

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT GULU
HCT – 02 – CV – MA – 072 OF 2008

- 1. **MARK AVOLA**)
- 2. **AMOS OMOYA**)
- 3. **SAM KILARA**) ::::::::::::::::::::::::::: **APPLICANTS**
- 4. **MONICA AKOT**)
- 5. **FESTUS ODUNY**)
- 6. **SAM ISAAC OLINGA)**
- 7. **DAVID OCAN**)
- 8. **KENNETH LUKWIYA)**

VERSUS

WORLD VISION
INTERNATIONAL – UGANDA :::::::::::::::::::::::::::RESPONDENT

BEFORE: HON. JUSTICE REMMY KASULE

RULING

The applicants seek leave to file in this Court an application for Judicial Review for reliefs by way of prerogative orders of certiorari, prohibition and injunction as well as an award of damages.

The application is brought by way of Notice of Motion under Articles 28 and 44 of the Constitution, Section 36 of the Judicature Act and Rules 2, 3, 4 and 5 of the Civil Procedure (Amendment) (Judicial Review) Rules, 2003. It is supported by statements on oath/affidavits of the applicants; except the sixth applicant, Sam Isaac Olinga, whose statement on oath/affidavit was not commissioned before a Commissioner for oaths and is therefore inadmissible as affidavit evidence.

All the applicants claim to be employees of the respondent, World Vision International- Uganda.

Their main grievance is that on 16.07.2008, the respondent suspended each of the applicants from employment without first being given an opportunity to be heard thus acting contrary to the fundamental Rule of natural Justice: Audi Alteram Partem: the right of a party to a cause not to be condemned unheard. A decision arrived at in breach of this Rule is void absolutely and of no consequence at all: **MATOVU & 2 OTHERS VS SSEVIRI & ANOTHER: (1979) HCB 174**

The essence of complaint of each of the applicants is that each one was called by respondent to Acholi Inn Gulu on 16.07.2008. Allegations of impropriety in performing work for the respondent were read to each applicant by a panel of six (6) persons of the respondent. Each applicant was there and then suspended from work and prevented from accessing the place of work. Each was required to respond to the allegations within 24 hours as from the 16.07.2008 and each was to ordered to appear for a hearing on 18.07.2008 at Acholi Inn.

The applicants contend that they could not effectively respond to the allegations without accessing the relevant records at their respective places of work. Further, on 18.07.2008 when they reported for a hearing no one for respondent was there to hear their cases. Each applicant thus contends of being condemned unheard by being suspended from work.

This court, at this stage, is not to consider the merits or demerits of the substantive application sought to be filed by the applicants. The court's duty at this stage of seeking leave, is to determine whether the applicants, each one them, has availed facts that, prima facie, entitles that applicant to be granted leave: **See Uganda Court of Appeal Civil Appeal Number 35 of 2002: KIKONDA BUTEMA FARMS Ltd vs THE INSPECTOR GENERAL OF GOVERNMENT;**

It is also the duty of this court, at this stage, to determine whether the complaint of the applicants is serious enough to deserve investigation by court through Judicial Review process: **See High Court at Kampala Miscellaneous Cause No. 93 of 2006: In the matter of Makerere Students Guild Presidential Elections of 2003.06: MULA ANTHONY VS VICE CHANCELLOR, MAKERERE UNIVERSITY & 2 OTHERS,**

see also :

KENYA COURT OF APPEAL CIVIL APPEAL NO. 84 of 2000: MAJOR M.L. MUSYONA & 4 OTHERS VS. THE CHIEF OF GENERAL STAFF ARMED FORCES OF KENYA & 2 OTHERS , Unreported.

This court is satisfied on the statement of facts filed in court, the inferences drawn therefrom and submissions of Counsel that each of the applicants has made out a prima facie case to be granted leave. This includes the 6th applicant, since from the statements on oath/affidavits of the other applicants, Court infers that their facts also apply to him.

Court is also satisfied that the allegations made by the applicants against the respondent are serious enough to deserve scrutiny of this court by way of Judicial Review.

Accordingly leave is granted to the applicants to file a substantive application by way of Judicial Review within the period prescribed by law.

By way of interim order, it is hereby ordered that the suspension of each of the applicants from employment with the respondent be and is hereby stopped. It is further ordered that the respondent allows each of the applicants to access records from the place of work so as to be able to prepare and /or answer back in the substantive application against the assertions of the respondent against that particular applicant.

The interim orders herein made shall be operative until the determination of the substantive application or until this court orders otherwise. If the substantive application is not filed within the period prescribed by law then the interim orders shall cease to operate.

As to who is entitled to the costs of this application will be determined in the substantive application.

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Remmy Kasule
Judge
4th August 2008

