relating to the granting of ^{exemptions} ~~exemptions~~ to

CALVIN MANTSEBO and one **MR. SEMBALEMBE** citizens of Zimbabwe and Malawi respectfully to practice law in Sierra Leone notwithstanding the fact that neither are citizens of Sierra Leone nor are they qualified for admissions to practice law in Sierra Leone within the meaning of section 10 of the Legal Practitioners Act 2000.

- b) File and serve upon the court and the Applicant forthwith after service of this motion all documents relating to the consideration of the application of the Applicant for admission to practice including but not limited to minutes of any minutes held to determine the application and the composition of the said meeting or meetings.
 - c) File and serve upon the court and the Applicant forthwith evidence relating tenure of all members of Council that took part in the decision in the Applicant's case.
7. That costs of the application be borne by the Respondent.

FACTUAL BACKGROUND OF APPLICANT'S CASE

In support of the application is the affidavit of Adrian Fisher, the Applicant herein sworn to on 9th December 2015. The significant facts deposed to by the said Applicant are as follows: That he a Sierra Leonean national albeit with a British citizenship; that he was called to the Bar of England and Wales in 2001 after completing the LLB Honours Degree; that he subsequently engaged specifically in immigration law and practice and other related matters for a period of 3 years until

he was appointed a Magistrate in Sierra Leone in 2004.; that on his arrival in Sierra Leone he attempted to enroll at the Sierra Leone Law School but was unsuccessful; that on being appointed a Magistrate in 2004 he was assigned to a court in Freetown between 2004 and 2008 when he was transferred to Bo Magistrates Court; that in September 2008 the Anti-Corruption Commission commenced investigations into the activities of his Court Clerk and by implication into his count and that he decided to step down temporarily in order not to be accused of prejudicing the investigation; that he was not suspended or interdicted by the said Commission; that in September 2008 he again applied to be enrolled in the Sierra Leone Law School and he was interviewed by a panel but that he never received any response as to the outcome of his application notwithstanding several letters of inquiring from him; that in February 2009 he was charged with the offence of misappropriation of public funds under the Anti-Corruption Act 2000 and on the 10th July 2010 he was found guilty on all counts; that he then lodged an appeal and his conviction was overturned by the Court of Appeal in July 2015; that relying on the provisions of the Legal Practitioners Act 2000, reapplied for an exemption to be admitted to practise law in Sierra Leone that by letter dated 1st October 2015 the Respondent responded to the application and rejected it for reasons that the United Kingdom does not have provisions in its laws granting the exemption provided for in the Legal Practitioners Act 2000; that he believes that that claim by the Respondent is not correct and does not reflect the true position of the Regulation in respect of the admission of foreign qualified lawyers (Sierra Leone included) in the U.K. ; that the Respondent did not cite any provision of the UK law to support its contention that the UK has no similar provision; that the Bar Standards Board which regulates the Bar of England and Wales does have provisions for the

registration of foreign qualified lawyers from all around the world and the same does not exclude lawyers from Sierra Leone; that on inquiring from both the Bar Standards Board and solicitors Regulation Authority in the UK he was informed by both organisations that Sierra Leone needs to apply for recognition for its members to be allowed to practice law in the UK in the similar manner as other countries have done but that Sierra Leone has failed to avail itself of that opportunity; that he has been that if Sierra Leone was to apply for recognition lawyers from Sierra Leone would also be allowed to practice law in the U.K. like all other countries which benefit from the said provision of the rules and that in the light of the foregoing it is therefore the case that the U.K. has similar provisions for granting exemption to lawyers from Sierra Leone in its laws and this satisfies the requirement of the laws as stipulated in Sierra Leone and laws for the granting of exemption to foreign qualified lawyers and that it is noteworthy that in determining his application, the Respondent ignored the fact that notwithstanding his British citizenship he is also a Sierra Leonean who is deemed to be a Sierra Leonean by birth by operation of law; that he verily believes that the measures for the grant of exemptions contained in the Legal Practitioners Act 2000 could not have been intended to exclude suitably qualified Sierra Leonean whilst granting the same exemptions to foreign nationals; that he further believes that the Respondent ~~did not further believes that the Respondent~~ did not properly consider his application and that he also believes that the rejection of his application by the Respondent for the reasons given is calculated to discriminate against him and not to serve the purpose of enforcing the law they are relying on; that he is reliably informed that the Respondent has granted similar exemptions to two person from Zimbabwe and Malawi respectively, namely one **CALVIN MANTSEBO** and **MR SEMBALEMBA** which allowed them to practice law in Sierra Leone as

prosecutors for the Anti-Corruption Commission; that if the Respondent is of the view that there was a legal basis for the grant of such exemptions under the Legal Practitioners Act 2000 as amended to them, then the same legal basis ought to have been applied in his case particularly in view of the fact that he is a Sierra Leonean; that he is informed and verily believe that having regard to the letter of decision dated 1 October 2015 the decision made was not in accordance with the provisions of Section 3 and 5 of the Legal Practitioners Act 2000; that the Respondent has ignored the fact that he is still a member of the Judicial and Legal Service Commission in the service of the State as a Magistrate that the law makes provision for exemptions and the Respondent is unlawfully and unfairly denying him the right to benefit from the exemptions established by law; that it is noteworthy that he has not physically been working since 2008 on account of the circumstances surrounding his case and subsequent appeal; that he has yet to hear from the Judicial and legal Service Commission to provide him a start date; that s. 135 (2) of the Anti Corruption Act 2008 provides for continuity of service where his conviction is overturned; that considering all the above it is in the interest of fairness and justice that he be allowed to enroll and practice as a Legal Practitioner in Sierra Leone.

I should mention that all the documents referred to in the Applicant's affidavit are exhibited to the said affidavit.

The Respondent entered appearance on 17th December 2015 and also filed a notice of intention to cross-examine the Applicant, **ADRIAN FISHER** on his affidavit in support of the application.

The Applicant filed his statement of case dated 14th December 2015. When the matter came up for hearing on 8th April 2016 leave was granted the Respondent to cross-examine the deponent, **ADRIAN FISHER** on his affidavit in support of the Originating Motion after counsel for the Applicant's objection to the application to cross-examine the said Applicant's was overruled.

The Applicant was then exhaustively cross-examined on the contents of his affidavit and at the conclusion of the said cross-examination, Mr. Williams, counsel for the Respondent applied for an extension of time within which to file papers in answer to the Applicant's case. Leave was subsequently granted him. The Respondent duly filed its affidavit in response to the application sworn to by Yada Hashim Williams on 25th April 2016 and also filed the statement of the Respondent case on 3rd May 2016.

FACTS IN SUPPORT OF THE RESPONDENT'S CASE

The facts in support of the Respondent's case are deposed to in the affidavit of Yada Hashim Williams sworn to on 25th April 2016.

The significant facts as set out therein are as follows:

That he was the Chairman of the General Legal Council (the Respondent herein) when the Applicant submitted his application for admission to practice law in Sierra Leone; that the Applicant's application received by the Respondent dated 6th August 2015 was for admission to practice law in Sierra Leone pursuant to Section 15 of the Legal Practitioners Act 2000 (as amended by the Legal Practitioners Amendment Act 2004); that in the said affidavit the Applicant stated, supported by

documentary proof, that he is a citizen of the United Kingdom and alleged that he had been engaged in the practice of the U.K. and EU Immigration and asylum law and employment law in various capacities for a total of over 14 years; that the Applicant apart from a single practising certificate did not present any evidence to the Respondent that he had practiced law for at least five years in the United Kingdom as at the time of the application; that the Applicant did not also cite or refer to any similar reciprocal requirements in the UK which grant qualified Sierra Leonean barristers and solicitors automatic exempted admissions to the Bar of England and Wales, that is to say exempt them from both the Bar examination and pupillage; that the Respondent refused the application of the applicant stating inter alia that it is "of the opinion that United Kingdom does not have provisions in its laws granting the exemptions provided for in section 15 (i) of the Legal Practitioners Act No 15 of 2000 as amended which are applicable to Sierra Leoneans", that the Applicant has made reference in paragraph 4 of his affidavit in support of the application herein to practising certificates to show that he has practiced law since called to the Bar in England and Wales in 2001 but has only exhibited a single practising certificate for 2015 -2016; that the Applicant stated in his application for admission to practice law in Sierra Leone that he had "been primarily engaged in the practice of UK and EU Immigration and asylum law and employment in various capacities for a total of over 14 years," but has stated in paragraph 5 of the said affidavit that he took up Magisterial employment in Sierra Leone three years after he was called to the Bar in England and stayed in Sierra Leone until around 2011; that the Applicant has not shown any evidence of his practice of law in the UK for at least five of those purported 14 years as required by law.

[the deponent then proceeded to depose about e-mail correspondence made between himself and the Bar Council of England and Wales and the Bar Standard Bureau relating to the statements made by the Applicant of his practice of law in the UK and of the issue of his pupillage or otherwise. From the several correspondence it was confirmed that the Applicant only had one practising certificate for the period 2015-2016 and that there are no records of the Applicant undertaking pupillage in the U.K.; further that he had a four-month reduction in the 12 months period of pupillage but has not been granted exemption. Also that the practising certificate issued to the Applicant did not give him right of audience]

The affidavit evidence then continued as follows:

that the exemption provisions which the Applicant exhibited to his affidavit, (qualified foreign lawyers schemes) are dissimilar to the provisions in section 15 of the Legal Practitioners Act (as amended) and that Sierra Leone is not currently listed in those schemes; that the Applicant has himself said in paragraph 16 that Sierra Leone is yet to be listed in the said schemes implying that whatever the exemptions are they do not currently apply to Sierra Leone.

[The deponent then set out several paragraphs relating to clauses in the qualified lawyers schemes to illustrate his averments that United Kingdom does not have provisions in their laws that are similar to Section 15 of the Legal Practitioners Act 2000 which makes provision for automatic and unconditional enrolment of barristers from commonwealth jurisdiction]

The facts continue as follows

That the Applicant's application was for admission to practice law in Sierra Leone under s. 15(2) and not for exemption under Section 15 (3) which applies to qualified lawyers (from commonwealth jurisdictions) employed in the Judicial and Legal Service or in the service of the State; that the Applicant's application for enrolment is distinguishable from that of **CALVIN MANTESBO** which was done under Section 15(3) of the Legal Practitioners Act 2000; that in consideration of the application of the Applicant, the Respondent only applied the relevant provisions of the Legal Practitioners Act as the regulator of legal practice in Sierra Leone; that the decision was not based on other grounds, discriminatory or otherwise save for the extant law that the Respondent considered the Applicant's application and "its decision to refuse the application was purely based on extant law and regulations in Sierra Leone and the United Kingdom at the material time, that the present application has revealed more fundamental reasons why the Applicant does not meet the criteria for enrolment mentioned in section 15 of the Legal Practitioners Act 2000 which were not apparent to the Respondent at the time the Respondent considered the Applicant's application [The deponent proceeded to illustrate these reasons which related to the Applicant's averments of his practice of the law in the U.K. already mentioned supra]

The deponent then deposed that the Applicant is seeking declarations in the second and third orders prayed for that the Respondent's refusal of his application was a violation of section 27 of the Sierra Leone Constitution, that the High Court does not have such powers to make the above-mentioned declarations sought in his orders 2 and 3.

These then are the facts in support of the Respondent's case as set out in its affidavit in response.

On the filing of the said affidavit the Applicant filed a notice of intention to cross-examine the deponent, Yada Hashim Williams Esq. on the contents of his affidavit and leave was accordingly granted to his counsel to do so. The said deponent was also exhaustively cross-examined on the said contents.

fish NATURE OF ^{THE} THAT APPLICATION

Let me at this stage state that the application before the court is for the judicial review of the decision of the Respondent Council pursuant to s. 134 of the Constitution of Sierra Leone 1991 which provides that

"The High Court of Justice shall have supervisory jurisdiction over all inferior and traditional courts in Sierra Leone and any adjudicating authority, and in the exercise of its supervisory jurisdiction shall have power to issue such directions, writs and orders, including writs of habeas corpus and orders of certiorari, mandamus and prohibition as it may consider appropriate for the purpose of enforcing or securing the enforcement of its supervisory powers."

As counsel for the Applicant submitted the Respondent Council is an adjudicating authority within the meaning of s. 134 by virtue of the provisions of the Legal Practitioners Act 2000, s. 4 whereof provides that the Council shall be the governing authority with regard to the conduct of the legal profession in Sierra Leone and shall be responsible inter alia for the admission and enrolment of persons to practice law, whether as barristers or solicitors or both.

The issue here is that the Applicant applied to the Respondent Council to be admitted to practice law in Sierra Leone pursuant to the provisions of s. 15 of the Legal Practitioners Act 2000 as amended but the Respondent for reasons given refused his application.

The Applicant now seeks a judicial review of the Respondent's decision. He has contended that the Respondent acted unlawfully in concluding that the Applicant is not entitled to practice law in Sierra Leone pursuant to s. 15 of the Legal Practitioners Act 2000 as amended as that conclusion was not only unreasonable but also irrational on established public law grounds. Further that it was also unlawful having regard to the provisions, spirit and intent of the said s. 15 and other relevant laws. In addition the Applicant submitted that the Respondent misdirected itself in law and in fact and he proceeded to rely on several factors.

SCOPE OF JUDICIAL REVIEW

I believe it will be appropriate at this stage to deal with the nature and scope of judicial review. I have sought guidance relating to the said nature and scope from the notes found in the Supreme Court Practice 1999 on Order 53 thereof which deals with applications for judicial review at paragraph 53/14/19 under the rubric "Nature and scope of judicial review." Those notes begin as follows:

"The remedy of judicial review is concerned with reviewing not the merits of the decision in respect of which the application for judicial review is made but the decision-making process itself."

The notes go on to quote from the dictum of Lord Hailsham LC in the case of **Chief Constable of North Wales Police vs. Evans** {1982} 3 All E. R. 141 at 143; {1982} 1 W. L. C. 1155 at 1160 as follows:

"It is important to remember in every case that the purpose of [the remedy of judicial review] is to ensure the individual is given fair treatment by the authority to which he has been subjected and that it is no part of that purpose to substitute the opinion of the judiciary or of individual judges for that of the authority constituted by law to decide the matters in question."

My remit in this case therefore is not to go into the merits or rationale for the decision of the Respondent Council but to see whether the decision-making process was properly carried out.

THE DECISION- MAKING PROCESS

In this regard, the Applicant has taken issue with several aspects of the process.

The Applicant has questioned the composition of the Respondent Council at the date of the decision. Counsel for the Applicant submitted that in its letter dated 1st October 2015 conveying its decision to the Applicant, the Respondent stated the following "Council would like to mention ---". He submitted that those words expressly represent that the said decision was taken by the Council which implies that at the material time the decision was taken, the Council was legally and properly constituted and he referred the court to the provisions of ss. 3 (2) and (3) and ss. 5 (4) and (5) of the Legal Practitioners Act 2000.

Counsel for the Applicant submitted that the Respondent in its defence of these proceedings has been silent as to the tenure of the Chairman and members of the Council and the process by which the Chairman assumed office in compliance with ss. 3 (2) and (3) of the said Act.

Let me say that in my view the tenure of the Chairman and the process by which he assumed office are not so much relevant as the composition of the Council when the decision was made. As counsel for the Applicant has mentioned no evidence has been produced to the court to show the members of Council present at the meeting when the decision was taken, the date of the decision and the minutes of the meeting at which the decision was taken.

It must be emphasized that contrary to the submission of counsel for the Respondent that the composition of members of Council is irrelevant in this case and that the minutes of the meeting not being available are quite irrelevant, in this case which is to ensure that the Applicant has been given a fair hearing and that the decision is reasonable in all the circumstances, it stands to reason that evidence must be produced to show that the decision-making process was lawful and regular.

It must also be emphasized that the function of the court is to see that lawful authority is not abused by unfair treatment. As stated earlier, judicial review is concerned not with the decision itself but with the decision-making process. As Lord Evershed stated in the celebrated case of **Ridge vs. Baldwin** {1963} 2 All E. R. 66 at page 91 *"I do observe again that it is not the decision as such which is liable to review; it is only the circumstances in which the decision was reached -"*

I must point out that most of the evidence relating to the procedure adopted by Council in arriving at its decision was elicited through the cross-examination of Mr. Yada Williams, its Chairman and deponent of the affidavit in response to the application. He supplied under cross-examination the evidence of the procedure adopted at the meeting and members of the Council who took the decision. With regards the composition of the decision-making, he told the court that he was the Chairman, Wordsworth Filo Jones Esq. member, Crispin Feio Edwards Esq. member, Miss Martina Koroma member, Joseph Fitzgerald Kamara Esq. member, Mrs. Jamesina King, member, Reginald Fynn Esq., member, Franklyn Bai Kargbo Esq. the then Attorney-General, member.

Counsel for the Applicant raised the issue of the composition of the members of Council named by its Chairman. He mentioned that one of its members, Reginald Fynn Esq. had been elevated and appointed a Justice of the Court of Appeal and queried how a justice of the Court of Appeal could continue with GLC business whilst serving in a judicial capacity.

The evidence of the composition of the Council which took the decision was adduced by the Chairman and in the absence of the minutes of the meeting, there is no reason to doubt its accuracy. The decision was taken in October 2015 a date when the said Reginald Fynn Esq. had definitely been elevated to the Court of Appeal as one of its Justices. It seems apparent to me that the composition of the decision-makers is clearly flawed and does not comply with the provisions of s 3 (i) of the Legal Practitioners Act 2000 which makes no provision for a Justice of the Court of Appeal to be member of the said Council.

Another issue raised by the Applicant is that the proper procedure set out in the Legal Practitioners Act 2000 was not followed in terms of the decision being made by a meeting pursuant to s. 5 of the said Act. Counsel for the Applicant submitted that while there may be good argument for adopting practices that would allow the Council to carry out its duties more efficaciously these still need to be implemented in such a manner that they are compliant with the Act.

Section 5(4) of the Legal Practitioners Act 2000 is crucial here and provides as follows:

"Decisions at meetings of the Council shall be determined by a ^{simple} ~~single~~ majority of the members present and voting and in the event of equality of votes the Chairman or person presiding shall have a casting vote."

As noted earlier the minutes of the meeting have not been produced to the court. However Mr. Williams under cross-examination testified as to the procedure adopted at the said meeting. The following is the testimony on the issue given by Mr. Williams: *"The entire membership of General Legal Council made the decision of the Council. We did not actually meet and as the procedure for urgent matters we did not meet. The application by the Applicant was circulated electronically by e-mail to all members, deliberated on over a couple of days and a decision taken and a response was drafted by the Secretary. Soft copies circulated to all members for their comments, corrections, input and the final version was what was sent to Mr. Fisher. Yes I received written input from members. They were put on file. They are still on file. We did not communicate the minutes or correspondences to the Applicant---*

The practice of taking decisions by correspondence began soon after I became Chairman when the efficacy of holding meetings and legality came up and I did an opinion and circulated to members. We met as a Council and approved the practice. This was a practice I introduced to bring efficiency to the Council. In the term of Berthan Macauley Jnr, the previous Chairman of the Council that was the practice in use. I consider the practice together with other members of the Council was within the provisions of the Legal Practitioners Act. What constitute minutes were the exchanges and correspondences of decisions arrived at. All the deliberations are available electronically and all the members signed off and the final letter was sent out...."

The above then was the testimony adduced at the hearing of the procedure adopted by Council when the decision was taken. As counsel for the Applicant submitted the Respondent has not felt obliged to produce any supporting evidence to show that the steps that Mr. Williams attested to in fact took place. We therefore only have his word for it.

I must again emphasize that the function of the court here is to examine the decision-making process to ensure that the Applicant has been given a fair hearing. It seems to me that the lack of supporting evidence to show how the decision was arrived at by Council is a fatal omission in this review. How was voting done electronically? There is no evidence of the result of the voting. Was the decision determined by a ^{simple} majority of the members present and voting? Was there equality of votes and did the Chairman have a casting vote? Were minutes of the meeting recorded by the Secretary?

In as much as under the provisions of the Legal Practitioners Act 2000, s. 5(6), the Council can regulate the procedure for its meeting but such procedures must be compliant with the provisions of the Act and in this instance the procedure for decision-making stipulated in s. 5(4) of the Act was not properly applied. It is my view that the Applicant's application which relates to so important a matter as the pursuit of his chosen profession should have been dealt with in strict compliance with the Act. In my judgment there was procedural irregularity in the decision-making process in this case amounting to abuse of power.

I lend support for this view that there was abuse of power from the dictum of Lord Scarman L.J. in the case **Nottinghamshire CC vs. Secretary of State** {1986} 1 All E. R. 199 at 203 where the learned Lord Justice stated as follows: *"The ground on which the court will review the exercise of an administrative discretion by a public officer is abuse of power. Power can be abused in a number of ways: by mistake of law in misconstruing the limits imposed by statute (or by common law in the case of a common law power) on the scope of the power; by procedural irregularity; by unreasonableness in the wednesbury sense; or by bad faith or an improper motive in its exercise."*

ISSUE OF MISDIRECTION OF LAW BY RESPONDENT

That Applicant has submitted that the Respondent misdirected itself in its conclusion that

"Council would like to mention that an applicant seeking admission to practice law in Sierra Leone under the provisions of Section 15 has to establish.

1. That he is a citizen of a commonwealth country
2. That there are legal provisions of that commonwealth country of which he is a citizen which are similar to the legal exemption in Section 15 (i) applicable to Sierra Leoneans.”

Counsel for the Applicant then proceeded to make weighty submissions on the alleged misdirection of law. Counsel for the Respondent also made equally weighty submissions in response to the issues raised. Indeed he concentrated heavily on defending the rationale for the decision.

Let me again re-iterate that the function of the court is to see that lawful authority is not abused by unfair treatment and not to attempt itself the task entrusted to that authority by law. As stated in the notes found in the **Supreme Court Practice 1999** at paragraph 53/14/19 at page 902:

“The court will not however on a judicial review application act as a “court of appeal” from the body concerned; nor will the court interfere in any way with the exercise of any power or discretion which has been conferred on that body unless it has been exercised in a way which is not within that body’s jurisdiction --- if the court were to attempt itself the task entrusted to that authority by the law, the court would, under the guise of preventing the abuse of power, be guilty itself of usurping power.”

See also the case of **Chief Constable vs. Evans** {1982} 3 All E. R. 141 at 155 where Lord Brightman stated that Judicial review is not an appeal from a decision, but a review of the manner in which the decision was made.

In the light of the foregoing this court cannot go into the merits of the Respondent's decision, particularly as there has been no issue raised of the Respondent Council exercising its powers outside its jurisdiction.

REMEDIES

The Applicant has sought orders for declarations and an order of mandamus in addition to an order for certiorari.

These Orders for declarations sought are in my view within the purview of the Respondent Council. The remedy of judicial review is not intended to take away from those authorities the powers and discretions properly vested in them by law and to substitute the courts as the bodies making the decisions. See **Chief Constable of North Wales Police vs. Evans** {1982} 3 All E. R. 135 at 143.

The Respondent council has been empowered by statute as the body responsible for the admission and enrolment of persons to practice law in Sierra Leone. It is therefore the statutory body responsible to determine the persons qualified to practise law in this country. Any declaration by the courts to that effect would be in essence usurping the functions of the Respondent Council.

The Applicant has however sought an order of certiorari quashing the decision of the Respondent herein. Having heard the application I am satisfied that there are grounds for quashing the decision for the improper composition of Council and procedural irregularity as outlined above.

The rules relating to applications for judicial review are found in Order 52 of our High Court Rules 2007. By Order 52 rule 8 (2) of the said High Court Rules 2007, it is provided as follows

"On the hearing of an application for certiorari, the Court if satisfied that there are grounds for quashing the decision or proceeding to which the application refers, may quash it and may, in addition to quashing it remit the matter to the court, tribunal or authority concerned with a direction to reconsider it and proceed in accordance with the findings of the Court."

I believe this provision is applicable in this circumstance. The Respondent Council ought to reconsider the Applicant's application and follow the due process for decision-making under the Legal Practitioners Act 2000.

I make the following Orders:

1. That the decision of the Respondent by letter dated 1st October 2015 addressed to the Applicant herein be removed into the High Court and that the Respondent's Secretary do send to the Master and Registrar High Court the said decision or a copy thereof within 10 days of the date hereof and thereupon the said decision be quashed.

2. That the Applicant's application dated 6th August 2015 be remitted by the Applicant's Solicitors to the Respondent, the General Legal Council within 21 days of the date hereof for that body to reconsider the Application and proceed in accordance with the findings of the court.
3. Costs of the application to be borne by the Respondent agreed at Ten Million Leones (Le10,000,000).

A. Showers
SIGNED :- A. SHOWERS 23/11/2016
JUSTICE OF THE SUPREME COURT