

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS CAUSE NO 185 OF 2007
IN THE MATTER OF S.36 OF THE JUDICATURE ACT CAP 13
AND
IN THE MATTER OF RULE 5 (1) OF THE CIVIL PROCEDURE
(AMENDMENT) (JUDICIAL REVIEW) RULES S.I 75 OF 2003
AND
IN THE MATTER OF THE DECISION BY FACULTY OF SOCIAL
SCIENCES EXAMINATION IRREGULARITIES AND APPEALS
COMMITTEE
AND
IN THE MATTER OF THE DECISION OF MAKERERE
UNIVERSITY ACADEMIC REGISTRAR TO **DISMISS BYAMUKAMA EDSON**
AND
IN THE MATTER OF AN APPLICATION TO EXTEND THE PERIOD WITHIN
WHICH TO FILE AN APPLICATION FOR
LEAVE TO APPLY FOR MANDAMUS AND CERTIORARI

BEFORE: HON. JUSTICE J.P.M TABARO

RULING:

Edson Byamukama filed this application for extension of time so as to seek judicial review of the decisions taken by Makerere University Senate. The applicant was a student of the University until 27-6-2007 when The University Academic Registrar informed him that he had been dismissed from the University for engaging in Examinations Malpractices.

On 2-9-2007 this applicant appealed to the University Senate (of Makerere) but he has never received any response from the University; the appeal, in plain terms, has never been heard.

The present application seeks extension of time to pursue judicial review, as already indicated; in terms of and by virtue of 0.42A Rule 1(5)(1) of the Civil Procedure (Amendment) Judicial Review Rules 2003 ST 75 of 2003 the action must be commenced within 3 months from the occurrence of the act complained of unless Court considers that there is good reason for extending the period within which the application shall be made.

The appeal against the findings and decision of the Senate Examinations Committee was made in June, 2007. Applicant as already indicated made his appeal in September, 2007, but has never known his fate – whether the appeal was successful or unsuccessful. It is common knowledge that Semesters are ordinarily 4 months long, and hence the applicant has lost two semesters equivalent to one academic year, without being informed of the results of the appeal. I consider this delay inordinate, which raises the question of fairness of the proceedings. It is often said, in common parlance, that justice delayed is justice denied. It appears to me, prima facie, a case could be made out for certiorari and mandamus so to compel the University to take action, either way. The application is therefore granted and the applicant is ordered to commence his action within a month from the date hereof.

This year, 2008 this Court has received several hundred cases in judicial review, emanating from the same University, entering on the question of the right to be heard. Consequently, I ordered that the applicants select a test case. Eventually **Mulungwa Monica Eunice Vs. Makerere University & 2 others, HCT-00-CV-MC 0009- 2008** was chosen as the test case, by which the rest shall stand or fall.

However, the present case is difficult because the applicant was heard and a decision taken. The complaint is that the appeal has not been decided within reasonable time. Hence their case shall be decided on its own merits and will not depend on the outcome of Mulungwa's case (supra). But as already indicated leave to pursue judicial review outside the 3 months prescribed by law, is granted. Costs shall abide the final determination of the cause.

J.P.M. Tabaro

Judge

2-5-2008