

CLEOPATRA GUMBO  
and  
NORMAN TAFADZWA MASHAYAMOMBE  
versus  
ZIMBABWE EZEKIEL GUTI UNIVERSITY  
and  
THE VICE CHANCELLOR N.O.  
and  
THE REGISTRAR N.O.

HIGH COURT OF ZIMBABWE  
ZHOU J  
HARARE, 28 April & 4 May 2022

### **Urgent Chamber Application**

*M C Chichetu, with her K Mukanganwi, for the applicant*  
*T Kabuya, for the respondent*

**ZHOU J:** This is an urgent chamber application for an order compelling the respondents to allow the applicants to continue with their studies in the Bachelor of Laws (LLB) degree programme pending the return date. On the return date the applicants seek an order setting aside the decision to revoke their admission to the LLB programme, which decision was communicated by letters dated 13 April 2022. In other words, the applicants want to be reinstated as students in the law degree programme. The application is opposed by the respondents.

The background facts to this application are as follows:

Both applicants state that they were offered admission to the LLB degree programme at the first respondent. Both of them received a standard offer letter copies of which have been attached to the founding affidavits. The letter is dated 25 March 2022. Among other things, the letter informed the applicants about the fees to be paid. The banking details are given. Both applicants paid the fees stated in the offer letter. On 13 April 2022 the first respondent through the third respondent wrote a letter to each of the applicants withdrawing their admission to the LLB programme with immediate effect. The letter advised that the Academic Board had taken the

decision to revoke the offers on the grounds that there were irregularities which characterized their admission and that their admission did not satisfy the requirements of the regulations.

Both applicants state that they applied for admission to the LLB degree programme. The respondents state that the applicants' applications were never received and were certainly not considered by the relevant body of the University's Faculty of Law. It is common ground that the two applicants did not participate in the interviews which are part of the selection process. Their names did not appear on the final list of the successful applicants. Respondents state that in any event the applicants did not have the minimum qualifications for normal entry into the LLB programme, and they did not write and pass the test which is offered to special entry and mature entry candidates. The submission is that the applicants' names may have been irregularly sneaked onto the list by one of the lecturers.

The relief that is being sought by the applicants is in the form of an interim interdict albeit the relief is final in its effect. The requirements for an interim interdict to be granted are as follows:

- (1) that the right which is sought to be protected is clear; or
- (2) that:
  - (a) if it is not clear, it is *prima facie* established though open to some doubt; and
  - (b) there is a well-grounded apprehension of irreparable harm if interim relief is not granted and the applicant ultimately succeeds in establishing his right;
- (3) that the balance of convenience favours the granting of interim relief; and
- (4) the absence of any other satisfactory remedy.

See *Econet (Pvt) Ltd v Minister of Information* 1997 (1) ZLR 342 (H) at 344G – 345H; *Watson v Gilson Enterprises & Ors* 1997 (2) ZLR 318 (H) at 331D – E; *Nyika Investments (Pvt) Ltd v ZIMASCO Holdings (Pvt) Ltd & Ors* 2001 (1) ZLR 212 (H) at 213G – 214B.

Whether there is a right in existence is a question of substantive law, whether that right is clear or only *prima facie* proved is a question of evidence. See *Nyambi & Ors v Minister of Local Government & Anor* 2012 (1) ZLR 559 (H) at 574C.

*In casu*, the applicants' right which is predicated upon the offer letter, is being disputed. The admission letters are being challenged on the grounds that they were irregularly issued. The University Regulations which are attached to the applicants' papers show that both applicants did

not qualify for normal entry, because Clause 7.1 requires them to have three good 'A' level passes with a minimum of twelve (12) points. They are also required to have at least five passes at ordinary level including a grade B or better in English Language. The applicants have none of these basic qualifications. The first applicant attached some document entitled "Certifying Statement" which is attributed to the Botswana Examinations Council and a Certificate for a Graduate diploma in Legal Studies issued by the Institute of Commercial Management. These are not the qualifications required by the regulations. Further, although the applicants state that they submitted applications, these were not considered by the respondents because they were not received. More seriously, the applicants did not take part in the interviews. If all the other applicants who qualified were interviewed then entry without such interviews is indeed questionable and can only be attributable to some corrupt activities.

The second applicant attached a Chinhoyi University of Technology certificate for the Bachelor of Science (Honours) degree in Business Management and Entrepreneurship. This is not the prerequisite for normal entry into the LLB degree programme. This applicant, apart from not submitting an application, did not write any test that would qualify him for special or mature entry.

In light of the disputed material facts noted above, the applicants have not established any right that would entitle them to the interdict sought. See *Nument Security (Pvt) Ltd v Mutoti & Ors* 2007 (2) ZLR 300 (S); *Murowa Diamonds (Pvt) Ltd v ZRA & Anor* 2007 (2) ZLR 375 (H). While these two cases dealt with a failure to establish a clear right owing to material disputes of fact, the principle applies equally *in casu*, because the existence of the right has not been established even *prima facie*. Also, even on the facts which are common cause, the eligibility of the applicants to be admitted to the LLB programme has not been established. The letter relied upon could only have been corruptly procured, authored and presented to the applicants.

In the absence of the right, any apprehension of harm is misplaced. In any event, such harm, even if it had been established would not be irreparable. If the applicants were to succeed in proving the right they would still be able to proceed with their studies. The inconvenience occasioned by the delay does not constitute irreparable harm. The balance of convenience does not favour the granting of the relief sought. If the applicants are allowed to attend lectures when they are not qualified to be in the degree programme and when they did not go through the required procedures, the reputational damage to the first respondent will be irreversible even if it ultimately

succeeds. The integrity of university education in particular, and education in general, must be jealously guarded.

In all the circumstances, the application cannot succeed.

In the result, the application is dismissed with costs.

*Gumbo & Associates*, applicants' legal practitioners

*Matsikidze Attorneys-At-Law*, respondents' legal practitioners