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**Selected Judgment No. 19 of 2016
P.629**

**IN THE SUPREME COURT OF ZAMBIA
HOLDEN AT NDOLA
(CIVIL JURISDICTION)**

**Appeal No. 07/2014
SCZ/8/337/2013**

BETWEEN:

ATTORNEY GENERAL

APPELLANT

AND

WILLIAM HARRINGTON

RESPONDENT

**Coram : Mwanamwambwa, DC.J., Hamaundu and Kabuka, JJS,
on the 7th June, 2016 and the 13th June, 2016**

**For the appellant : Ms C. Mulenga, Principal State Advocate
For the respondent : Messrs PNP Advocates(Not present. Notice of non
appearance filed)**

JUDGMENT

HAMAUNDU, JS, delivered the Judgment of the Court

Legislation referred to:

1. **Parliamentary and Ministerial Code of Conduct Act, Chapter 16 of the Laws of Zambia**
2. **Zambia Public Procurement Agency Act, No. 12 of 2008**
3. **Zambia Wildlife Authority Act, No. 12 of 1998**
4. **The Constitution of Zambia, Cap 1 of the Laws of Zambia, 1991**
5. **The Inquiries Act, Chapter 41 of the Laws of Zambia**
6. **Criminal Procedure Code, Chapter 88 of the Laws of Zambia**

Other Works referred to:

1. **Halsbury's Laws of England, fourth Edition, Volume 11(2) para 923, page 788**
2. **Archbold: Criminal Pleading and Practice, 2005 Edition, Sweet & Maxwell, para 1-144b**
3. **Osborn's Concise Law Dictionary, 9th Edition, Sweet & Maxwell, page 279**

This is an appeal by the Attorney General against a judgment of the High Court which granted the respondent his

application for judicial review by way of a declaration that he was entitled to be heard by a tribunal pursuant to the provisions of **Section 13 (1) and (3) of the Parliamentary and Ministerial Code of Conduct Act, Chapter 16 of the Laws of Zambia.**

The facts forming the background to this appeal are largely not in dispute and are these:

Between the 30th December, 2012 and the 3rd January, 2013, the Minister of Tourism, then, Mrs Sylvia Masebo was reported both in the electronic and print media to have dismissed the Director General and other senior officials of the Zambia Wildlife Authority over hunting licences. She was also reported to have directed the Authority to nullify the tender process for the granting of concessions to safari operators which it had just concluded.

On the 21st January, 2013, the respondent, being aggrieved with the Minister's actions as reported, wrote to the Chief Justice requesting that office to establish a tribunal under the **Parliamentary and Ministerial Code of Conduct Act** to probe

the Minister for alleged breach of the **Act**. In that letter the respondent set out his proposed terms of reference as follows:

- (i) to investigate allegations in the print media of interference and abuse of office by Minister of Tourism and Arts, Sylvia Masebo, MP, in the tender process by ordering the withdrawal of the list of successful bidders for hunting concessions licences in breach of the **Zambia Public Procurement Agency Act**,
- (ii) to investigate the alleged removal of Senior Zambia Wildlife Authority management officials from employment by the Minister in breach of the **Parliamentary and Ministerial Code of Conduct Act**,
- (iii) to investigate alleged breach of the **Zambia Wildlife Authority Act** by the Hon Minister when she gave verbal instruction to ZAWA officers to hunt wildlife without issuing a special licence,
- (iv) to investigate allegations by the Minister of corruption by management at the Zambia Wildlife Authority in the handling of the tender or hunting concessions licences.

- (v) to investigate whether the Hon Minister is in breach of State security by failing and/or neglecting to report to Government security wings that foreign registered aircraft were violating Zambian airspace to uplift out of Zambia some wildlife species or Government trophy; and
- (vi) to recommend to Government appropriate corrective action based on the findings of the investigations.

The respondent attached cuttings of the newspaper reports.

The office of the Chief Justice then was occupied by the Acting Chief Justice, who responded on the 24th January, 2013, asking the respondent to forward to her office any further facts which could make out a prima facie case in order to enable her appoint a tribunal. The respondent, then, sent to the Acting Chief Justice his sworn affidavit and a DVD recording of the news-clip aired by Muvi Television. In his affidavit, the respondent set out the names of people that he would subpoena as witnesses. In response, the Acting Chief Justice wrote to the respondent, stating that it was not sufficient to merely indicate that he would be subpoenaing witnesses but that he should enclose affidavits of

the witnesses for her to analyse and satisfy herself that he had established a prima facie case. The respondent replied, insisting that the **Act** only required him to give particulars of the alleged breach. He went on to point out that, in this case, he had established a prima facie case in that the DVD he had produced showed a recording of Ms Masebo announcing her decision to dismiss the Zambia Wildlife Authority officials.

The Acting Chief Justice then invited the respondent to a meeting which he declined to attend while insisting that he had met the requirement for the appointment of a tribunal. The Acting Chief Justice and the respondent exchanged further correspondence to no avail. Finally on the 23rd April, 2013, the Acting Deputy Chief Justice, responding on behalf of the Acting Chief Justice, who was away on official duties, informed the respondent that it was not possible for the Acting Chief Justice to appoint a tribunal because the respondent had not met the requirements of the relevant law and therefore the basis for appointing the tribunal was not sufficient.

Aggrieved with that decision, the respondent applied for judicial review, seeking three reliefs, namely;

- (i) an order of certiorari to remove into the High Court and quash the refusal by the Acting Chief Justice to appoint a tribunal,
- (ii) an order of mandamus directing the Acting Chief Justice to re-consider her refusal to appoint a tribunal, and;
- (iii) a declaration that the Chief Justice is mandated by **Section 13 (1) and (3) of the Parliamentary and Ministerial Code of Conduct Act**, to appoint a tribunal without setting any pre-conditions, after notifying the President of Zambia.

The grounds upon which the respondent sought the above relief were; illegality and procedural impropriety.

Before the court below, counsel for the respondent reproduced **Part II** of the **Parliamentary and Ministerial Code of Conduct Act**, particularly **Section 3** and **4** under that part. Counsel also reproduced **Part IV**, particularly **Sections 13** and **14**. Relying on those provisions, counsel advanced arguments before the court below which can be summed up thus: Under the

foregoing provisions what has to be presented to the Chief Justice is an allegation. The person alleging, however, has to give particulars of the breach or breaches in writing. There is no requirement for the applicant to make out a *prima facie* case before the Chief Justice can appoint a tribunal. The *prima facie* case is made out only to the tribunal once it is appointed. The role of the Chief Justice is an administrative one and is merely to receive allegations and then notify the President and the Speaker and appoint a tribunal. The role of the tribunal, on the other hand, is to investigate the allegations. By assuming that she had discretion not to appoint a tribunal after receiving allegations of impropriety against the Minister, the Acting Chief Justice purported to exercise a power that she did not have, thereby making her decision illegal.

On the ground of procedural impropriety, counsel simply argued that, by repeatedly demanding that the respondent provides evidence to make out a *prima facie* case, the Acting Chief Justice veered out of the procedure prescribed by statute.

In support of those arguments counsel relied on a plethora of the usual decided cases from both our jurisdiction and the English one.

Responding to the respondent's argument, counsel for the appellant reduced the issues on the ground of illegality to two questions, namely:

- (i) *Did the Acting Chief Justice contravene or exceed the terms of the powers conferred under section 13(3) of the Act?*
- (ii) *Did the Acting Chief Justice understand section 13(1) and (3) of the Act which is the law that regulates the decision making power and give effect to it?*

Counsel answered the first question in the negative and the second question in the positive. The reasons for those answers can be found in counsel's arguments, which we sum up thus:

Section 13 (1) of the **Act** requires that the person making the allegation must also give particulars of the alleged breaches in writing to the Chief Justice. Particulars are material facts which a party to litigation alleges are true and which the party will seek to prove at trial in support of the relief claimed. The

function of particulars is to fill in the picture of the plaintiffs' cause of action with information sufficiently detailed to put the defendant on his guard as to the case he has to meet to enable him prepare for trial. Therefore, the particulars demanded in **Section 13 (1)** of the **Act** are received in order for the defendant to be given a fair outline of the case. In this case the respondent merely set out breaches but did not provide any particulars of those breaches. The respondent did not state which part of the **Act** the Minister had breached. What the Acting Chief Justice was requesting for were particulars and not evidence as alleged by the respondent. The DVD and list of witnesses did not amount to particulars of breaches. Therefore, the Acting Chief Justice understood the law and gave effect to it.

On the ground of procedural impropriety, counsel for the appellant argued that procedural impropriety does not only connote failure to act with procedural fairness towards a person affected by the decision but also connotes failure by an administrative tribunal to observe the procedural rules that are expressly laid down in the legislative instrument which confers

the jurisdiction. Counsel argued that in the circumstances procedural impropriety did not arise in this case because not only did the law not provide for the respondent to be heard but the Acting Chief Justice even went out of her way to engage the respondent on several occasions.

In support of these arguments, counsel similarly referred us to a plethora of well known authorities on the subject of judicial review.

The court below adopted the two questions that the appellant had posed in its arguments.

The learned judge held the view that the dispute was premised entirely on the construction of **Section 13 (1)** of the **Act**. In order to assist him interpret the section, the learned judge chose to determine the purpose of the **Act**. To do that, he looked at some provisions of the **Constitution**, as it was then. He considered **Article 52** which provided:

“All Ministers and Deputy Ministers shall conduct themselves during their tenure of office, in accordance with a Code of Conduct promulgated by Parliament”

He also looked at some portions of **Article 71** which state: **“(2) A Member of the National Assembly shall vacate his seat in the Assembly---**

(a)

(b) **if he acts contrary to the Code of Conduct prescribed by an Act of Parliament”**

From those provisions, the learned judge held the view that the purpose of the **Act** was not only to provide a code of conduct for Ministers and Deputy Ministers but to provide, among other things an avenue by which members of the public are able to complain against the conduct of a Minister or Deputy Minister.

The learned judge then set out to interpret **Section 13 (1)**.

This section provides:

“13 (1) An allegation that a member has breached Part II may be made to the Chief Justice by any person, in writing giving particulars of the breaches or breaches alleged, signed by the complainant and giving the complainant’s name and address”

With the purpose of the **Act** in mind, the learned judge was satisfied that the legislature did not set a rigid standard for a

tribunal to be set. According to the judge, this was evidenced by the fact that any person would have recourse to question the conduct of an elected official who is accountable to the electorate. Therefore the court laid emphasis on the word "or" between the two words "breaches" in that provision and held that by its interpretation, a person had the choice to either provide particulars of the breaches or simply list the breaches. In the court's view, had the legislature intended to clothe the Chief Justice with power to reject an application containing only breaches, it would have said so in unequivocal terms. Consequently, the court was satisfied that there was illegality in the refusal by the Acting Chief Justice to appoint a tribunal. The court declared the decision as being ultra vires and a nullity.

Dealing with the ground of procedural impropriety, the court was of the opinion that the Acting Chief Justice's refusal to appoint a tribunal effectively denied the respondent an opportunity to be heard on the allegations that he had submitted and, therefore, the court was satisfied that the respondent had

demonstrated procedural impropriety on the part of the Acting Chief Justice.

Turning to the remedies sought, however, the court declined to grant the respondent an order of certiorari. The court's reasoning for that decision was that, because it had declared the Acting Chief Justice's decision a nullity, there was nothing to quash. The court similarly declined to grant an order of mandamus because it was of the view that another legal remedy would be equally beneficial, convenient and appropriate on the facts of this case. The court then went on to declare that the respondent was entitled to be heard by a tribunal pursuant to the provisions of **Sections 13 (1) and (3) of the Parliamentary and Ministerial Code of Conduct Act**, prompting this appeal.

We must state here that after that judgment, the Acting Chief Justice proceeded to appoint a tribunal which investigated the allegation and submitted its report. The appellant however, still proceeded with the appeal.

The appellant filed six grounds of appeal. The grounds are as follows:

1. The learned judge in the court below erred in law when he held that there was illegality in the Acting Chief Justice not appointing a tribunal and thereby declaring the decision as being ultra vires and a nullity.
2. The learned judge in the court below erred in law when he held that the decision to refuse to appoint a tribunal was flawed under the head of procedural impropriety as the decision effectively denied the respondent an opportunity to be heard on the allegations he had submitted.
3. The learned judge in the court below erred in both law and fact when he held that the respondent is entitled to be heard by a tribunal pursuant to the provisions of **Section 13(1) and (3) of the Parliamentary and Ministerial Code of Conduct Act, Chapter 16 of the Laws of Zambia.**
4. The learned judge in the court below grossly misapprehended the import of **Section 13 (1) of the Parliamentary and Ministerial Code of Conduct Act** by failing to appreciate the distinction between "*allegations*" and "*particulars*".

5. Having satisfied himself that none of the prerogative remedies in judicial review applications namely; mandamus, certiorari and prohibition, was available on the facts of this case, the learned judge misdirected himself by merely declaring that the applicant was entitled to be heard by a tribunal.
6. The learned judge in the court below contradicted himself when he held that there was no decision made by the Chief Justice amenable to be quashed, on one hand, and that the decision made by the Chief Justice was ultra vires, on the other hand.

Both parties filed written heads of argument. Infact the respondent did not appear at the hearing to present oral arguments; having filed in court a notice of non-appearance. The appellant on the other hand was represented by counsel. Learned counsel, however, relied entirely on the written heads of argument.

The arguments by both parties are materially the same as those they advanced in the court below, which we have briefly

summarised. We shall not recite the arguments now but we may, where necessary, pick certain aspects thereof.

This appeal raises the following issues:-

- (i) the propriety of the Court's declaration that the Respondent was entitled to be heard by a tribunal pursuant to **Section 13 (1) and (3)** of the **Parliamentary and Ministerial Code of Conduct Act;**
and
- (ii) the interpretation of the provisions of **Section 13 (1)** of the **Act.**

The first issue is what the Court granted in its judgment. That is the issue that we shall first deal with. The question is, was the Court's declaration well founded in law? The second, third and fifth grounds of appeal challenge its propriety. Therefore, we shall consider those grounds together.

To answer the question, we wish to look at the provisions of the **Parliamentary and Ministerial Code of Conduct Act** in a little bit more detail.

Section 13 (1) permits any person to make an allegation that a Member of Parliament has breached of **Part II** of the **Act** to the Chief Justice. **Subsection (3)** empowers the Chief Justice to appoint a tribunal after receipt of the allegation. The following provisions concerning the tribunal are pertinent. **Section 14 (2)** provides:

"Where a tribunal has been constituted under subsection (3) of Section thirteen, the Chief Justice may commission it to investigate further allegations received by him under that Section, whether against the Member concerned or another member."

Subsections 5, 6, 7, 9 and 10 of this Section provide:

"(5) A tribunal shall conduct its inquiry in public:

provided that it may exclude representatives of the press or any or all other persons if it considers it necessary so to do for the preservation of order, for the due conduct of the inquiry or for any other reason.

(6) A tribunal may engage the service of such technical advisors or other expert's as it considers necessary for the proper conduct of the inquiry.

- (7) A tribunal may request assistance from other investigative organs, including the police, the Anti Corruption Commission and the Commission for Investigations, and those organs shall be empowered to provide information to the tribunal and to conduct investigations on its behalf.
- (9) If the tribunal considers that an allegation was malicious frivolous or vexatious or that the particulars accompanying it are insufficient to allow a proper investigation to proceed, it shall say so in its report.
- (10) **Sections** *seven, eleven, thirteen, fourteen, fifteen and seventeen of the Inquiries Act shall apply to a tribunal as if-*
- (a) the tribunal were a commission appointed under the Act;
 - (b) a reference to a commissioner were a reference to a member of the tribunal; and
 - (c) a reference to the President were a reference to the Chief Justice”.

We wish to cite particularly **Section 14 (1)** of the **Inquiries Act, Chapter 41 of the Laws of Zambia**. That Section provides:

"14 (1) Commissioners may –

- (a) enter upon and inspect any land, building, place or

- vessel and inspect any goods and other things, the entry upon or inspection of which appears to be requisite for the purposes of the inquiry
- (b) require, by summons, in the form prescribed in the second schedule, the attendance of any person who they wish to call before them and call for the production of books, plans and documents;
 - (c) examine witnesses on oath or affirmation, administered by them”

The form referred to in (b) which is in the second schedule is issued at the instance of the commissioners and is signed by a commissioner.

Finally we wish to cite **Section 13 (4)**. That section provides:

“The tribunal shall within forty-five days after it’s being appointed, submit a report on its findings to the President and to the Speaker and shall furnish a copy to the Member concerned”.

We hasten to note here that the tribunal is not required to furnish a copy of its report to the person that initially made the report to the Chief Justice. From the foregoing provisions the following points can be observed:

- (i) A tribunal appointed under the **Parliamentary and Ministerial Code of Conduct Act** is not a court or quasi court where a person who alleges is required to go and prove his allegations.
- (ii) The tribunal is an investigative body of inquiry
- (iii) Once the allegation has been made and the Chief Justice has appointed the tribunal, it takes over the investigations fully. The person who made the allegations is under no duty to prove his allegation before the tribunal.
- (iv) Relying on the particulars supplied by the person who made the allegation, the tribunal will direct its investigations where it deems necessary and may summon anybody it deems relevant to its investigations, including the person who originally made the allegation. When the tribunal summons such person it is not because he is entitled to be heard and prove his allegation but because the tribunal has deemed it fit to summon him to come and shed more light in furtherance of its investigations.

- (v) It is not the duty of the person who made the allegation to summon witnesses.
- (vi) Once a person has made his allegation and a tribunal has been appointed, the role of the person who made the allegation ceases until the tribunal summons him to shed light on certain aspects of its investigations. This can be evidenced by the fact that in the end the person who made the initial allegation is not among the recipients of the report.

Clearly, therefore, the person who makes the allegations is not entitled to be heard by the tribunal, but will be summoned by it only if it deems it necessary.

Therefore, the basis on which the court granted the respondent the declaration herein was unfounded. For that reason, the second, third and fifth grounds of appeal have merit.

We now turn to the interpretation of **Section 13 (1)** of the **Parliamentary and Ministerial Code of Conduct Act**. That Section is found in **Part IV** of the **Act** which deals with administration and enforcement of the provisions of the **Act**. We

have decided to first look at other provisions in order for us to see what the intention of the legislature was in the provisions of **Section 13 (1). Section 3 (1) in Part II** of the **Act** provides:

“The provisions of this part shall constitute part of the Code of Conduct for Members for the purposes of the Constitution, a breach of which results in the vacation of the seat of the Member concerned”.

Section 4 in the same **Part** provides:

“A Member shall be considered to have breached the code of conduct if he knowingly acquires any significant pecuniary advantage, or assists in the acquisition of pecuniary advantage by another person, by-----

- (a) improperly using or benefitting from information which is obtained in the course of his official duties and which is not generally available to the public;**
- (b) disclosing any official information to unauthorized persons;**
- (c) exerting any improper influence in the appointment, promotion, or disciplining or removal of a public officer;**
- (d) directly or indirectly converting Government**

property for personal or any other unauthorized use; or

(e) soliciting or accepting transfers of economic benefit, other than---

(i) benefits of nominal values, including customary hospitality and token gifts;

(ii) gifts from close family members; or

(iii) transfers pursuant to an enforceable property right of the Member or pursuant to a contract for which full value is given”

Section 6 (7) also sets out two breaches. The Section states:

“6 (7) A Member shall be considered to have breached the code of conduct if—

(a) he fails, without reasonable cause, to make a declaration required by this section; or

(b) he knowingly makes a declaration that is false or misleading in a material particular.”

Two other breaches are set out in **section 7** which provides:

“A Member who is subject to *section ten* shall be considered to have breached the code of conduct if—

(a) he fails, without reasonable cause, to make a declaration required by this section, or

background, therefore, it is our view that the first word breaches from the words we have underlined as a typographical error. It was intended to be in singular form and not plural. Therefore, the section was intended to read as follows:

“An allegation that a Member has breached Part II may be made to the Chief Justice by any person, in writing giving particulars of the breach or breaches alleged, signed by the complainant and giving the complainant’s name and address”.

(underlining ours to highlight the correction)

Therefore, the section cannot have the meaning that the court below assigned to it, namely; that a complainant has an option to either set out the alleged breaches only or give the particulars of the breaches only. The plain and ordinary meaning of this section is that a complainant is required to make the allegation, which is that a Member has breached **Part II** of the **Act**. Then the complainant is required to give particulars of the breach, if it is only one, or breaches, if there are several.

Therefore, there is some merit in the fourth ground of appeal.

We now turn to the particulars required.

Counsel for the appellant argued at length on this issue. Counsel argued that the word "*particulars*" when used in a statute has legal significance and function both in criminal and civil pleadings. In so far as the word is used in criminal pleadings, counsel referred us to a passage in **Halsbury's Laws of England, para 923, page 788** which states:

"After the statement of offence, particulars of the offence must be set out with particularity as may be necessary for giving reasonable information as to the nature of the charge".

We were referred also to **Archbold: Criminal Pleading and Practice, para 1-144b**, particularly a passage which states:

"every indictment shall be sufficient if it contains a statement of the specific offence or offences with which the accused person is charged together with such particulars as may be necessary for giving reasonable information as to the nature of the charge".

Counsel further referred us to **Section 134** of the **Criminal Procedure Code, Chapter 88** of the **Laws of Zambia** which provides:

“Every charge or information shall contain and shall be sufficient if it contains a statement of the specific offence or offences with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge”.

In so far as it is used in civil pleadings, counsel referred us to **Obsborn’s Concise Law Dictionary, page 279** which provides:

“particulars of claim..... Must include a concise statement of the facts on which the claimant relies together with various other details as relevant”.

With regards to the function of particulars, counsel referred us to a passage in the same edition of **Archbold: Criminal Pleading and Practice** which states:

“to allow the defence to know precisely the case it has to meet and to stop the crown from shifting its ground during trial” para 34-34.

Again counsel referred us to the same edition of **Halsbury’s Law of England, para 43, page 32**, which provides:

“The function of particulars is to carry into operation the overriding principle that litigation between parties and particularly the trial should be conducted fairly, openly without surprises as far as possible so as to minimize costs.... each party is entitled to know the case that is intended to be made against him at the trial and to have such particulars of his opponent’s case as will prevent him from being taken by surprise”

On the strength of those authorities counsel argued that, in terms of **Section 13 (1)**, the particulars of the breaches ought to be furnished in order for the opponent to be given a fair outline of the case. It was argued, further, that, in essence, a person requesting that a tribunal ought to be constituted must put up a

case sufficient for a person to know exactly what the person is supposed to defend.

With regard to this case, learned counsel submitted that the respondent did not state which part of the **Act** the Minister was alleged to have breached nor did he provide particulars to show in what way the Minister knowingly acquired any significant pecuniary advantage by another person.

In response to those arguments, learned counsel for the respondent submitted that the appellant had defined the word "*particulars*" in the context of contested litigation. Counsel submitted that a tribunal, on the other hand, is investigative in nature and is not adversarial in form. Consequently, counsel argued, a tribunal is not required to render a verdict or judgment as obtains in adversarial trials. Counsel argued that a complainant in **Section 13 (1)** of the **Act** does not owe a duty to the person complained against to provide particulars, even though in this case the respondent fully supplied the particulars. Counsel argued that the issue of particulars or lack thereof is a preserve of the tribunal and not a task for the Chief Justice.

We have considered the arguments advanced by both parties on this issue. We wish to state that from the authorities that have been cited by the parties regarding the definition of the word "*particulars*", a complainant under **Section 13(1)** is required merely to give a statement or statements outlining what it is that the Member is alleged to have done which constitutes a breach of **Part II** of the **Act**. The particulars need not establish precisely the breaches as worded in the sections in which they are provided. That is why the **Act** has given power to the tribunal to decline to investigate particulars which are frivolous. In this case, the correspondence exchanged between the Acting Chief Justice and the respondent shows that the Acting Chief Justice was requesting the respondent not merely to provide a statement outlining the alleged breaches but to provide statements of witnesses and other material which would enable her determine whether there was a prima facie case that would warrant the appointment of a tribunal. Clearly what was being requested was more than mere particulars and, therefore, went beyond what is in provided for in the section. By refusing to appoint a tribunal

on the ground that the respondent had not provided material that established a prima facie case, the Acting Chief Justice went outside what **Section 13 (1)** provides and, consequently, acted in excess of the jurisdiction conferred on the office of the Chief Justice under that section. On that ground, the refusal was liable to be quashed, although the court below declined to quash it. We can therefore say that although the court below took a wrong thought-process, it was, nevertheless, on firm ground when it held that the Acting Chief Justice's decision was illegal. Therefore the first ground of appeal fails.


The sixth ground of appeal is of absolutely no consequence to this appeal and is not worth delving into.

As we have said earlier, the tribunal that the respondent sought was appointed after the lower court's declaration and the tribunal has long since conducted its investigations and rendered its report. Therefore, this appeal was essentially a challenge on the lower court's decision that the Acting Chief Justice's decision was illegal. To the extent that the first ground of appeal which raises that challenge has failed, then this appeal has failed.

However, because this is a matter of public interest, we order each party to bear their own costs.


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M.S. Mwanamwambwa
DEPUTY CHIEF JUSTICE


.....
E. M. Hamaundu
SUPREME COURT JUDGE


.....
J. K. Kabuka
SUPREME COURT JUDGE