IN THE SUPREME COURT OF ZAMBIA **APPEAL NO. 08/2014**

HOLDEN AT KABWE

(*Civil Jurisdiction*)

BETWEEN:

THE LAW ASSOCIATION OF ZAMBIA **APPELLANT**

AND

THE ATTORNEY GENERAL **RESPONDENT**

Coram: Mambilima, C.J, Wood and Mutuna, JJS.

On 5th April, 2016 and 13th May, 2016.

For the Appellant: *Mr. V. Malambo, SC, with Mr. C. Sianondo- Messrs Malambo and Company.*

For the Respondent: *Mrs. S. Wanjelani- Deputy Chief State Advocate.*

JUDGMENT

Wood, JS, delivered the Judgment of the Court.

CASES REFERRED TO:

1. *Christine Mulundika and others v The People (1995-1997) Z.R. 20.*
2. *Pumpun and another v Attorney General and another (1993) 2 LCR 317.*
3. *Resident Doctors Association of Zambia and others v The Attorney General SCZ Judgment No. 12 of 2003.*
4. *State of Billier v K.K Misra and others (1971) AIR 1667.*

5. *Beatty and others v Gilbanks (1881-1885) ALL E.R. 559.*

LEGISLATION REFERRED TO:

1. *Articles 20* and *21 of the Constitution, Chapter 1 of the Laws of Zambia.*
2. *The Public Order Act, Cap 113 of the Laws of Zambia.*
3. *Order 15 of the Rules of the Supreme Court, 1999 Edition, Volume 1.*

This is an appeal against a decision of the High Court stating that *Sections 5 and 6* of the *Public Order Act, Cap 113* of the *Laws of Zambia* do not violate *Articles 20 and 21* of the *Constitution, Chapter 1* of the Laws of Zambia.

The brief facts of this case are these. The appellant is a body corporate whose objectives include the advancement of the rule of law, rights and liberties of individuals, as well as promotion of law reform. The appellant sought to *challenge* the provisions of *Sections 5 and 6* of the *Public Order Act* on grounds that these provisions were a violation of *Articles 20 and 21* of the *Constitution.* The step taken by the appellant was prompted by the manner in which the Police dealt with notices from the public relating to the holding of a public meeting, procession or demonstration. The appellant complained that on 16th October, 2009, members of the Patriotic

Front in Mpulungu were not allowed to proceed on a peaceful procession to celebrate the victory of their candidate in a parliamentary election despite giving notice to the Police. In November, 2009, employees of Mpelembe Drilling Company notified the Police of their intention to carry out a peaceful protest against non-payment of their salaries. The Police refused them to proceed with the protest. Another example given was the refusal by the Police to allow the Chakwela Makumbi Ceremony Organising Committee permission to carry out a peaceful protest in support of Chieftainess Nkomesha, following then President Rupiah Banda's threats against her. On 29th May, 2012, youths from the United Party for National Development (UPND) notified the Police of their intention to hold a procession in support of an independent judiciary. The Police refused to police the procession on grounds that it had information that there was a group of people intending to disrupt the procession. However, on the day of the procession, the Police sent officers to stop the youths from proceeding with the peaceful procession. Further on 22nd August, 2012, the Police refused to allow the UPND from holding a rally at Twashuka grounds in Kanyama despite giving notice of its intention. On the

day of the rally, the Police sent officers to cordon off the venue of the rally to prevent UPND from defying their order. These are just but some of the instances cited by the appellant.

The basis of the petition filed in by the appellant was that on 3rd March, 1996, we delivered judgment in the case of *Christine Mulundika and others v The People*[1] in which we nullified *Section 5(4)* of the *Public Order Act* on grounds that it contravened *Articles 20* and *21* of the *Constitution*. It was stated that prior to the *Mulundika* judgment, *Section 5(4)* of the *Act* required a convener of a public meeting, procession or demonstration to apply for a Police permit. In its amended form, *Section 5(4)* of the *Act* now requires a convener of a public meeting, procession or demonstration to give the Police seven days prior notice. However, *Section 5(5)* of the *Act* gives the Police Officer dealing with the notification power to impose conditions of a mandatory nature such as the date and time as well as duration of the meeting, persons permitted to speak at the public meeting, procession or demonstration and matters to be discussed. The petition also stated that *Section 5(6) of* the *Act* gives the regulating officer open ended discretion to defer the intended public

meeting, procession or demonstration, which discretion is open to abuse. It was alleged that criminalization of disobedience to *Section 5(3), (4), (5)* and *(7)* has negated the rights and freedoms of individuals as provided under *Articles 20* and *21 of the Constitution.*

The respondent's answer was that the rights and freedoms guaranteed under *Articles 20 and 21* of the *Constitution* are not absolute, as they are subject to limitations designed to ensure that their enjoyment by individuals do not prejudice the rights and freedoms of others or public interest. The respondent maintained that the *Public Order Act* is an essential piece of legislation for purposes of maintaining public order, which in turn is essential for the enjoyment of other rights enshrined in the Constitution.

The learned trial Judge held that in its current form, *Section 5(4)* of the *Public Order Act* is not unconstitutional since there is no requirement for the convener of a public meeting, procession or demonstration to apply for a permit. The only requirement is for notice. He also held the view that the grievance procedure introduced in *Section 5(8) and (9)* of the *Act* addressed our concern with regard to guidance and effective control of the regulating

officer. The grievance procedure provides that any person aggrieved by a decision of the regulating officer may appeal to the Minister and if not satisfied by the decision of the Minister, to the High Court.

The appellant has brought this appeal on three grounds. In ground one, the appellant contended that the learned trial Judge erred when he failed to interpret *Section 5(4) of the Public Order Act* in order to determine whether or not it provides adequate guidance to a regulating officer to prevent abuse and arbitrariness. In ground two, the appellant contended that the learned trial Judge erred in law and fact when he failed to decide whether the notification procedure in itself and in its application does not amount to a request for permission. In ground three, the appellant questioned the finding of the learned trial Judge that the grievance procedure introduced under *Section 5(8)* and *(9)* of the *Public Order Act* was reasonable fair and just.

State Counsel Malambo filed in written heads of argument which he augmented with oral submissions at the hearing of this appeal. He submitted that the main issue raised in the first two grounds of

appeal was whether *Section 5(4)* of the *Public Order Act* as amended by *Act No. 36 of 1996* cured the objection that this Court raised in the *Mulundika* judgment, which is that the then *Section 5(4)* of the *Act* permitted the possible denial of constitutional freedoms on improper, arbitrary or unknown grounds. State Counsel Malambo submitted that the *Mulundika* case was decided on two grounds. The first was that the requirement for prior permission was an obvious hindrance to the freedoms guaranteed under *Articles 20* and *21* of the *Constitution*. The second limb on which the *Mulundika* case was decided was the aspect of whether or not there were any effective controls in the exercise of the power under the pre-amendment *Section 5* of the *Act*. State Counsel Malambo rightly observed that there were none so that the regulating officer was not required to give reasons for refusal to grant a permit and there was no procedure provided to act as a safeguard for an aggrieved unsuccessful applicant. He argued that after the *Mulundika* judgment, Parliament was under an obligation to remove the possibility that the Police could still exercise the power of permission.

It was argued that in its current form, *Section 5(4)* of the *Act* still presents a legal barrier to the full enjoyment of the rights conferred by *Articles 20* and *21* of the *Constitution*, in that it still requires the giving of advance notice which in essence and practice amounts to a request for permission. State Counsel Malambo pointed out that the notification requirement turns into a request for permission when *Section 5(4)* of the *Act* is read with *Section 5(7)* of the *Act* which provides that:

> *"Where the Police notify the conveners of a public meeting, procession or demonstration that it is not possible for the Police to adequately police any proposed public meeting, procession or demonstration, such public meeting, procession or demonstration shall not be held."*

He argued that *Section 5(4)* of the *Act* contains no provisions that would rule out the possibility that permission to assemble and speak may be refused so that the freedoms are denied all together on arbitrary or improper grounds. For this reason, *Section 5(4)* of the *Act* did not meet the constitutionality test set out in the Tanzanian case of *Pumpun and another v Attorney General and another*[2] in which it was held that:

"A law which seeks to limit or derogate from the basic right of an individual on grounds of public interest will not be declared unconstitutional if it satisfies two requirements:

(a) That it is not arbitrary; and

(b) That the limitation imposed by such law is more than is reasonably necessary to achieve the legitimate objective."

His reasons for so arguing were that the *Public Order Act* does not have an inbuilt mechanism for ensuring that the wide discretionary powers conferred upon the regulating officer are exercised with reasonableness.

Moving on to *Section 5(5)* of the *Act*, State Counsel Malambo argued that this provision places burdensome liabilities on the organisers of public meetings, processions or demonstrations. He observed that even though there is no requirement under the *Public Order Act* to disclose would be speakers, the Police have arrogantly taken it upon themselves to investigate the list of persons that would speak at a public meeting, demonstration or procession. As a result, the Police can and will refuse a meeting on the basis of who will speak at a public meeting. State Counsel Malambo noted that the fact that the Police have arrogated to themselves the right to decide not only what should be discussed at the meeting but who

should say it is an assault on the rights to freedom of assembly and freedom of expression, which are the bone of any democratic form of government. In support of his argument, he cited the case of *Resident Doctors Association of Zambia and others v The Attorney General*[3] in which we held *inter alia* that:

> *"The rights to free speech and freedom to assemble are not only fundamental, but central to the concept and ideal of democracy."*

Section 5(6) of the *Act* also gives wide discretion to the Police on whether or not to police a public meeting, procession or demonstration. There is no limit as to how far the public meeting or procession may be postponed and the open ended nature of this provision leaves room for arbitrariness. Further, there are no mechanisms to ensure that the reasons given by the Police for failure to police the public meeting, procession or demonstration meet the test of reasonableness. From the evidence of the then Deputy Inspector General of Police, it can be seen that the mindset of the Police is that *Section 5(6)* of the *Act* gives them power to allow or not to allow a public meeting, procession or demonstration after receiving a notice. In his words, *Section 5* of the *Public Order Act* is still *Mulundika* unconstitutional.

State Counsel Malambo also submitted that the evidence of the then Deputy Inspector General of Police shows the extent of the arbitrariness in the manner of application of the *Public Order Act.* He pointed to the video evidence of the Police using force on UPND youths who had prior to that, given notice to hold a procession in support of an independent judiciary. In reference to the video evidence, the Deputy Inspector General of Police stated that his understanding of the video was that the Police did not support the notification by the youths in question. His view was that despite the amendment to *Public Order Act*, the Police have not changed the manner in which they apply its provisions. State Counsel Malambo also referred us to a number of letters in the record of appeal in which the Police had refused the opposition UPND from holding rallies to illustrate how the Police deal with public meetings, demonstrations and assemblies in a manner which is at variance with *Act No. 1 of 1996* and *Act No. 36 of 1996.* In one instance, the Police refused the United Party for National Development to hold a rally at Twashuka grounds in Kanyama for security reasons, but did not disclose what the security reasons were. The Police disobeyed a Court injunction allowing the UPND from proceeding

with the cancelled rally and instead sent a force of about 200 Police officers to prevent the rally from proceeding. He argued that an *Act* which fails to compel an officer to give reasons fails the test in the *Mulundika* case.

In her response, Mrs. Wanjelani argued that *Section 5* of the Act satisfies the test for constitutionality set in the case of *Pumpun and another v Attorney General and another*[2] cited by State Counsel Malambo. She argued that this provision is not unlawful or arbitrary as it has sufficient safeguards against arbitrary decisions and further provides effective control against abuse by those in authority by providing a grievance and appeals procedure under *Section 5(8)* and *(9)* of the *Act,* and which is independent of the Executive.

Mrs. Wanjelani held the view that there was nothing wrong with *Section 5(4)* of the *Act* because even this Court did acknowledge in the Mulundika judgment that there was nothing wrong with a law that requires advance notification, as the Police are under a duty to regulate public meetings, demonstrations and processions for the preservation of public peace and order. Further, the mandatory

requirement in *Section 5(6)* of the *Act* to provide reasons in writing for the inability to police a public meeting, procession or demonstration, five days before the date of the event, is a sufficient safeguard against arbitrariness. A person not satisfied with the reasons given by a regulating officer has the right to appeal under *Section 5(9)* of the *Act*. Mrs. Wanjelani contended that *Act No. 1 of 1996* and *Act No. 36 of 1996* adequately dealt with the concerns raised in the Mulundika case by providing for an appeal to the Minister and if the notifier is not satisfied, to the High Court. She however stated that once an appeal was lodged, the respondent had no control over whether or not proceedings were being conducted at a glacial pace.

Mrs. Wanjelani supported the practice of asking for a list of would be speakers, because in her view, this was meant to guarantee the safety of the people in attendance and not meant to curtail the right to freedom of expression. That while the citizens have the constitutional freedoms of speech and assembly, these freedoms and liberties are not absolute, and the Police equally have a constitutional obligation to carry out their functions as outlined in

the Constitution. She contended that even in the most advanced democracies, there was need for advance notification to be given to the Police to ensure the maintenance of law and order.

The third ground of appeal related to the question of the adequacy of the grievance procedure. State Counsel Malambo submitted that the guidance given by the learned trial Judge with regard to the grievance procedure provided for in *Section 5(8) and (9)* of the *Act* was flawed because it ignores the existing law as provided for in *Order 55 of the White Book, 1999 Edition, Volume 1* relating to the procedure to be adopted when prosecuting appeals to the High Court. State Counsel Malambo argued that the notion that *Section 5(8)* and *(9)* of the *Act* cured this Court's concern was an erroneous characterization of the *Mulundika* judgment. His view was that the *Public Order Act* itself must provide guidelines to prevent arbitrary and capricious decisions of the regulating officer. In its current form, the grievance procedure is neither efficient nor fair and court process takes time and costs money.

In respect of ground three of the appeal, Mrs. Wanjelani agreed that one of the issues addressed in the Mulundika case was that

there were no effective controls on the exercise of the powers of a regulating officer. The introduction of the grievance procedure in *Section 5(8) and (9)* of the *Act* has resolved this Court's concern that the regulating officer was the first and the final authority on the issue of permission. Mrs. Wanjelani contended that *Sections 5(8) and (9)* of the *Act* are fair and just, and meet the criteria set in the case of *State of Billier v K.K Misra and others*[3] in which the Supreme Court of India expressed its view on laws imposing restrictions on fundamental rights. It was stated, *inter alia*, that:

> *"One of the important tests to find out whether a restriction is reasonable is to see whether the aggrieved party has a right of representation against the restriction imposed or proposed to be imposed."*

Mrs. Wanjelani contended that while the respondent had control over the procedure from the regulating officer to the Minister, the respondent had no control over the length of time the High Court would take to dispose of an appeal to it. She suggested that this was a matter which could be enacted into law.

We are grateful to the parties for their submissions. We have considered the record of appeal and the judgment appealed against. We have also considered the arguments in respect of this appeal.

This appeal raises two fundamental issues. The first issue is whether or not the *Public Order Act* as amended by *Act No. 1 of 1996* and *Act No. 36 of 1996* addressed the concerns raised by this court in the *Mulundika* judgment over the unconstitutionality of the pre-amendment *Section 5(4)* of the *Act*. The second issue is whether or not the Police are applying the provisions of the *Public Order Act* in in a fair and just manner. There are of course, peripheral issues relating to the main issues we have identified, which for the sake of completeness we shall deal with in the course of this judgment. As can be seen, this appeal has its genesis in the *Mulundika* judgment. We must, however, state that we shall not embark on a historical expedition relating to the *Public Order Act* as this has been more than adequately addressed in the Mulundika judgment. It will, therefore, serve no useful purpose to repeat it in this judgment.

State Counsel Malambo is, of course, of the view that the *Public Order Act* in its current form is still unconstitutional to the extent mentioned in the arguments. Mrs. Wanjelani, on the other hand, sees things differently and is of the view that the *Act* has sufficiently addressed the concerns raised by this court in the *Mulundika*

judgment. In addition, she was of the view that the Police are complying with both the letter and spirit of the law as amended in the Act. In the *Mulundika* case the main question which this Court was faced with, was whether *Section 5(4) of the Public Order Act* as it was prior to the amendment, was unconstitutional and violated *Articles 20 and 21 of the Constitution* which guarantee the freedom of expression and freedom of assembly respectively. *Section 5(4)* of the *Act* required the convener of a public meeting, procession or demonstration to apply for a permit in respect of the public meeting, procession or demonstration. This court came to the conclusion that *Section 5(4)* of the *Act* which gave the Police far reaching powers over the freedom of expression and assembly was indeed unconstitutional and violated the provisions of the *Articles 20 and 21* of the *Constitution.* It was consequently struck down for being inconsistent with the Constitution. More importantly and for the purposes of this appeal, the judgment recognized that while *Section 5(4)* of the *Act* had been struck down for being unconstitutional, there was need to have a modicum of a regulatory framework in place for the sake of public order, bearing in mind the overriding needs of *Articles 20* and *21* of the *Constitution.* The result

of the Mulundika judgment was *Act No. 1 of 1996* and *Act No. 36 of 1996*. In particular, *Section 5(4)* of the *Public Order Act* as amended by *Act No. 36 of 1996* reads as follows:

> *"(4) Every person who intends to assemble or convene a public meeting, procession or demonstration shall give Police at least seven days' notice of that person's intention to assemble or convene such a meeting, procession or demonstration."*

Our view is that in its current form, *Section 5(4) of the Public Order Act* has addressed the concerns we raised in the *Mulundika* judgment over the requirement for a permit. As the law stands, a convener of a public meeting, procession or demonstration is no longer required to obtain a permit from the Police, but to simply give the Police notice. Dispensing with the provisions of *Section 5(4)* of the *Act* would make it difficult for the Police to maintain public peace and order. In the *Mulundika* judgment, we stated that:

> *"Though, therefore, the Police can no longer deny a permit because the requirement for one is about to be pronounced against, they will be entitled-indeed they are under a duty in terms of the remainder of the Public Order Act-to regulate public meetings, assemblies and processions strictly for the purpose of preserving public peace and order."*

In this regard, we hold the view that the requirement for notice is necessary, as this is the only way the Police can perform their

regulatory function and maintain law and order in our society. State Counsel Malambo has described the provisions under *Section 5(5)* as burdensome on the convener of a public meeting, procession or demonstration. In the Mulundika judgment, we saw nothing wrong with such provisions as they are merely regulatory functions necessary for the police to maintain public peace and order. These provisions cannot be said to be burdensome as a convener of a public meeting, procession or demonstration equally has a responsibility to help the Police maintain peace and order. The requirements under *Section 5(5)* of the *Act* are an undertaking to do so. We do not in any way think that these provisions allow the police to place restrictions on the substantive focus of public meetings, processions or demonstrations.

We are, however, of the view that *Section 5(6)* of the *Act* was a halfhearted attempt to comply with our striking down the pre amendment *Section 5(4)* of the *Act* for being unconstitutional. We take this view because *Section 5(6)* does not provide a time frame for a reasonable alternative period to which the public meeting,

procession or demonstration may be postponed to. It reads as follows:

> *"Where it is not possible for the Police to adequately police any particular public meeting , procession or demonstration, the regulating officer of the area shall, at least five days before the date of the public meeting, procession or demonstration, inform the conveners of the public meeting, procession or demonstration in writing the reasons for the inability of the Police to police the public meeting, possession or demonstration and shall propose an alternative date and time for the holding of such public meeting, procession or demonstration."*

In applying this provision, the Police have refused to police public meetings and processions in the absence of a proper explanation and without proposing an alternative date for the public meeting, procession or demonstration. This is despite the fact that *Section 5(6)* of the *Act* demands that a reason for the inability be furnished. Examples abound in the record of appeal of the cavalier attitude of the Police when dealing with notifications for public meetings, processions or demonstrations. The letters in the record of appeal and the evidence of the Deputy Inspector General of Police largely point to fact that in so far as they were concerned, the amendments to the Act have not changed the manner in which the Police apply the *Public Order Act.* It was business as usual. We must here state

that it is not. We wish to dispel the notion that under *Section 5 (6)* of the *Act*, the Police are at liberty to refuse a proposed public meeting, procession or demonstration without suggesting a reasonable alternative date in the very near future even though *Section 5(6) of the Act* does not set a time limit. The letters in the record of appeal all point to the fact that the Police had no intention of allowing alternative dates of assembly. In the letters and notices before us, the Police use words such as:

> *"... the planned rally... has been cancelled until further notice", "Not approved", "The cancellation has been necessitated due to some security commitments" "..defer their meeting to another date."*

Clearly, the Police were content to keep the alternative date nebulous, which is contrary to what the law specifically states. We do not think that it is a sisyphean task to suggest an alternative date even when security concerns are raised. This state of affairs supports State Counsel Malambo's argument that the *Public Order Act* is not being applied fairly by the Police to all the parties concerned. An example is the refusal by the Police to provide manpower to the UPND at a rally they intended to hold at Twashuka grounds in Kanyama on grounds that they did not have

sufficient manpower to do so as they had sent the Police to police a National Football Match in Ndola. We wish to state that it does not augur well for the Police to state that they are thin on the ground, when it suits them for the purposes of simply denying the conveners who had the right to hold a meeting, only to send a troop of 200 Police Officers to stop the people who had legally notified them of the rally. The refusal by the Police to police the UPND youth procession of 29th May, 2012, on grounds that there was a group of people who planned on disrupting the procession is another example of the misapplication of the *Public Order Act.* It defies logic that the Police would rather provide manpower to prevent people from exercising their right under *Article 21 of the Constitution*, than protect them against the elements that were planning on infringing upon this right. In such a case, it is the duty of the Police to protect persons who are properly exercising their right to assemble from those that are threatening to infringe upon their right. In the English case of *Beatty and others v Gilbanks*[4] the appellants with other persons, assembled in the streets of a town for a lawful object, but knowing that their assembly would be opposed and resisted by other persons in such a way as would in all probability tend to the

committing of a breach of the peace on the part of the opposing persons. A disturbance of the peace was indeed created by the opposition after which the appellants were charged with unlawful assembly. Field J. found that they were not guilty of the offence of unlawful assembly because a man acting lawfully cannot be punished for engaging in an act that will induce another man to act unlawfully.

We respectfully endorse the finding of the learned Judge as the right of association as guaranteed by the Constitution cannot be subordinated to anybody, especially unlawful elements.

We, however, acknowledge that the freedoms guaranteed under *Articles 20* and *21* of the *Constitution* are not absolute and are subject to limitations. *Article 20(3) (a)* of the Constitution states that:

> *"(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision-*
>
> *(a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health; or"*

There is a similar provision under *Article 21(2)(a)* of the *Constitution.* Except for the open ended nature of when a public meeting, procession or demonstration may be postponed to, our view is that *Section 5(6)* of the *Act* does not violate *Articles 20* and *21* of the *Constitution.* As we have already stated, the provision obliges the Police to give a reason for their failure to police a public meeting or procession and this reason must fall within *Articles 20(3)(a)* and *21(2)(a)* of the *Constitution.* In this regard, we do not think that it is arbitrary for the Police to ask a convener to postpone a public meeting, procession or demonstration to a not so far off date if there is a genuine reason which falls within the limits set in *Articles 20(3)(a)* and *21(2)(a)* of the *Constitution.* We do not think that the limitations that the Public Order Act places on the rights under *Articles 20 and 21 of the Constitution* are unconstitutional.

With regard to ground three of the appeal, we are of the view that the grievance procedure in *Section 5(8)* and *(9)* of the *Act,* which is a result of our recommendation in the *Mulundika* judgment is sufficiently robust. Prior to the *Mulundika* judgment, the regulating officer was the final authority on the issue of permission to hold a

public meeting, procession or demonstration. The grievance procedure under *Section 5(8)* and *(9)* allows for the decision of both the regulating officer and the Minister to be challenged. When the Police are unable to police a public meeting, procession or demonstration, *Section 5(6)* of the *Act* obliges them to inform the convener of their inability to do so within five days of the notification. A regulating officer is required to give reasons for the failure by the Police to police a public meeting, procession or demonstration and this decision may be challenged on appeal. This, in our view, offers sufficient guidelines to prevent arbitrariness on the part of the regulating officer. Where a convener is not satisfied with the reasons given by the Police, they have an immediate right to appeal to the Minister. Under *Section 5(8)* of the *Act,* the Minister has five days to determine the appeal and inform the conveners in writing of his decision on the matter. Any grievance that arises under *Section 5(6)* of the *Act* must be resolved within ten days, which in our view, is a reasonable period of time. The time limit within which the decisions have to be made by a regulating officer and the Minister allow for a matter to be determined within the shortest possible time. Thereafter, the decision of the Minister may

be challenged in the High Court within 30 days as provided for under *Order 55* of the Rules of the *Supreme Court*. We have not found any inefficiencies or unfairness in the grievance procedure under *Section 5(8)* and *(9)* of the *Act*. This ground of appeal lacks merit.

The net result is that this appeal is unsuccessful. Since this matter raised important questions of a constitutional nature, we will not make any order as to costs.

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I.C. MAMBILIMA
CHIEF JUSTICE

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A.M.WOOD
SUPREME COURT JUDGE

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N.K. MUTUNA
SUPREME COURT JUDGE