

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**CIVIL DIVISION**

**MISC CAUSE NO 200 OF 2009**

**JOSEPH**  
**OMURON ::APPLICANT**

**VERSUS**

**PUBLIC SERVICE COMMISSION::::::::::::::::::::::::::::::::::**  
**RESPONDENT**

**BEFORE JUSTICE NYANZI YASIN**

**RULING**

1. This is an old matter which qualifies to be called a back log case. It has been in court for 5 years as a matter of Judicial Review yet by its nature it is supposed to be an urgent issue and be resolved urgently.
  
2. However even when it got a chance to be ended an objection was raised on an important matter of procedure by the Attorney General.
  
3. Initially this case was filed by the applicant against the Public Service Commission and Amnesty Commission as the two respondents. On 14<sup>th</sup>/4/2010 by consent under 0.25r2

CPR Amnesty commission had the application withdrawn against it by the applicant. The Deputy Registrar of this court endorsed the consent on 20/4 /2010.

4. The hearing of this application proceeded by way of written arguments. The Attorney General while replying to the written submission of the applicant raised an objection and prayed that the matter be stayed.

5. The nature of the objection is that under Art250 (2) of the constitution of Uganda, Civil Proceedings against or by the court are started off by the A.G.

For that reason the Attorney General objected to the hearing of Misc cause 314/2013 **CALEB ALAKA -VS- LAW COUNCIL** arguing that the 4<sup>th</sup> respondent could not be sued as a non entity but sued through the Attorney General .Justice Musoke agreed and referred the matter to the constitutional court to decide the question. The question was framed as follows

“Whether the applicant’s acts of instituting civil proceedings seeking prerogative remedies against a corporate entity of Government the Law council Infringes Art 250(2) of the constitution”

In the present case the proceedings are against PSC which is a non entity and a Government body under the Attorney General's Ambit.

While allowing the application of this nature to stay proceedings in **Nite FINING CO.LTD -VS- ATTORNEY GENERAL AND PS MOH** I referred to

Justice Musoke Kibuuka's concern in **Peter Apell & 5 ors -vs- M.O. H.L and VR Development** where he referred to S 110 of Government proceedings act and concluded that the Ministry could be sued or its P.S. For reasons of being consistent, this application being against PSC cannot continue in light of the reference in **CALEB ALAKA** made by Justice Musoke. It serves us all to wait for the constitutional court to make its pronouncement on the issue.

Constitutional matters take Priority over all other proceedings in court.

If the applicants who are affected by this order of stay do wish, the order of stay here in can be used to make the party to the reference depending on the stage of its hearing.

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**NYANZI YASIN**  
**JUDGE**  
**4/04/2014**

4/4/2014

Mr. Ntalemwa for Respondent

Tumwesigye for applicant

AG- ABSENT

Aisha clerk

Court: Ruling delivered in the presence of the above

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NYANZI YASIN

/4/2014