

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CIVIL)**

SAINT LUCIA

CLAIM NO. SLUHCV 2014/0767

**IN THE MATTER of an
Application for Judicial
Review**

**AND IN THE MATTER of an
Application for an Interim
Injunction in accordance with
Rule 17 of the Civil Procedure
Rules 2000**

BETWEEN:

MARK LOUIS

Applicant

and

**[1] ALLEN CHASTENET
[2] EZECHIEL JOSEPH
[3] OSWALD AUGUSTIN**

**(Sued on behalf of themselves and other
members of the UNITED WORKERS PARTY
save and except MARK LOUIS)**

Respondents

Appearances:

Ms. Wauneen Louis-Harris for the Applicant
Mr. Mark Maragh for the 1st and 3rd Respondents

2014: 22, 24, 31 October
(Oral Decision delivered on the 1st November 2014)
2015: 2 March

Judicial Review – Application for Leave – Availability of Remedy – United Workers Party – Unincorporated Association of Members for Political Purpose – Whether Political Party Performing a Public Function – Whether Unincorporated Association Amenable to Public Law Remedies – Whether United Workers Party’s Decision subject to Judicial Review.

Pre-Action Injunctive Relief – Expulsion of Member from Political Party - Whether Serious Issue to be Tried - Breach of Constitutional Rules Governing Discipline of Members of Political Party – Balance of Convenience - Availability of Appeal Process Not Employed – No Good Reason for Failure - Delay in Making Application – Application not Made by Expelled Member – Expelled Member not Party to Proceedings – Expelled Member Seeking No Recourse.

DECISION

- [1] **RAMDHANI, J. (AG.):** On the 1st November 2014, an oral decision was given in this matter providing very brief and non-exhaustive reasons. On that occasion the court promised to reduce this decision into writing setting out full reasons. This is that written decision.
- [2] This matter commenced as an ex parte application filed on the 22nd of October 2014, for leave to apply for judicial review of a decision taken by the National Council of the political party, the United Workers Party, to expel one Richard Frederick, a member of the Party, and for the grant of an interim injunction pending the hearing and determination of the substantive judicial review application to be filed. This application was supported by an affidavit sworn to by the applicant Mark Louis and filed on even date. Also in support of the application is an affidavit sworn to by Richard Frederick that was filed halfway through the hearing of this matter.
- [3] A certificate of urgency of even date was filed with the application. This, however simply stated that the matter was urgent. The court was left to decide on the nature of the urgency from the actual application and the supporting affidavit. From a perusal of the documents, the urgency being relied on was not too difficult to discern. In passing this court would note that applicants relying on any form of

urgency should set out the nature of the urgency in this 'certificate', especially where the application is a complicated one and the bundles are voluminous.

- [4] The court, on an initial consideration of the papers filed, declined to grant any of the orders sought. The court directed that the application be served and that the matter be adjourned to the 31st October 2014. On the adjourned date, Mr. Mark Maragh appeared for the 1st and 3rd respondents who were also present. By this date, the 2nd respondent had not been served. The matter nonetheless proceeded against the other respondents.
- [5] The application was resisted by the respondents, who at this stage, relied on the oral arguments of Mr. Maragh. At the end of the hearing the court reserved its ruling which it delivered orally on the 1st November 2014.

The Background

- [6] The applicant in this matter, Mark Louis is a member of a political party, the United Workers Party established in 1998, and within the structure of that body, is a member of the Constituency Branch for Central Castries and the Representative of the Constituency Branch at the National Council. He claims that he is aggrieved by a decision taken by the National Council of the United Workers Party, to expel from the Party, another member of the Party, namely one Richard Frederick who is presently a Parliamentary Representative.
- [7] The respondents in this matter are also members of the United Workers Party, and are the main officers of the said Party. The first named respondent is the Political leader of the Party. The second named respondent is the Chairman of the Party, and the third named respondent is the General Secretary of the Party. They are sued both in their personal capacity and as representatives of the whole of the rest of the membership of the Party.

- [8] In his affidavit providing the evidentiary basis for the grounds of the application, the applicant deposes that the expelled member, the Hon. Richard Frederick became a member of the Party in 2006 and as a member of the Party ran for public office and won the Parliamentary Seat for Central Castries for the General Elections held in 2006 and 2011.
- [9] The applicant further deposed that by a letter dated the 16th June 2014, the Hon. Frederick was summoned to answer certain charges before the Disciplinary Committee of the Party. The Hon. Frederick did not attend but by a letter delivered to the third respondent stated that he was of the view that he could not be made subject to any disciplinary proceedings. The third respondent and others did go ahead with the 'discussions and voting which led to the expulsion of the Hon. Frederick.
- [10] The application makes it clear that the United Workers Party is an unincorporated body. The applicant contends that it is an organization within which each member makes 'member contributions' for the benefits to be derived from the association of all members. These members are bound to each other by mutual contracts on the terms of the rules set out by the organization's constitution. The applicant asserts that while the party does not possess a separate legal personality, it derives its legal powers from the aggregate of the individual members. In short the applicant contends that each and every member has agreed to comply with and to be bound by Party's constitution.
- [11] The applicant points to a number of rules within the constitution that he asserts have been breached by the Party National Council. The applicant contends that this National Council, created by the constitution itself acted in breach of the rules of natural justice and expressed rules of the Constitution.
- [12] He contends that notice of the charges being leveled against the Hon. Frederick was never given to him. Further that the Party's constitution provides that if the

expulsion of a member is being considered, a 30 days notice is required to be sent to that member notifying him it is so being considered, and allowing him an opportunity of considering and preparing his defence, and that in this case such a notice was never sent.

- [13] He further contended that those members of the executive who had leveled the charges against the Hon. Frederick participated in the purported hearing of the charges and voted on his expulsion. He contended was clearly improper and offended the rules of natural justice, in that the tribunal which ruled on the matter was biased. He also argued that the decision of the National Executive to terminate the membership by expulsion was not ratified by the Board of Trustees as it was required to by the Constitution.
- [14] The applicant contended that as a member of the Party (he had raised objections to the procedure being adopted but was overruled) he has been personally and directly affected by the decision taken by the Executive to expel the Hon. Frederick as he has now lost an opportunity to select Richard Frederick to his representative within the Party's structure as the candidate for the Castries Central Seat in the upcoming General Elections.
- [15] He asserted that the Party was about to hold the Annual Convention and with Richard being expelled, he would not be available to be nominated to continue to be the Party's representative for Castries Central, and further that someone new would be appointed to be the Party's candidate for Castries Central in the upcoming General Elections.
- [16] In his 'Notice of Application' dated the 22nd October 2014, he sought the following orders:
1. *That leave be granted by the Applicant herein to make a claim for judicial review against the Respondents herein of a decision made by the Respondents at a meeting of the National Council of the United Workers Party held on Sunday the 17th day of August 2014, to expel*

the Parliamentary Representative for Castries Central, Honourable Richard Frederick.

2. *An Interim Injunction to prevent the United Workers Party from selecting new members to represent the constituency of Central Castries within the United Workers Party.*
3. *An Interim Injunction restraining the Respondents, the United Workers Party, the National Council of the United Workers Party Officers, servants and/or agents, and other members of the United Workers Party (save and except Mark Louis) aforesaid from acting on the expulsion.*
4. *The costs occasioned herein.*

[17] When the application was initially filed there was no supporting affidavit from the Hon. Frederick, nor any indication why it was that he himself had not brought the application for leave to apply for judicial review, and for the injunctive relief. After the matter was first adjourned however, an affidavit was filed on the 30th October 2014 sworn to by the Hon. Frederick on even date, in which he deposed that he was supporting the application. He stated that he believed that his expulsion was in breach of United Workers' Party 1998 Constitution. He also stated that he did not believe that an appeal the decision would make a difference as several members of the appeal tribunal had openly demonstrated bias against him. He did not provide any reasons why he considered the final appeal to the Annual convention given to him by the Party's Constitution would not provide an adequate remedy.

The Issues

[18] A number of issues were raised for discussions at the hearing of this application for leave to apply for judicial review and for an interim injunction to stop the Party's Convention. The primary issue being whether the actions, omissions and or decisions of the United Workers Party are subject or amenable to judicial review?

- [19] As a secondary issue, is whether, in any event, an interim injunction is appropriate in the circumstances of this case?

The Nature of Judicial Review Proceedings – A Public Law Remedy

- [20] The application has brought into sharp focus the question as to whether the decision made by the executive of the United Workers Party to expel the Hon. Frederick is amenable to judicial review?
- [21] Not every decision made by any body or entity is amenable to judicial review. The power of the courts to judicially review the actions, omissions and decisions of various entities has, as its source, the traditional prerogative writs issued by the King's courts to ensure that various statutory tribunals and stay within their edicts and prescribed functions. The old prerogative remedies are now subsumed under Part 56 under the new law of judicial review giving the court new powers not only to judicially review actions and decisions but also to grant damages and issue injunctions.
- [22] Traditionally the remedy of judicial review was available to review those decisions of public bodies performing public functions and which had a duty to act judicially. Over time, the scope and reach of ancient writs themselves were extended to embrace new and emerging forms of statutory tribunals and administrative bodies, as the courts have accepted that the exact limits of the writs had never been and ought not to be specifically defined. Discussing the scope of prerogative remedies Lord Parker CJ in **R v Criminal Compensation's Board, ex p Lain** [1967] 2 All ER 770 at 778 stated that:

"They have varied from time to time, being extended to meet changing conditions. At one time the writ only went to an inferior court. Later its ambit was extended to statutory tribunals determining a lis inter partes. Later again it was extended to cases where there was no lis in the strict sense of the word, but where immediate and subsequent rights of the citizens were affected. The only constant limits throughout were that the body concerned was under a duty to act judicially and that it was performing a public duty."

[23] The courts have removed the requirement that the body should be under a duty to act judicially, and have also declared that judicial review is available with regards to a person exercising a purely prerogative power. It has been accepted that regardless of whether the tribunal or body has a statutory origin, once it the relevant decision is one made by a de facto or de jure statutory or governmental function then this would a judicially reviewable decision.¹ The courts have made the point that there is no litmus test for reviewability,² and 'often there is no clear demarcation line which can be drawn between private and public bodies and functions'³; it may fall to be a question of fact and degree.⁴ What the cases have shown is that the emphasis is really one on function and not on the decision maker's office or status.⁵ This has meant that in principle and practice that not all the decisions of a public body would be amenable to judicial review, but only such decisions which infringed or affected some public law right of the applicant.

[24] The point has been well made that the decisions of any purely private or domestic tribunals or bodies that derives their authority from contract, that is the agreement of the parties, are outside the scope of the remedy of judicial review. As Lloyd LJ noted in **R v Panel on Take-over and Mergers ex parte Datafin plc and another** [1987] 1 All E.R. 564 at p 583:

"If on the other end of the scale, the source of the power is contractual, as in the case of private arbitration, then clearly the arbitrator is not subject to judicial review."

[25] Notwithstanding, the courts have been called upon and have found in many instances that the decisions of a body which appears to be of a 'private' character or arising from some sort of consensual arrangement between its members are still amenable to being judicially reviewed. The test really is what are the functions being performed by such a body and whether those functions have infringed or

¹ R v London Beth Din (Court of the Chief Rabbi) ex p Michael Bloom [1998] COD 131

² See the discussion in "Judicially Review Handbook" 3rd edn. by Michael Fordham – Part 34 Reviewability.

³ Poplar Housing and Regeneration Community Association Ltd. v Donaghue [2001] EWCA Civ 595

⁴ R v Derbyshire County Council, ex p Noble [1990] ICR 808;

⁵ R v Supreme Court Taxing Office, ex p Singh & Co (1995) 7 Admin LR 849

affected the public law rights of an applicant before the court. Such an approach has meant that those apparently private bodies that are being used to implement government policy would be reviewable as to the application of that policy.⁶ An example if this is the case of a privatized water utility exercising statutory functions.⁷ The point is well made that the essential distinction which runs through the cases 'is between a domestic or private tribunal on the one hand and a body of persons who are under some public duty on the other.'

[26] Having set out some of the learning above, it becomes clear to me that the answer to this issue is a straightforward one in this case. The United Workers Party is purely private organization with members who are in a contractual arrangement with each other to receive benefits and to be bound by the organization's constitution. This is a classic private body, and it is not made any the less private and contractual because it sets out to present members as candidates for public office. It can hardly be heard to say that since its members of politicians and may run for and be elected to public office then it performs a public function. The test is not whether that member who is elected will be able to affect the public, but whether this body, this political party, in providing the machinery to enable private persons to run for public office, is performing a public duty or is performing public law functions. It is not. The point has been well made in **Jones v Welsh Football Union** 1997 WL 1103802 Queen's Bench Division which dealt with the issue of jurisdiction in the context of an incorporated association. The court stated:

"There is no doubt that the proceedings are correctly brought as a private suit between individuals and private bodies and not by way of judicial review. The powers and actions of the Welsh Rugby Football Union are of great public interest within and beyond the boundaries of the principality, but for the reasons given in the Regina v. Disciplinary Committee of the Jockey Club, Ex parte Aga Khan [1993] 1 W.L.R. 909 its powers are in no sense governmental, but derive from the contractual relationship between the parties. The powers will give rise to private rights enforceable by private action seeking effective relief by way of declaration, injunction and damage. It is not necessary for the purposes of this judgment further to

⁶ R v British Broadcasting Corporation, ex p McAliskey [1994] COD 498 per Buckley J

⁷ R v Northumbrian Water Ltd. ex p Able UK Ltd. [1996] 2 PLR 28

review the cases which establish and illustrate that principle going to jurisdiction.”

- [27] The United Workers Party is a purely private law body performing no public functions. It is not amenable to judicial review and so the application for leave to apply for judicial review is therefore refused. That brings me to the reasons why the application for an injunction was also refused.

The Application for the Injunction

- [28] The application for an injunction was grounded in the applicant's intended application for judicial review. I have already shown that the applicant had no right to seek to judicially review the decisions of the UWP. Notwithstanding, I am of the view that the application for an injunction can stand on its own and be treated as a pre-action application once it is grounded and meets the required threshold. In this regard the questions for me are: (a) Whether there is a serious issue to be tried between the applicant and the United Workers Party? (b) Whether this applicant should be confined to his remedy in damages? And (c) Whether the balance of convenience or justice favours the grant of the injunctive relief being sought?

A Serious Issue to be Tried

- [29] Whether there is a serious issue to be tried and ultimately whether the applicant has a right to an injunction depends ultimately on whether he has a valid and proper cause of action in private law against the Executive Membership of the United Workers Party.
- [30] The evidence on the application shows that the members of the United Workers Party pay their annual subscription and agree as amongst themselves to be bound by the terms of the Party's Constitution having what is generally in law known as an 'unincorporated association'.

[31] The applicant helpfully pointed this court to the legal status of such organizations as was outlined in the 'Law of Incorporated Associations' Oxford University Press, paragraph 1.06 where the learned authors stated:⁸

"A contract exists between each and every member of the association. When a person joins an unincorporated association they enter into a contract with each of the existing members, usually with the agency of the club officer who approves their membership. The terms of that contract are the rules of the association which will identify the persons having control over the association and its funds. The rules also identify the terms on which a person may join and leave membership of the association. Unincorporated associations are contractual entities rather than voluntary associations, as the members' contributions are the contractual price for which a benefit is gained rather than a voluntary contribution for which no benefit is gained... legally an unincorporated associations is nothing more than an aggregate of its individual members, who are bound to each other by mutual contacts on the terms of the rules of the association. Its individual members who will incur liabilities in contract and tort and individual members who will own the property of the association. An unincorporated association derives its legal powers from the aggregate of the individual members and, unlike a corporate body, it does not itself possess a legal personality distinct from its members."

[32] It is well accepted that if there has been a breach by a member or members of an incorporated association, of the rules of such association and which breach has caused some grievance to, or has adversely affected any other member, that other member is entitled, as against those in breach, to seek to enforce the terms of the contract binding all the members together. See **Speechley v Allott** [2014] L.L.R. 817 Court of Appeal (Civil Division). In fact if the executive of an unincorporated association breaches the terms of the contract between the parties and purports to expels a member, then a court may on the application of the expelled member grant an injunction to restrain the expulsion. **Harrington and Sandals** [1903] 1 Ch 921; **Hood v Dunlop** 2014 WL 2652728 Queen's Bench Division (Northern Ireland)

⁸ See generally *Artistic Upholstery Ltd v Art Forma (Furniture) Ltd* 1999 WL 478194 Chancery Division; *Re Buck Constabulary Widows' and Orphans Fund Friendly Society (No. 2)* [1979] 1 W.L.R. 936; *Re Recher's Will Trusts* [1972] Ch. 526

[33] In terms on considering whether there is a serious issue to be tried, this applicant certainly interested is whether the rules contained in the UWP's Constitution are being complied with; there is a term in the contractual arrangement between him and the other members of the association that the all members including executive of the UWP are bound to comply with its Constitution. The allegation therefore that the executive members has acted contrary to and has breached the Party's Constitutional provisions in the disciplinary procedures and expulsion of the Hon. Frederick certainly raises a serious issue to be tried. The next question then is whether the applicant should be confined to his remedy in damages; whether damages would adequately compensate the applicant?

[34] The courts have on occasion been prepared to refuse to interfere with the actual decisions which are being challenged and leave the expelled member to his remedy in damages.⁹ I would however, prefer to approach these types of matter from the view that where the underlying complaint is one of the wrongful expulsion of a member of an incorporated association such as this one, a court should **at this stage** consider that the expelled member should not be confined to his remedy in damages. Whether or not damages may be adequate then should hardly be the reason why an injunction should be refused. That being so, I now turn to consider whether, having regard to the balance of convenience, such an injunction should be granted to this applicant?

The Balance of Convenience

[35] Where does the balance of justice lie in this case? As I embark on this exercise I remind myself that the unincorporated association to which these parties belong is a political party with some of the members being representatives in Parliament. It is expected that the members, especially the ones involved in this matter would be quite aware of their general rights under the terms of the Party's Constitution.

⁹ Seaside Real Estate Ltd. v. Halifax-Dartmouth Real Estate Bd (1964), 44 D.L.R. (2d) 248, 50 M.P.R. 60

[36] Bearing this in mind, I note that the evidence presented to this court shows that the member, Mr. Richard Frederick, who was purportedly expelled, was by a letter dated the 16th June 2014, summoned to answer charges before the Disciplinary Committee of the UWP on the 12th of July 2014. It is contended on the application that one day before the hearing, Mr. Richard Frederick caused a letter to be sent in response asserting that there was no legal justification for any disciplinary hearing. This letter was served on the 12th July 2014, on the third respondent, before the hearing took place. The Disciplinary Committee proceeded with the hearing and made a decision to recommend the expulsion of the member. It is further contended that by a letter dated the 30th July 2014, the UWP requested that the expelled member attend a meeting of the National Council which was to take place on 17th August 2014, and to provide a written response to the recommendations no later than the 14th August 2014. The member complains in his affidavit that the right of appeal to the Board of Trustees provided for by the UWP Constitution would not provide an effective remedy since a number of trustees appear to him to be biased against him. He has identified three such persons. One of them, a Mr. Nicholas John, he states has demonstrated open support for the first respondent, and 'does not demonstrate any independence which is necessary for the appeal process'.

[37] First, I must say that in my view, no decision to expel any member could ever be effective unless the Board of Trustees, acting under Section 8.3 of the UWP Constitution, decided that that member 'shall be expelled'. Even then such a member would have a right of appeal before the next Annual Convention, and unless two thirds of that body affirmed that expulsion, the member would remain a member of the UWP.

[38] Second, this court, notes that the Board of Trustees is generally constituted by seven members and that a quorum is achieved by no less than one third of this number. Further, it is also noted that the right of appeal as provided for by the

UWP Constitution gives an expelled member a two-tiered right of appeal. Section 24.14 of the UWP Constitution states:

“Any member of the Party who has been disciplined by way of the Disciplinary Committee and the National Council shall have a right to appeal to the Board of Trustees and ultimately to the National Convention.”

- [39] Assuming that all considered that the UWP had in fact effectively expelled the member who was not a party to this matter, this court has seen no good reason why that member could not have pursued an appeal first to the Board of Trustees and ‘ultimately’ to the National Convention. Claims that the Board of Trustees was affected by a perception of bias would have meant little having regard to the quorum necessary for decisions and the fact the final appeal lay before the membership at the annual convention. A court should be slow to intervene with decisions of the executive of an unincorporated association where that association’s own internal appeal procedure has not been exhausted. A party who has a right to an appeal before a tribunal cannot assume that those members who may have a conflict will sit on that tribunal. Members who belong to unincorporated association should not be too ready to draw the courts into their grievances until they have properly exhausted their own internal mechanisms. As one court noted on the exercise of discretion to refuse a remedy where no recourse was had to an alternative remedy:

“An appeal to the senate committee was an adequate alternative remedy: the committee was required to hear the appellant; the appellant was not entitled to assume that he would not receive a fair hearing; and this remedy was more convenient for both the appellant and the respondent in terms of cost and of expeditiousness. By exercising its discretion in refusing certiorari and mandamus, the court was not declining to enforce the statute but, rather, having regard to the intent of the whole of the statute to allow the university to conduct its own affairs as much as possible, it was upholding the statute.”¹⁰

- [40] There has also been no reason provided to the court why the applicant, who was present throughout all the procedural steps taken to expel the member did not take any action before the 22nd October 2014, when he sought to move this court ex

¹⁰ Harelkin v. University of Regina 1979 CarswellSask 79 Supreme Court of Canada, 1979

parte for an injunction just over a week before the UWP's National Convention. All concerned knew that the Disciplinary Committee had on the 12th June 2014, made recommendations to expel the member.

[41] A court is not to be used precipitously, nor simply as a means of seeking a political advantage for any individual, especially when injunctions are being sought by political players days before an event such as National Convention of a political party. It hardly needs to be said that a court is not at all concerned with political matters but merely seek to do justice to a case having regard to the relevant legal principles. A person seeking an injunction to stay the consequences of a contractual breach must move expeditiously to the courts after discovering the breach. What would be considered expeditious would depend on the circumstances of the case. In this case, this applicant believed that the rules were being breached since June 2014. The expelled member also believed that rules were being breached in relation to him at the very least since July 2014 or at the latest since the 17th August 2014. There is no evidence that either of them did anything until the end of October 2014. The 'expelled member' has yet to utilize any proper method to seek redress for the decisions taken to expel him, even though he himself in the letter dated the 11th July 2014 from his attorneys to the Chairman of the Disciplinary Committee, warned that any action taken against him would be met by 'swift initiation of court action'. This application is sufficiently delayed to tilt the balance against the grant of any interim injunction even if the application was made by the 'expelled member'.¹¹

[42] An additional element in the balance on this matter is the fact that this application was made not by the 'expelled member'. This application for injunctive relief was brought by another member, this applicant with regards to whom there was no direct breach of the disciplinary rules of the Constitution. Further, this applicant unlike the expelled member did not possess a right of appeal against the actual

¹¹ See *Ukulele Orchestra of Great Britain (A Firm) v Clausen* 2014 WL 5599470 Intellectual Property Enterprise Court

expulsion, under the contract binding the members of this incorporated association. **The court at the hearing asked: “Where was the ‘expelled member’? Why was it that he himself was not pursuing the matter? Was he at all interested in being allowed back in the UWP?** It was only then that an affidavit was hurriedly prepared, sworn to by the expelled member, and filed, showing that he too wished the court to make an order in favour of the applicant. To my mind this approach and these events underscore the apparent disinclination by the ‘expelled member’ to pursue a remedy. Where the allegation is that there has been a wrongful expulsion from an incorporated association, a court would be more inclined to grant injunctive relief if the application is being made by that ‘expelled member’.

[43] Additionally, this applicant has brought this application on his own personal behalf. He states that the decision to expel the member has the effect of denying him and the other members of the Constituency Branch the presence of the Candidate they selected to run for the Castries Central Seat in the UWP in the upcoming General Elections, and that he is aggrieved by the decision. The fact that he may have been **‘denied the presence’** of the member who was purportedly expelled is not itself any direct breach in relation to him. That is simply a consequence of the breach of the rules.

[44] Further, while the applicant states what he believes will be the effect on other members, this applicant has not brought this application for **injunctive relief** on the basis that he represents any other member. As far as this court is concerned, he stands alone. There is no evidence **that any other members is at all interested in any injunctive relief being made** apart from this applicant, and at the eleventh hour, the expelled member, the latter who, it is already noted, is not a party to the application. This applicant is certainly entitled to commence a claim and seek to compel the executive members to comply with the Party’s Constitution, but here he is seeking interim injunctive relief for the expulsion of another member. In fact, that other member knowing that he could have

commenced an action on his own behalf or join as a party in these proceedings did not make any claim and has not given any indication that he would wish to be made a party.

[45] All of this I have put in the balance. It underlines the delay and the lack of expediency in this matter on the part of the applicant in making this application. It underscores the fact that the member who was purportedly expelled appeared hardly concerned to vigorously pursue any remedy. On these bases I have refused the injunctive relief being sought by this applicant. The procedural approach in this matter was flawed. If the applicant is minded, he may commence a claim in private law, and if he can prove the breach of the Party's Constitution, request that the court make orders to ensure that the executive body of the UWP complies with its Constitution.¹²

[46] In the circumstances, the application is dismissed. There will be no order as to costs.

Darshan Ramdhani
High Court Judge (Ag.)

¹² Shergill v Khaira [2014] PTSR 907; Rai v Ahir [2014] P.T.S.R. 1237