

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

MISCELLANEOUS CAUSE NO. 0065 OF 2016

JUSTUS BARUGAHARE ::::::::::::::::::::::::::::::::::::::: APPLICANT

Versus

**1. BOARD OF DIRECTORS OF UGANDA
PRINTING AND PUBLISHING CORPORATION : RESPONDENT**
2. IRENE MUWANGUZI

BEFORE: HON. JUSTICE STEPHEN MUSOTA

RULING:

The applicant through his lawyers M/s Byamugisha Gabriel & Co. Advocates filed this application for Judicial Review by way of Notice of Motion under Sections 33, 36 and 38 of the Judicature Act, the Judicature (Judicial Review) Rules SI. No.11 of 2009 and Section 98 of the Civil Procedure Rules moving this court for orders declaring that:-

1.

(i) *The 1st Respondent has abnegated its unfettered statutory power to recruit, employ, appraise, confirm, terminate, discipline and or otherwise employ a person in the position and office of Managing director of Uganda Printing and Publishing Corporation (UGANDA PRINTING & PUBLISHING CORPORATION).*

(ii) *The 1st Respondent has failed to exercise its statutory power to recruit, employ, appraise, confirm, terminate, discipline and or otherwise employ a substantive holder of the office of Managing Director of Uganda Printing & Publishing Corporation.*

- (iii) *The 1st Respondent's decision purporting to rescind its earlier decision terminating the contract of employment of the 2nd Respondent in position and office of Managing Director was arbitrary, ultravires, illegal and null and void.*
- (iv) *The act of the 1st Respondent's purport to submit to and abide by non-judicial orders and directives of the Inspector General of Government (IGG) the effect whereof is to permanently deprive it of its statutory purview to recruit, employ, appraise, confirm, terminate, discipline and or otherwise employ a Managing Director of Uganda Printing & Publishing Corporation is an illegality in so far as it is in contravention of the Uganda Printing & Publishing Corporation Act Cap 330.*

The applicant further sought for orders of this court issuing;

2. *An order of certiorari quashing the decision of the 1st Respondent in maintaining the 2nd respondent as Managing Director of UGANDA Printing & Publishing Corporation well after it had terminated her employment.*
3. *An injunction restraining the 1st respondent from continuing with its arbitrary employment of the 2nd Respondent in the position and office of Managing Director of Uganda Printing & Publishing Corporation, an office in which she is no longer entitled to act.*
4. *An injunction restraining the 2nd Respondent from continuing to act in the position and office of Managing Director of Uganda Printing & Publishing Corporation, an office she is at the moment not entitled to hold.*
5. *An order of mandamus compelling the 1st respondent to perform its statutory mandate of, among other things, recruiting and or employing a substantive holder of the position and office of managing Director of Uganda Printing & Publishing Corporation.*

The grounds supporting the application are briefly that:-

- a) *On the 21st November, 2014, the 1st respondent, in exercise of its statutory power, appointed the 2nd Respondent as Managing Director of Uganda Printing & Publishing Corporation on a three year contract pre-conditioned by a six months probationary period pending a confirmation of the contract, extension of the probationary period, or termination basing on her performance.*
- b) *The 1st Respondent, on May 7th 2015 terminated its contract with the 2nd respondent with effect from 31st May 2015 the date on which the probationary period was to end.*
- c) *The 1st respondent then appointed the corporation secretary a one Wanyama Kodoli, in acting position of Managing Director of Uganda Printing & Publishing Corporation.*
- d) *Notwithstanding the appointment of Mr Wanyama Kodoli, the 1st respondent has since, continued to arbitrarily, illegally retain and accommodate the 2nd respondent in the position and office of Managing Director of Uganda Printing & Publishing Corporation.*
- e) *The applicant as an interested citizen in promoting law-governed behaviour, demanded to know from the 1st respondent why the 2nd respondent continues to hold office well after she was terminated, reference was made to orders and directives from the IGG.*
- f) *The 1st respondent due to the orders and directives of the IGG, was forced to arbitrarily extend the 2nd respondent's already terminated contract for a further 2 and 4 months probationary period respectively ending on the 1st December 2015.*
- g) *None of respondents can lawfully justify why from 1st December 2015 to date a substantive holder of the position and office of Managing Director of Uganda Printing & Publishing Corporation has not been recruited, as the 1st respondent continues to retain the 2nd respondent as Managing Director of Uganda Printing & Publishing Corporation to date without a valid instrument of appointment and or employment.*

The applicant as well prayed for an award of costs occasioned by this application as against the respondents.

The application is supported by the affidavit of the applicant dated 11th January 2016. The affidavit is a lengthy narrative of the sequence of the events that led to the impugned decision of the 1st respondent in continuing to employ the 2nd respondent as the Managing Director of Uganda Printing & Publishing Corporation. I will not reproduce the contents of this affidavit but briefly the Applicant deponed that, the 1st respondent in discharge of its mandate on the 21st of November 2014, executed a three year contract of employment with the 2nd respondent in the position and office of Managing Director of Uganda Printing & Publishing Corporation vide annexure “EC”.

The said contract was conditioned by a probationary period of 6 months ending on the 31st of May 2015 upon which the employment status of the 2nd respondent would either be confirmed or terminated depending upon her performance. The probationary period could as well be extended.

The 1st respondent by a letter of termination annexure “TL” dated 7th May 2015 communicated its decision to terminate the 2nd respondent’s employment effective on 31st May 2015. Thereafter the 1st respondent by its letters titled extension of your probation period dated 10th June 2015 and 30th July 2015 respectively purportedly extended the 2nd respondent’s probation for a further two and four months terms respectively. The said extensions were as a result from directives and orders of the Inspector General of Government for which the 1st respondent succumbed to vide the Inspector General of Government’s letter to the 1st respondent dated 13th May 2015 marked annexure “IG”.

The applicant further deponed that the Inspector General of Government issued her directives only on the basis of complaints none of which she had investigated or caused to be investigated contrary to her mandate under Article 230 (2) of the 1995 Uganda Constitution.

Accordingly the applicant deponed that the said directives are arbitrary, illegal and burdensome to the mandate of the 1st respondent and should be called and quashed. Finally that the 1st respondent continues to sit by and watch idly as there continues to be a lawless state of affairs in the Uganda Printing & Publishing Corporation with the 2nd respondent as the Managing Director unlawfully, her contract having been terminated as well as having completed a 12 months' probation period with no further lawful probation thereafter.

In reply to this application the 1st respondent deponed an affidavit by the then Chairman of the Board of Directors Uganda Printing and Publishing Corporation Mr. Eddie George Ococ. The deponent largely agreed with the averments of the applicant's affidavit in support and in particular reply in paragraph 19 averred that, the 1st respondent acted under fear of arrest and proceeded to implement her (Inspector General of Government's) cumbersome directives to extend the term of probation of the 2nd respondent even when there was no living contract of employment between the respondents whose term of probation we could not lawfully extend.

He further averred that the 1st respondent was aware that the 2nd respondent last lawfully occupied the office of Managing Director of Uganda Printing & Publishing Corporation on the December 1st 2015 beyond which her continued stay is courtesy of the Inspector General of Government.

The 2nd respondent in opposition to this application deponed an affidavit dated 10th March 2016. She deponed that the 1st respondent by employment contract dated 21st November 2014 appointed her as Managing Director of Uganda Printing & Publishing Corporation. That in the course of her employment, one of the controversies that arose relates to interpretation and application of the

provisions in the same employment contract to the effect that her contract was for a period of three years on the one hand, and on the other hand that she would serve a probationary period of six months and be confirmed, extended or terminated basing on her performance.

She further deponed that due to the said controversy and several other complaints against the 1st respondent, it led to the intervention by the Inspector General of Government by way of carrying out a systematic investigation into the operations of the 1st respondent and prescribing appropriate remedies.

The 2nd respondent further deponed that at the time the Inspector General of Government commenced her investigations, the 1st respondent had just terminated her employment by resolving in its board meeting of 7th May 2015 vide a letter dated 7th May 2015 annexure “TL”. The Inspector General of Government responded to the said letter and gave directives to the 1st respondent to reserve its decision pending the completion of the Inspector General of Government’s investigations in a letter dated 13th May 2015.

She further deponed that since the impartiality and propriety of some members of the 1st respondent was under investigation the discharge of the powers of the board with regard to appraising me was shelved pending the outcome of the Inspector General of Government Report as confirmed by the email of the 1st Respondent’s chairperson, Mr Eddy George Ococ dated 18th November 2015 annexure “IMI”.

She further deponed that the Inspector General of Government compiled its report dated 12th February 2016 **annexure “IM2”** and served the same to the line Minister for appropriate action with a copy to the Chairperson of the 1st respondent and to herself (2nd respondent). That the Inspector General of Government in its report made findings that her contract of employment was ambiguous in as far as the full term of the contract viz-a-viz the probationary period was

concerned. Further that there was evidence of bias and breach of the principles of fair hearing on the part of some members of the 1st respondent which adversely affects its suitability to discharge some of its statutory mandate to appoint, confirm, discipline, assess and disappoint.

Before I go into the merits of this application, suffice to note that at the initial hearing of this application, the 1st respondent conceded to the Applicant's application, upon which the court recorded a consent ruling and a decree was extracted to that effect. The 2nd respondent accordingly applied to have it set aside as against her. Court set aside the consent agreement as against her hence this main application.

The hearing of this application was by way of written submissions.

The Applicant was represented by M/s Byamugisha Gabriel & Co. Advocates were as the 2nd Respondent was represented by M/s Abiga, Bikala & Co. Advocates.

In determining this application I have had the occasion to meticulously study the respective submissions, the law applicable and the pleadings of the respective parties.

The issues for resolution as set out in the submissions are as follows;

- 1) *Whether the application is properly before court?*
- 2) *Whether the applicant is entitled to the reliefs sought?*

Issue No. 1: *Whether the application is properly before court?*

Counsel for the Applicant submitted that the applicant seeks Judicial Review remedies of certiorari, prohibition and mandamus. Counsel referred court to a number of cases explaining

circumstances under which Judicial review can be brought before a court of law to wit; **John Jet Mwebaze Vs. Makerere University Council & 3 others C.A No. 353 of 2005, Twinomuhangi Vs. Kabale District & Others (2006) HCB 130-131** and **R Vs. Inland Revenue Commissioners Exparte National Federation of Self-employment and small Business ltd (1962) AC 617.**

Counsel for the 2nd respondent in reply submitted that there was no illegality, irrationality or impropriety in the 1st respondent extending the probation of the 2nd respondent after her contract was allegedly terminated. However counsel delved much into the merits of the impugned decision which I shall resolve in the next issue.

I have considered the cases referred to. It is trite law that in order for one to succeed in an application for judicial review the applicant has to show that the decision or act complained of is tainted with illegality, irrationality and procedural impropriety.

Illegality is when the decision making authority commits an error of law in the process of taking the decision or making the act, the subject of the complaint. Acting without jurisdiction or ultra vires or contrary to the provisions of a law or its principles are instances of illegality.

Irrationality is when there is gross unreasonableness in the decision taken or act done that no reasonable authority, addressing itself to the facts and law before it, would have made such a decision. Such a decision is usually in defiance of logic and acceptable moral standards.

Procedural impropriety is when there is failure to act fairly on the part of the decision making authority in the process of taking a decision. The unfairness may be in the non-observance of the rules of natural justice or to act with procedural unfairness towards one to be affected by the decision. It may also involve failure to adhere and observe procedural rules expressly laid down

in a statute or legislative instrument by which such authority exercises jurisdiction to make a decision.

With regard to the above considerations, it is apparent that Judicial Review is concerned not with the private rights or the merits of the decision being challenged but with the decision making process. Its purpose is to ensure that an individual is given fair treatment by an authority to which he has been subjected. **Republic Vs Secretary of State for Education and Science Exparte Avon County [1991] 1 ALL ER 282.**

In this case before me the applicant alleges that the decision of the 1st Respondent to continue with the 2nd respondent as the Managing Director of Uganda Printing & Publishing Corporation after having already terminated her contract is arbitrary, ultravires, illegal, null and void.

Further I have considered the law applicable. Rule 3 of the Judicature (Judicial Review) Rules provides for cases that are appropriate for Judicial Review. It states;

“1) An application for_

(a) An order of mandamus, prohibition or certiorari; or

(b) An injunction under section 38 (2) of the Judicature Act restraining a person from acting in any office in which the person is not entitled to act, shall be made by way of an application for judicial review in accordance with these rules”.

Rule 3 thereof also refers.

Rules 6 (1) provides for the mode of applying for judicial review. It states;

“In any criminal or civil cause or matter, an application for judicial review shall be made by notice of motion in the form specified in the schedule to these rules.”

In light of the above provisions of the law, any person seeking the prerogative orders of certiorari, prohibition, mandamus and injunction as is the applicant herein, has to do so by way of judicial review. In the instant case, the applicant sought the above mentioned orders by lodging an application for judicial review. He did this by filing a notice of motion supported by an affidavit deposed by him.

It is my considered view in light of the above, that this application is properly before this court.

I shall now move to determining the merits of this case.

Issue Two: Whether the applicant is entitled to the reliefs sought.

In his submission counsel for the applicant raised the issue for courts determination whether the applicant is entitled to the remedies sought to which the learned counsel for the 2nd respondent made submissions. It is my considered view that in effect counsel for the Applicant is asking this court to find for the Applicant that the impugned decision of the 1st respondent was arbitrary, ultravires, illegal null and void.

Therefore, as to whether the applicant is entitled to the prerogative orders being sought is dependent on whether the 1st respondent’s decision in continuing the employment of the 2nd respondent as the Managing Director of Uganda Printing & Publishing Corporation was lawful.

From the pleadings it is not in dispute that the 2nd respondent was by a contract of employment dated 21st November 2014 appointed by the 1st Respondent as Managing Director of Uganda Printing & Publishing Corporation for a period of three years effective 1st December 2014.

However, counsel for the 1st respondent submitted that the said contract was terminated on 7th May 2015 to take effect at the expiry of the probation period on 31st May 2015.

It is the case of 1st respondent that the said 2nd respondent's employment was extended by the 1st respondent for a further two illegal probationary periods, while there was no existing contract and to-date the 2nd respondent has continued as the Managing Director of Uganda Printing & Publishing Corporation with no formal confirmation from the 1st respondent.

It was further averred and submitted that the two extensions of the probation which finally ended on 1st December 2015 were on the orders and directives of the Inspector General of Government.

Counsel for the Applicant submitted that the Inspector General of Government was not empowered to make findings and binding orders prior to carrying out investigations. Counsel then invited this court to Article 230 (2) of 1995 Uganda Constitution in support of his argument.

Learned counsel for the 2nd respondent submitted to the contrary that Article 230 (2) of the Constitution and section 14 (6) of the Inspectorate of Government Act empowers the Inspector General of Government to make any orders or directives in the course of performing his or her duties. And as such, the directives of the Inspector General of Government to the 1st respondent to rescind its decision to terminate the 2nd respondent's employment was lawfully pending the results of the Inspector General of Government's investigations into the 1st respondent.

Article 230 (2) of the constitution provides thus;

“The Inspector General of Government may, during the course of his or her duties or as a consequence of his or her findings, make such orders and give such directions as are necessary and appropriate in the circumstances”.

Section 14(6) of the Inspectorate of Government Act 2002 provides thus;

“The Inspector-General may, during the course of his or her duties or as a consequence of his or her findings, make such orders and give such directions as are necessary and appropriate in the circumstances”.

It is clear from the above provisions that the Inspector General of Government is empowered by law to make orders and make such directives as may be necessary and appropriate in the circumstances. The circumstances that such orders and or directives can be made as stipulated by the law are twofold. The first being during the Inspector General of Government’s course of duties to wit investigative duties, and secondly as a consequence or result of the findings made by the Inspector General of Government.

It is the case for the applicant that the decision of the 1st respondent to further extend the 2nd respondent’s probation was as result of orders from the Inspector General of Government, which directives were made prior to the Inspector General of Government making any investigations. Counsel for the applicant submitted that Article 230 (2) of the Constitution empowers the Inspector General of Government to make orders and directives as a consequence of his or her investigations.

The Applicant's counsel further submitted that the 2nd respondent clearly deponed in her affidavit in opposition at paragraphs 7 and 8 that, the Inspector General of Government commenced her investigations after the 1st respondent had just terminated her contract of employment.

Learned counsel for the 2nd respondent in his submissions contended that the said above provisions clearly empower the Inspector General of Government at any stage during the course of her duties, to make directives that are necessary for the ends of justice. Counsel further submitted that it is not necessary for the Inspector General of Government to have commenced investigations as averred to in paragraphs 14, 16, 17 and 18 of the applicant's affidavit in support.

In part I do agree with both counsel for the respective parties, in that the law empowers the Inspector General of Government to make orders and directives as may be necessary in the circumstance of the case either, during the course of his/her duties and or as a consequences of his/her investigative findings. However I do not agree with the submission of the 2nd respondent that such power may be exercised by the Inspector General of Government without an ongoing/commenced investigation.

The provisions of the law under Article 230 (2) and Section 14 (6) supra, are very clear in that this power is only exercisable during the investigative duties of the Inspector General of Government and not before the Inspector General of Government carrying out its duties.

In other words the question for this court to answer here is whether the directives of the Inspector General of Government were made during an investigation or not and the effect thereof?

I must state from the onset that this issue cannot be fully resolved since the author of these directives was not made party to this application nor did she make any submissions to that effect.

Be that as it may, it was the submission of the Applicant's counsel that the said impugned directives prevailed upon the 1st Respondent, and caused it to make several illegal extensions of an already terminated contract.

Counsel for the 2nd respondent submitted to the contrary that, in paragraphs 4, 5, 6, 7 and 8 of the 2nd respondent's affidavit in opposition, she averred that upon assuming her office as Managing Director of Uganda Printing & Publishing Corporation, controversies arose as to the interpretation and application of her employment contract. That this controversy together with other complaints against the 1st respondent led to the intervention of the Inspector General of Government by way of carrying out a systematic investigation into the 1st respondent's operations. That shortly before the Inspector General of Government commenced its investigations, the 1st respondent terminated the 2nd respondent's contract allegedly without appraising her and the said termination was done before the end of the probationary period when the 1st respondent would evaluate and appraise her as per her contract.

It is apparent from the averments of the 2nd respondent that due to controversies and complaints about the 1st respondent which appears to be before the date of the 2nd respondent's termination and the later extensions of her probation, the Inspector General of Government had made a decision to investigate the operations of the 1st respondent. This averment is neither disputed by the Applicant nor the 1st respondent.

I have had recourse to annexure "IG", a letter from the Inspector General of Government in respect of the letter of termination of the 2nd Respondent by the 1st respondent dated 13th May 2015 which was admitted as authentic by the 1st respondent. In particular respect the Inspector General of Government in directing the 1st respondent to rescind its decision of terminating the 2nd respondent's contract before the Inspector General of Government's had concluded its investigation, had this to say and I quote;

“In the present circumstances we find it highly unusual that the Board caused an investigation of the alleged misconduct and alleged criminal offences of the Managing Director in full knowledge that the inspectorate of Government was still actively involved in a systemic investigation at Uganda Printing & Publishing Corporation. It is even more unusual that the Board never at any one point indicated to the Inspectorate of Government that they had any concerns about Ms. Muwanguzi before hastily convening an Ad Hoc Committee to investigate her and subsequently terminate her contract in a manner that leaves doubt as to whether the principles of natural justice were observed.” (emphasis mine).

In light of the above *annexure “IG”* it is evident that the decision of the 1st respondent to terminate the contract of the 2nd respondent after convening an Ad Hoc Committee for the purpose of investigating her was done during the period when the Inspector General of Government was conducting a systemic investigation of Uganda Printing & Publishing Corporation. The term systemic in ordinary meaning according to the ***Oxford Advanced Learners Dictionary 6th Edition*** refers to, ‘*connected with whole of something*’.

In essence the Inspector General of Government was investigating the whole operations of the Uganda Printing & Publishing Corporation including the operations of the 1st respondent and as such, the Inspector General of Government could in light of Article 230 (2) and Section 14 (6) (supra) make such directive as it did ordering the 1st respondent to rescind its decision terminating the 2nd respondent’s contract pending findings of the said investigation.

Having determined that the directives of the Inspector General of Government who in this application I must say is a third party, were proper as they affected the decision of the 1st respondent. The only issue for determination in this application, is whether the decision of the 1st respondent to rescind its decision to terminate the 2nd respondent’s employment and hence, extending further probationary periods was illegal, ultravires null and void.

It is not in dispute that the 1st respondent by its letter *annexure* “TL” dated 7th May 2015 terminated the 2nd respondent’s contract of employment. The said termination was per the said letter effective from the 31st May 2015 which was the end date of the 2nd respondent’s probation period.

It is further not in dispute that the said termination was communicated to amongst others the Inspector General of Government, who in return by its letter *annexure* “IG” dated 13th May 2015 made the above said directives to have the board rescind its decision to terminate the second respondent’s employment contract with Uganda Printing & Publishing Corporation.

The Board obliged to the directives and extended the said contract for further two and four months respectively ending on 1st December 2015.

It is the submission of counsel for the Applicant that 1st Respondent did all it did after terminating the 2nd respondent’s contract under the threat and orders of the Inspector General of Government and that the Inspector General of Government incapacitated it from performing its legal mandate as per the Uganda Printing and Publishing Act. Counsel invited court to make a determination that the Inspector General of Government acted arbitrarily in exerting influence on the 1st respondent in the exercise of its discretionary powers.

Again I must firmly state that this court cannot make such determinations as against the Inspector General of Government who was not made a party to this case in order to make any replies or submissions to the allegations levied against her. However I have already made the determination that given the circumstances of this case the directives made by the Inspector General of Government to the 1st respondent were lawful in the furtherance of the Inspector General of Government’s investigative duties into the operations of the 1st respondent.

In that regard, it cannot be the argument for the Applicant that her (Inspector General of Government's) directives incapacitated the 1st respondent from performing its legal mandate under Section 7(d) of Uganda Printing & Publishing Corporation Act.

Section 7 (d) of Uganda Printing & Publishing Corporation Act provides that;

“The function of the board shall be to appoint and discipline members of staff of the corporation”.

Indeed the 1st respondent appointed the 2nd Respondent to office of Managing Director as of 1st December 2014 for a contract period of three years.

It was still the same 1st respondent that terminated the 2nd respondent's contract vide its letter annexure “TL” dated 7th May 2015.

It was also the same 1st respondent that made the decision by its letter annexure “TE” and “TE1” that decided to extend the probation period of the 2nd respondent which period ended on 1st December 2015.

Be that as it may, it was the submission for the Applicant that the decisions made by the 1st respondent were done after the contract was no longer in existence having already been terminated. Counsel for the Applicant referred this court to Section 65 (1) (a) of the Employment Act.

Section 65 (1) (a) of the Employment Act provides thus;

“Termination shall be deemed to take place where the contract of service is ended by the employer with notice”.

In the regard, the 1st respondent had this to say in its Termination letter annexure “TL” to wit;

“The Board during its 5th Extra Ordinary meeting held on 7th May 2015, after reviewing your performance, unanimously resolved and agreed not to confirm you after the expiration of your probation---you are requested to take leave on the 7th May 2015 and hand over all the material, information---to the acting Managing Director, Mr. Wanyama Kodoli.”

Clearly from the wording of the said letter it is evident that the 2nd respondent’s contract was terminated with effect as of 31st May 2015 the expiration date of her probationary period, and certainly not 7th May 2015. Would the board order an employee whose contract it has terminated immediately to take leave, I would like to think not. This letter in all respects acted as notice in the terms of Section 65 (1) (a) of the Employment Act to the termination of the 2nd respondent’s contract of employment.

It is my determination that the said contract was to be terminated effective on 31st May 2015.

From the pleadings, the 1st respondent made reference to the terms and conditions of the supposedly terminated contract with the 2nd respondent to extend the probationary period for the 2nd respondent for two months.

In particular respect the 1st respondent’s extension of probation letter annexure “TE” stated thus;

“The Board at its 28th May 2015 Statutory Board meeting resolved to extend the probationary period of your contract by a further two months commencing 1st June 2015 purposely to enable the Board and allow enough time within which to carry out a formal appraisal.”

Clearly the said extension was thus made by the 1st respondent before the effective date of termination of the 2nd respondent's contract which was on 31st May 2015.

As such, the decision for the 1st respondent to rescind its termination and further extend the contract of the 2nd respondent to further probationary periods was made before the said termination was in effect operative.

In this regard the 1st respondent made its decision vide the lawful directives of the Inspector General of Government, within existing contract with the 2nd respondent and in the terms of the said contract as reference was made to the same and within its lawful mandate under Section 7(d) of Uganda Printing & Publishing Corporation Act.

In the result the 1st respondent's decisions to rescind its decision terminating the 2nd respondent's contract and further extending the probationary periods for the 2nd respondent were neither illegal, nor ultra vires, or null and void, but were lawful in the circumstances of this case.

Before leaving this issue this court shall make the following observations:

Firstly, the said directives of the Inspector General of Government were not made to act upon the 1st respondent indefinitely. The same have since ceased to be operative when on 12th February 2016 the Inspector General of Government made and submitted its report annexure "IM2" into the investigations of Uganda Printing & Publishing Corporation and the 1st respondent to the respective line Minister and availing the same to the Chairman of the 1st respondent.

It now cannot stand as an argument for the 1st respondent that the said directives incapacitated it from carrying out its lawful mandate.

Secondly, the contract as between the 1st respondent and the 2nd respondent is not a probationary contract as counsel for the Applicant would want this court to hold. The law dictates that a probationary contract must not exceed a period of six months, should be in writing and expressly state that it is for a probationary period (**see Section 2 Employment Act**). Clearly the wording of the contract in this application was for a period of three years and the probationary period in the contract was simply a term/condition therein.

Finally, it is evident from the record of pleadings that since the report of the Inspector General of Government, the 1st respondent did not appraise nor confirm the employment status of the 2nd respondent. However, the 2nd respondent continued to work and be paid her entitlements as per the contract until 16th September 2016 when by the Consent Order of 22nd August 2016, the line Minister acted on and appointed an acting Managing Director. The same consent order was set aside by court as against the 2nd respondent as earlier noted.

It is in this respect that counsel for the 2nd respondent has in his submissions prayed that this court makes order for the payment of her emoluments for the time she has been out of office.

I must say that this is a prayer in submissions and not in pleadings and whether the 2nd respondent is entitled to her emoluments is an issue that the respective parties should have had an occasion to make averments and submissions to.

In this regard the court is unable to make an order as to the 2nd respondent's emolument entitlements.

Issue 3: Whether the Applicant is entitled to the remedies sought?

The applicant amongst others prayed for Prerogative Orders of Certiorari, Injunction, Mandamus and Declarations as spelt out herein above.

Having made a determination that the impugned 1st respondent's decision complained of by the applicant together with the said directives of the Inspector General of Government were lawful in the circumstances of this case, this application for Judicial review is dismissed and the remedies as sought for by the applicant unattainable.

It is the rule of thumb that costs shall follow the event. In the circumstance of this case it is apparent that this application was brought in bad faith and collusion. As such, in exercise of my discretion the costs of this application shall be borne equally by the Applicant and 1st respondent.

It is so ordered.

Stephen Musota

J U D G E

16.11.2017