

IN THE SUPREME COURT OF BELIZE, A. D. 2013

CLAIM NO. 393 OF 2011

**IN THE MATTER of Motor Vehicles and Road Traffic Regulations,
Chapter 230 of the Subsidiary Laws of Belize, Revised Edition 2003**

AND

**IN THE MATTER of Road Service Permits for Omnibuses Issued to
Gilharry's Bus Line**

BETWEEN

**FROYLAN GILHARRY SR dba
GILHARRY'S BUS LINE**

CLAIMANT

AND

**TRANSPORT BOARD
CHIEF TRANSPORT OFFICER
MINISTER OF TRANSPORT
THE ATTORNEY GENERAL**

**FIRST DEFENDANT
SECOND DEFENDANT
THIRD DEFENDANT
FOURTH DEFENDANT**

BEFORE *the Honorable Madam Justice Michelle Arana*

Mr. Fred Lumor, S.C., for the Claimant

Mr. Nigel Hawke for the Defendants

J U D G M E N T

1. This is a Claim for judicial review in which the Claimant Froylan Gilharry Sr. doing business as Gilharry's Bus Line seeks the following declarations as against the Defendants, the Transport Board, the Chief Transport Officer, the Minister of Transport and the Attorney General as stated in their Fixed Date Claim Form:
 - i) A declaration that the Defendants acted ultra vires when they made a decision on 15th May 2011 to revoke the Road Service Permits issued to the Claimant instead of renewing the Claimant's existing permits.
 - ii) A declaration that the Defendants abused their powers when they purported to make a decision not to renew the existing road service permits issued to the Claimants and instead sought to impose arbitrarily and illegally new road service permits on the Claimant.

- iii) A declaration that the Defendants breached and frustrated the legitimate expectation of the Claimant by unlawfully renegeing on the representations made to the Claimant in 2008 by the Transport Board which authorized the Claimant to continue to operate on the same permits until the Board was in a position to renew the same.
 - iv) A declaration that the decision is void and a nullity.
 - v) An order that the decision is unfair and contrary to the rules of natural justice and therefore a nullity and void
 - vi) An order of certiorari to remove into the Supreme Court for purposes of being quashed the decision whereby the Defendant sought to revoke and not renew the Motor Vehicles and Road Traffic Permits issued to the Claimant since 2006
 - vii) Damages and costs
2. The Claimant Froylan Gilharry Sr. filed three affidavits in support of this application and the Defendant relied on two affidavits, one from Gareth Murillo Chief Transport Officer and Secretary to the Transport Board(at that time) and one from Major John Flowers, Chairman of the Transport Board. On December 10th, 2012 this court heard oral

arguments from both sides in this matter and reserved its decision. I now give my decision.

The Facts

3. This summary of the facts is based on those facts as set out in the Third Affidavit of the Claimant dated June 30th 2011:

- 1) On or about May 5th 2006 the Transport Board renewed the Claimant's Road Service Permits (11 permits) to operate on the Northern Route (Santa Elena to Belize City) and back. That route was the Main Route. Those permits were issued in accordance with Regulations 210 and 211 of the Motor Vehicles and Road Traffic Regulations.
- 2) These road service permits issued to the Claimant took effect on 5th May 2006 and expired on 4th May 2008. The Claimant paid the sum of \$800 for each permit.
- 3) The conditions attached to each permit are found in the license and the Claimant states that he has not contravened any of these conditions. The schedule of departure and return as well as the time and route to be

travelled on each bus is noted on the back of each permit.

The schedule issued to the Claimant included *inter alia* the lucrative peak hours of 5:00 am, 5:30 am and 6:00 am from Corozal Town to Belize City and 4:30 pm, 5:00 pm and 5:30 pm runs from Belize City to Corozal Town.

- 4) In addition to the runs of the Main Route the Claimant was also allowed to run an additional schedule each Monday and Friday if there was public demand.
- 5) The Claimant states that he has made substantial financial investments in purchasing and maintaining his fleet of omnibuses to meet the demands of these schedules.
- 6) The Claimant was also issued in 2007 with a Road Service Permit to operate 10 mini vans with a seating capacity of 16 to 20 passengers for the Village Run in order to meet the needs of village communities in Corozal travelling to and from the Mexico/Belize border to work at the Free Zone. That permit expired in 2009. The Claimant states that he has been operating this route for the past

14 years and that he has not violated any of the conditions of his permit.

- 7) In March and April 2011 the Minister of Transport invited all bus operators in the country to two meetings in Orange Walk Town. The first meeting was held in March 2011 where the Minister was present along with the Chief Executive Officer, Chairman of the Board of Transport, Chief Transport Officer and Inspector of Police In Charge of Orange Walk.
- 8) In December 2008 there was an injunction issued by the Supreme Court which prohibited the Transport Board and the Chief Transport Officer from doing anything in relation to buses in the north. At the meeting in March 2011, the Claimant states that the bus operators were informed by the Chief Executive Officer in the Ministry of Transport that the injunction granted to Novelo's Northern Transport had been lifted by the Supreme Court and that licenses would be published in the Gazette and that after 3 weeks all bus operators could apply for those additional routes previously held by Novelo's Northern Transport.

- 9) The Claimant claims that as a result of that meeting he applied for those additional routes formerly held by Novelo's Northern Transport and also applied for the renewal of his permits for the Main Route and the Village Runs. He states that to date he has not heard anything from the Transport Board.
- 10) On May 11th, 2011 the bus operators were invited to a meeting at National Emergency Management Organization (NEMO) offices in Belmopan with officials from the Ministry of Transport. The Chief Transport Officer handed out to the bus operators new schedules which the Ministry of Transport proposed to implement on Sunday May 22nd, 2011.
- 11) There were protests and public outcry over the proposed new schedules. Two meetings were held at the Conference Room of the Department of Fisheries in Belize City.

- 12) The Claimant states that at the first meeting held on May 20th, 2011, the Minister of Transport agreed to the implementation of the new schedules handed down at the NEMO offices. However, the following day the new schedules were implemented on the Western Route.
- 13) On May 27th, 2011 there was a nationwide disruption of public transportation as major highways were blocked by bus operators.
- 14) On May 28th 2011 there was another meeting held at the Fisheries Department in Belize City with the Minister of Transport, the Deputy Prime Minister and the bus operators. The Claimant states that at this meeting further changes to the bus schedules were made. He also states that the Minister of Transport asked the Northern Bus Operators to meet and work out among themselves new routes to be operated on the Northern Route. A committee proposed to the Minister a set of routes and schedules. The Claimant said he disagreed with those proposals and he walked out of the meeting.

- 15) On or around 15th June 2011 the Claimant says that he received a phone call from the Ministry of Transport where he was advised to take down the new schedules . He took down the schedules and faxed them to his lawyer.
- 16) On June 17th 2011 the Claimant said he received another call from Belmopan to go to Belmopan to pay and pick up the new bus permits for Gilharry's Bus Line. He then left Corozal Town and went to see his lawyer in Belize City.
- 17) On Saturday June 18th, 2011 the Ministry of Transport posted the new routes and schedules on the walls of the Corozal Bus Terminal. The Claimant copied the information and faxed it to his lawyer.
- 18) The Claimant states that the new runs given to him are off peak and not profitable or are "*non remunerative*". He also states that although he has been assigned the 5:30 pm 5:45pm and 6:00pm runs from Belize City to Corozal Town, another bus operator is also allowed to do another

run at those same times as the Claimant but the journeys of the other bus operator terminate in Orange Walk Town.

- 19) On Sunday June 20th 2011 the Claimant and his employees went to move his buses to begin runs he says were in accordance with his road service permits. The Claimant states that he decided to ignore the spreadsheets posted at the bus terminal since they were illegal actions of a certain official. He says that 2 patrol vehicles then arrived on the scene and several police officers stopped the Claimant and his employees from moving their vehicles.

- 20) The Claimant states that while he was allowed to do the Village Runs on June 20th 2011 he was advised by the supervisor of the bus terminal in Corozal that the Transport Board will not renew his licence for the Village Runs. He further states that the Defendants have allowed other bus operators to operate bus schedules on the same routes and at the same times as the Claimant, despite the road service permits of the Claimant.

21) The Claimant filed this claim for judicial review in July 2011 and was granted permission to apply for judicial review by Legall J on 21st June 2011. Legall J refused the Claimant's application for a stay and upheld submissions on a preliminary point made by learned counsel for the defendants. Legall J dismissed the Fixed Date Claim on August 9th 2011. The Claimant appealed and the Court of Appeal made an order that the matter be heard by accelerated hearing on April 2nd, 2012.

Grounds of Judicial Review

22) There are 9 grounds of judicial review stated in third affidavit of the Claimant dated 30th June, 2011 in support of this application as follows:

1. Specific statutory duties are assigned to the Transport Board by the provisions of section 4 of the Motor Vehicles and Road Traffic Act, Cap.230 as amended by Act No. 41 of 2002. The Board cannot delegate its functions to the Minister of Transport or Ministers or bus operators. The Board

must carry out the functions conferred on it by the Act.

2. The Transport Board is also mandated by the provisions of Regulations 205, 206, 207, 211 and 212 of the Motor Vehicles and Road Traffic Regulations to follow strict procedures in the issuance of road service permits. The Transport Board ignored completely those procedures and sought to carry out its functions arbitrarily and contrary to the said regulations.
3. The Motor Vehicles and Road Traffic Regulation 213 was amended by Statutory Instrument No. 97 of 2005 which mandates that: “road service permits shall be issued for a period of two years at a time.” The Transport Board has no statutory authority to issue temporary road service permits for 3 months or delegate its powers to others to do so.

4. The provisions of section 4(7) of the Motor Vehicles and Traffic (Amendment) Act No. 41 of 2002 specifically confers jurisdiction on the Transport Board to “***consider and decide all applications.***”
The permits sought to be issued were not road service permits envisaged by the Act. The permits were not issued on applications made to the Board.
5. The Transport Board acted illegally and ultra vires the Act and the Regulations when it abdicated its statutory duties to the Minister of Transport who proceeded to authorize bus operators to operate arbitrarily on the Northern Range contrary to the permits issued to the Claimant.
6. The Transport Board acted ultra vires and illegally when it refused to consider and decide the renewal application of the Claimant and allowed the Minister of Transport and/or his bus operators to decide the schedule or routes to be run on the Northern Route.

7. The Defendants have frustrated and contravened the legitimate expectations of the Claimant based upon the representations made to him by the Transport Board in May 2008. The First Defendant ought to have considered and decided the applications made by the Claimant for the renewal of the road service permits for the Main Route and the Village Runs.
8. The decision of 15th June, 2011 was made contrary to the fundamental principles of natural justice and unfairly and in violation of Regulation 207 when the Defendants made the decision which in effect sought to destroy the investments of the Claimant, his livelihood, and those of his 54 employees without a hearing.
9. The decision of 15th June, 2011 was made illegally contrary to the functions and duties conferred on the Transport Board in the Motor Vehicles and Road Traffic Act and the Regulations made thereunder

and therefore the same is illegal, ultra vires, void and a nullity.

The first four of these grounds appear to me to be statements or comments by the Claimant concerning what he believes to be the relevant law/statutes. These statements are not framed as grounds for judicial review per se. I will therefore only address Grounds 5 to 9 as these, in my view, are the substantive grounds for judicial review.

Ground 5

- 23) *“The Transport Board acted illegally and ultra vires the Act and the Regulations when it abdicated its statutory duties to the Minister of Transport who proceeded to authorize bus operators to operate arbitrarily on the Northern Route contrary to the permits issued to the Claimant.”*

Mr. Lumor SC Learned Counsel for the Claimant argues that the Transport Board abdicated its statutory duties to the Minister of Transport. The Claimant in his affidavit

dated deposed that at a meeting dated May 28th, 2011 the Minister of Transport told the bus operators to work out the bus schedules for the Northern Route among themselves. Counsel for the Defence Mr. Hawke contended in oral argument before this court that the Transport Board acted properly in this matter when all the circumstances of this case are examined. He further submits that the Claimant Mr. Gilharry did not appeal the decision of the Board as he was entitled to do under the Act.

24) I now set out in full the statutory section of the Motor Vehicle and Road Traffic Act which governs the duties of the Transport Board. Under Section 5 of Act No. 41 of 2002, Section 4 of the Motor Vehicle and Road Traffic Act was repealed and replaced with the following section:

4.(1) “There is hereby established a body to be known as the Transport Board consisting of seven members appointed by the Minister as follows:

(a) the Chief Transport Officer or an officer from within his Department designated by him who shall be Secretary to the Board;

(b) the Commissioner of Police or an officer from within his Department designated by him;

(c) a representative of the public transport providers;

(d) the Chief Engineer or an officer of his Department designated by him; and

(e) three members from the private sector, of whom two shall be persons with knowledge and experience of the transportation business, and one shall be a representative of the users of public transport, appointed by the Minister in his discretion.

(2) The Minister shall appoint one member to be the Chairman of the Board, and another member to be the Deputy Chairman of the Board, and in the absence of the Chairman at any meeting of the Board, the Deputy Chairman shall act as Chairman.

(3) Members of the Board referred to in paragraph (c) and (e) of subsection (1) above, shall, unless they earlier resign or have their appointments terminated, hold office for two years.

(4) The Board shall meet at least once every two months.

(5) A quorum at any meeting of the Board shall be four members, and decisions of the Board shall be by majority votes of the members present and voting at any meeting.

(6) The Board shall assist the Minister in the formulation of policies and the development of regulations pertaining to public road transport, and in particular the following:

(a) rates, fares , tolls, dues or other charges pertaining to public road transportation and in particular or the operation of omnibuses and taxis;

(b) registration, charges and fees in respect of motor and other vehicles;

(c) driving tests and restrictions on the issuance of driving licenses and omnibus licenses;

(d) such other duties as may be assigned to it under this Act and any regulations made thereunder;

(7) The Board shall consider and decide all applications for road service permits and other consents required to operate omnibuses, and for that purpose, a reference to the Department of Transport in Part XII of the Motor Vehicles and Road Traffic Regulations shall be read and construed as a reference to the Board.

(8) The Board shall regulate its own procedure.

(9) The Secretary to the Board shall maintain proper records of the proceedings of the Board.

10) Where any person is aggrieved by a decision of the Board, he shall, within twenty-one days of such decision, appeal to the Minister whose decision thereon shall be final.

25) I have considered the factual circumstances of this case and I agree with the submissions made on behalf of Learned Counsel for the Defence. This was clearly not an ordinary run of the mill situation. The entire bus industry was in a national crisis for years and the Transport Board was unable to do anything to address this crisis because the Board had to obey the injunction issued by the Supreme Court in 2008. I also accept as true the affidavit evidence dated July 20th, 2011 of the Chief Transport Officer Mr. Gareth Murillo who states that after the injunction of Awich .J (as he then was) was lifted in January 2011, **“the Transport Board sought to regularize the bus system and as a result several consultations were held with the old operators and the new operators to forge a way forward and to better the Transportation system in Belize and in particular the Northern Route.”** I also accept as true the evidence of the Chairman of the Transport Board in his affidavit dated 27th June, 2011 as follows:

“14. All operators within the Northern Bus Route including the Claimant at all material times were aware of the proposed new bus schedules which were to be implemented.

15. The Northern bus operators then formed themselves into a group and approximately 23 (twenty three) operators signed on to the new schedule with the exception of the Claimant and two other operators.

21. The new proposed schedule was worked out with all the operators and it was further proposed that it would run for a 90 day period effective 12th June, 2011.”

This evidence of continuous dialogue between the bus owners and the Transport Board demonstrates serious effort on the part of the Board to act in good faith in relation to **all** bus owners, and this is borne out by the evidence of the Claimant himself in his affidavit evidence where he refers in detail to these numerous meetings with the Transport Board and officials from the Ministry of

Transport. It is his testimony that he chose to walk out of one of those meetings because he did not agree with certain proposals being discussed. That was his choice. I therefore with respect must state that I find no merit in this first ground of judicial review that I find that the Transport Board acted properly and not arbitrarily, and did not abdicate their duties to the Minister or to anyone else. I also find that if the Claimant was unhappy with the routes issued to him by the Board then he should have appealed as he is entitled to do under section 4(10) of the Motor Vehicles and Road Traffic (Amended) Act No.41 of 2002.

Ground 6

- 26) *“The Transport Board acted illegally and ultra vires when it refused to “consider and decide” the renewal application of the Claimant and allowed the Minister of Transport and/or bus operators to decide the schedules to be run on the Northern Route.”*

This ground is similar to Ground 5 which I have already decided above. I accept as true the evidence of Mr.

Murillo Chief Transport Officer of the Transport Board in paragraph 24 of his affidavit that “the new proposed schedule was worked out with **all the operators** and **the Board met and sanctioned** the schedules which would have taken effect on the 19th June, 2011.” In my view the Board did the right thing. They met with all bus operators including the Claimant to discuss the proposed schedules **then** they met as a Board and sanctioned what had already been discussed and agreed to with the operators. To my mind that satisfies the requirement of “*consider and decide*” as required by the statute after consultations with all bus drivers. The Transport Board based on the evidence (including that of the Claimant) acted within the statute and acted in good faith. They did not just meet among themselves and impose the new schedules from on high with complete disregard and or disrespect for the bus owners. I therefore find that there was nothing arbitrary about this process. This ground also fails.

Ground 7

27) *“The Defendants have frustrated and contravened the legitimate expectations of the Claimant based upon the representations made to him by the Transport Board in May 2008. The First Defendant ought to have considered and decided the applications made by the Claimant for the renewal of the road service permits for the Main Route and the Village Runs.”*

It is the argument of Learned Counsel for the Claimant (in his written submissions) that the legitimate expectation that his client’s expired licence would be renewed by the Transport Board was based on the following:

1) The Transport Board in the past authorized the Claimant to operate on the expired license until the application for the renewal was considered and granted.

2) The Transport Board since 2008 treated the Claimant at all times as holding a valid permit to operate his buses.

3) The Transport Board asked the Claimant to continue to operate on his permits until the Board was in a position to renew them. At that time he would be asked to pay the fees due on the renewals.

4) The Transport Board allowed the Claimant to do extra or additional runs on the Northern Route at peak hours if public demand necessitates putting on the road additional buses.

5) The Transport Board followed and will continue to follow the statutory procedures laid down of applications for renewal.

6) The Transport Board acknowledged that the Claimant and other bus owners were operating legally. Therefore at a meeting in Orange Walk in 2011 the Board asked the Claimant and others to apply for renewal of their licences.

Counsel for the Defence in his written submissions contends that *“it cannot be said that the legitimate expectation of the Claimant was taken away when he has*

applied for his permits but has chosen not to pay the prescribed legal fees. One cannot have a legitimate expectation when their status is illegal. The Board cannot make representations to the Claimant to operate illegally.”

He further argues that the Board was unable to do anything between the years 2008 to 2011 because there was an injunction which preserved the status quo pending determination of the substantive case. In Claim No. 728 of 2008 ***National Transport Service Ltd et. al. v The Transport Board and the Chief Transport Officer***, 27th January, 2011 (unreported), the Court had granted the Claimants an injunction which *“restrained the Defendants until determination of the claim or until further order from proceeding to grant service permits for operating omnibuses on the routes in parts of the Northern Zone.”* Licenses held by bus owners including the Claimant came to an end due to effluxion of time. Therefore in 2011 when the injunction was lifted there was no license to be renewed. The Claimants were granted licenses in 2006 and the requirement of the law

at that time was that the license was for two years. Two years later, there was no license in existence, so there was nothing in existence for the Transport Board to revoke. Learned Counsel further submits that legitimate expectation must be based on a legal foundation which in this case would have been a valid license which is coming to an end and needed to be renewed. In this case the Claimant's license expired in 2008 so in 2011 there was no basis for a claim of "legitimate expectation." One cannot have a legitimate expectation based on something that is contrary to the law. ***R v. Department of Education ex parte Begbie*** [2000] 1 WLR 1115.

- 28) I fully agree with the submissions made on behalf of Counsel for the Defendant. The law is very clear that legitimate expectation must be grounded on a legal basis. The Claimant's licenses expired in 2008 so in 2011 they had no legal basis for claiming legitimate expectation. Even if (as the Claimant argues) representatives of the Transport Board had orally advised the Claimants that they could continue operating on expired licenses, I agree

with Counsel's submission that the Board had no authority to do so. Licenses lasted for two years. One cannot operate thereafter. Whatever utterance they said to him was outside the requirements of the law. This ground also fails.

Ground 8

- 29) *“The decision of 15th June, 2011 was made contrary to the fundamental principles of natural justice and unfairly and in violation of Regulation 207 when the Defendants made the decision which in effect sought to destroy the investments of the Claimant, his livelihood, and those of his 54 employees without a hearing.”*

Regulation 207 of the Motor Vehicles and Road Traffic Act Cap 192 of the Laws of Belize require that the date of the meeting of the Transport Board to consider applications together with particulars of the applications to be considered shall be published beforehand in three consecutive issues of the Gazette. Where applications for renewals of road service permits are to be heard then

date of meeting shall be published in one issue of the Gazette. The Regulation also sets out the matters which the Board shall have regard to in considering an application e.g. (a) the extent to which the proposed service is necessary or desirable in the public interest; (f) that the fares are so fixed as to prevent wasteful competition with alternative means of transport on the proposed routes or any part of them; and (g) any representations which may be made by persons who are already providing transport facilities along or near the proposed routes or any part of them.

Learned Counsel for the Claimant Mr. Lumor S.C. submits in his oral arguments before the Court that the Board left the Claimant's application with the Department of Transport and made a determination not to hear the Claimant on the grounds that (i) that his Road Service Permits have expired; (ii) that he failed to pay for the application instead of a permit; and (iii) the Board took a decision to implement zoning and therefore new permits would be issued to the Claimant and others whether they

applied for them or not. He argues that the Claimants should have been granted an audience before the Transport Board whereby he would be asked why the Board should issue or renew the permit when that permit has expired or not, and the Claimant would be given a chance to explain himself to the Board. Failure of the Board to do so deprived the Claimant of his existing license which he held for over 40 years without first giving him an opportunity to be heard in keeping with the principles of natural justice. He cites **Re Flowers** 3 Belize LR 305 where Justice Singh quashed the decision of the Institute of Chartered Accountants on the ground of disciplining Mr. Flowers on information obtained in his absence of which he was not given notice. Learned Counsel also refers to **R v. Assistant Commissioner of Police of the Metropolis ex parte Howell** [1986] R.T.R. 52 where the Court quashed the decision of the Assistant Commissioner of Police refusing to renew the Claimant's cab driver license on the basis of medical evidence not seen by the driver or the applicant.

On behalf of the Defendant, Mr. Hawke argues that this ground is closely related to the previous ground of legitimate expectation. He submits that if the court finds that there was no legitimate expectation then it follows that the principles of natural justice would not apply. He submits that the right to natural justice may be excluded by the very nature of the power, for instance “**where urgent action has to be taken to safeguard public health or safety by the absence of legitimate expectation**” Professors Wade and Forsyth **Administrative Law** 9th Edition at page 551. He argues that the decision taken by the Board to issue permits arose out of an urgent situation and one where public safety on the roadways was involved. The atmosphere which existed was one where bus operators were operating illegally with no regulation or enforcement for two years. Thus it was essential to issue new permits which the applicant applied for but did not pay his proper fees. Finally he submits that the Board can consider and

issue directives and any other thing as they see fit for the proper administration of the Transportation System.

- 30) With respect to this ground I once again agree with submissions made on behalf of the Defendant. I reiterate the fact that this was no ordinary situation. This was a crisis and the Transport Board was obligated to deal with a situation that was verging on anarchy and threatening to undermine the entire system of transportation in the country. It was an urgent situation which concerned public safety and once the injunction was lifted it required that the Board act as promptly and as effectively as possible to restore order. I agree that the Board is legally entitled to act in a manner as it sees fit for the proper administration of the transport system. In those circumstances I find that the Claimant was not entitled to natural justice especially in light of the fact that he like many others were operating illegally, their licenses having expired. I also find that it is not accurate to say that the decision to grant the Claimant these routes was a decision which destroyed his livelihood. That may have

been true if the Board had refused to grant him any routes at all. I understand that the Claimant is not pleased with his present routes because they are not as financially remunerative as the routes he had previously, and also because those lucrative routes that he does have, now have to be shared with another bus owner. But in fairness one must bear in mind that the Claimant enjoyed the benefits of these runs for almost forty years. The Board is under a duty to act fairly and to ensure beneficial and non-beneficial runs are distributed among **all** bus owners, not just the Claimant. I find it telling that the Claimant informed other bus owners of his suit for judicial review and invited them by a letter June 30th, 2011 to join him, but to date none have done so. For these reasons this ground also does not succeed.

Ground 9

- 31) *“The decision of 15th June 2011 was made illegally contrary to the functions and duties conferred on the Transport Board in the Motor Vehicles and Road Traffic*

Act and the Regulations made thereunder and therefore the same is illegal, ultra vires, void and a nullity.”

This ground seems to me to be similar to ground 5 which I have already addressed above. With great respect to the arguments of learned Counsel for the Claimant, I find no merit in this ground for reasons stated in relation to ground 5.

- 32) As I am unable to uphold any of the grounds pleaded for the Claimant, the Claim is hereby dismissed and the relief sought is refused.
- 33) Costs awarded to the Defendant to be assessed or agreed.

Michelle Arana
Supreme Court Judge

Dated this 18th day of April, 2013