

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT FORT PORTAL
MISCELLANEOUS APPLICATION NO. 0056 OF 2018
ARISING OUT OF CIVIL SUIT NO. 008 OF 2018

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MURAMUZI AMUZA.....APPLICANT

VERSUS

UGANDA ALLIED HEALTH EXAMINATIONS BOARD.....RESPONDENT

10 **BEFORE: HIS LORDSHIP MR. WILSON MASALU MUSENE**

Ruling

The Applicant, Muramuzi Amuza, filed this application by Notice of Motion under **Section 98** of the Civil Procedure Act and **Order 52 Rule 1** of the Civil Procedure Rules.

15 The Respondent was the Uganda Allied Health Examinations Board. The Application was for orders that;

1. That the Respondent unconditionally gives to the Applicant access to his hand written examination papers for the first semester of the academic year 2017/2018.
2. That the Respondent meets the costs of this application.

20 The grounds in support of the application are contained in the affidavit of the Applicant, but briefly are:-

- i) The Applicant is desirous of accessing his hand written examination papers for the first semester of academic year 2017/2018 to verify and confirm them with the scores portrayed on the result sheet.
- ii) That the Applicant was not contended with the results reflected on the result sheet.
- 25 iii) That it is in the interest of justice that this application is allowed.

The Respondent filed an affidavit in reply by Kato Kimoga, the Executive Secretary of Uganda Allied Health Examination Board. The pertinent paragraphs are;-

3. That the Respondent is created under Business, Technical, Vocational Education and Training Act, 2008 and is mandated to award certificates and diplomas recognized in Uganda Education system and the Labour market.
4. That the process of and administration of examinations has different stakeholders including the candidate, the Respondent's secretariat, training institutions, test item developers, moderators, examiners among others.
5. That the process and administration of exams includes compilation, printing, packing, distribution, storage, conduct, marking, compilation, analysis, validation and release of examination results among others.
6. That during the marking of examination scripts is by Conveyor Belt system which involves organizing markers into groups in which each marker is assigned a questions(s) to mark by the Team Leader in order to avoid bias and remove the influence of one marker on the script to ensue transparency and objective assessment.
7. That I am informed by Counsel Rwamwana Hannington, which information I believe to be true that the application is not premised on valid grounds, an abuse of Court process and a waste of Court's time because the conduct and administration of exams is a process involving different personalities and stakeholders that creates adequate checks and balances and removes influence of one person.
8. That if this application was to be allowed, it would cause an influx of students who fail exams at the examination boards making the process difficult.

On 14/3/2018, M/s Bahenzire for the Applicant was given from 21/3/2019 to 28/3/2019 to file Written submissions, while Mr. Rwamwana Hannington for the Respondent was given up to 4/4/2019 to reply.

Since then, whereas Counsel for the Applicant filed written submissions, Counsel for the Respondent failed and/or refused to file submissions in reply despite two adjournments. This Court therefore proceeded with the submissions of Counsel for the Applicant.

Counsel for the Applicant submitted that the Applicant wishes to verify and confirm the released results, whereof he had written to the applicant prior to the instant application but got no positive response. That this application is not about the process as per paragraphs 4, 5 and 6 of the affidavit in reply for the Respondent but rather the outcome of the said process.

That the continued refusal by the Respondent to grant the applicant access to his hand written examination papers justifies the reasons why the Applicant is not contented with the results that were released to him hence his desire to have the same verified and confirmed.

Further, that upon verification he wants implication of those results that is whether he will be subject to normal progress, probationary progress or required to repeat the semester. That the Applicant missed doing two papers hence Civil Suit No. 008 of 2018, he failed two papers and passed two papers.

Counsel for the Applicant added that it is just that this application be granted and this Court takes judicial notice of the fact that there are three pending cases against the Respondent, all challenging the results. That whereas the applicant was able to go through his first and second year of study without any problems he has for the last three years not been able to make it past his 1st semester of the third year and in August academic year 2019/2020, it will be the Applicant's attempt.

I have carefully considered the submissions of the Applicant and indeed the Applicant has a right to Education as provided in the supreme law this country that is under **Article 30** of the Constitution of the Republic of Uganda, 1995. The Applicant being a student at Fort Portal School of Clinical Officers has a right to ask to verify and confirm his hand written examination papers if so dissatisfied with the released results and the instant case the Respondent who is in charge of examinations is violating this right. This Court under its inherent powers under **Section 98** of the Civil Procedure Act, orders the Respondent to unconditionally give to the Applicant access to his hand written examination papers for the first semester of the academic year 2017/2018 and each party bears its own costs.

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WILSON MASALU MUSENE

JUDGE

02/05/2018