

IN THE COURT OF APPEAL
FIJI ISLANDS AT SUVA

[Civil Appeal No. ABU 002/08]

BETWEEN : FIJI TIMES LIMITED AND 3 OTHERS
(APPELLANTS)

AND : LEKH RAM VAYESHNOI
(RESPONDENT)

CORAM : BYRNE, AP
INOKE, JA
CALANCHINI, JA

COUNSEL : J. APTED AND F. HANIFF FOR THE APPELLANTS
G. O'DRISCOLL FOR THE RESPONDENT

DATE OF HEARING : 11th November 2009

DATE OF RULING : 16th July 2010

JUDGMENT OF THE COURT

- 1.0 This appeal from a judgment of the High Court dated 28th November 2007 raises some important questions about freedom of expression and the right of the media to comment on the actions of public figures, in this case a Politician, without fear of being sued for damages for defamation.
- 2.0 It also calls for discussion by this Court whether politicians or other persons in the public eye may be over-sensitive in their reaction to such comments in the light of decisions of the House of Lords and High Court in England and the Court of Final Appeal of the Hong Kong Special Administrative Region given in the last ten years.

BACKGROUND

- 3.0 The Plaintiff, Lekh Ram Vayeshnoi ("Mr. Vayeshnoi") in the Court below brought two actions that were consolidated :
- (i) the first action brought by Mr. Vayeshnoi was Civil Action No. 584 of 1999
 - (ii) the second action brought by Mr. Vayeshnoi was Civil Action No.95 of 2005
 - (iii) Civil Action No. 584 of 1999 was consolidated with Civil Action No. 95 of 2005.
 - (iv) The actions concerned an alleged defamation in respect of twelve publications.
- 4.0 The first action, Civil Action No. 584 of 1999 was filed on 8th December 1999. An amended Statement of Claim was filed on 24th January 2000. It alleged defamation in relation to four publications between 24th July 1999 and 29th November 1999.
- 5.0 The second action, Civil Action No. 95 of 2005 alleged defamation in relation to eight publications (all the total 12) between 3rd July 1999 and 1st February 2003.

JUDGMENT OF THE HIGH COURT

- 6.0 On 28th November 2007, Mr. Justice Jiten Singh delivered his judgment and found for Mr. Vayeshnoi in five of the twelve articles and awarded him \$30,000 in damages and summarily assessed costs at \$7,000.00.
- 7.0 Mr. Justice Singh found that Mr. Vayeshnoi had been defamed in the following articles:
- (i) "Opinion - WHEN THE GOING GETS TOUGH" - dated 24th July 1999"
 - (ii) "Opinion - SHEDDING LIGHT AFTER DARK" - dated 28th August 1999.
 - (iii) "Opinion - VAYESHNOI WANTS OFFICER REMOVED FROM MINISTRY" - dated 31st August 1999.
 - (iv) "Voice of the People - ARROGANT MINISTER" - dated 20th December 2009.
1999

(v) "Voice of the People - THE MOUTH RETURNS" - dated 21st March 2001.

8.0 To understand the background to the case in the High Court and this appeal it is necessary to mention that Lekh Ram Vayeshnoi was a prominent politician in Fiji. He first became a Member of Parliament in May 1992 being elected as a Fiji Labour Party candidate. In every election since May 1992 to the date of the High Court judgment he was re-elected as a Member of Parliament with an ever increasing majority. After the May 1999 Election which the Fiji Labour Party won, he was appointed the Assistant Minister in the Prime Minister's Office responsible for Information. The Prime Minister at the time was Mahendra Chaudhary.

9.0 The defendants/appellants pleaded the defence of fair comment in ten instances, justification in one and consent in the case of a facsimile transmission.

10.0 This appeal is in respect only of the articles referred to in paragraph (7) supra.

11.0 We shall now refer to the relevant parts of the five findings by the Trial Judge beginning with "When the Going Gets Tough". This incident was the subject of an article which appeared in the Fiji Times on 24th July 1999 in the "Opinion/Feature page titled: "On the Bright Side". The words to which the Plaintiff took offence were particularly the word: "Chamcha". The defamatory words alleged were: "Mahen says he had nothing to do with the refusal to grant a work permit to an expatriate. The next day his chamcha, Lekh from Valley Road, Navosa said his boss was involved".

12.0 The learned judge said that clearly the words were directed at the plaintiff. They mentioned his name. He said: "To call someone a "chamcha" which is a Hindi word is very insulting and it is ridiculing someone in public, according to the Plaintiff.

13.0 The judge said that in his statement of claim the plaintiff said the word "Chamcha" translated into English "a person who does whatever he is told to do" and is capable of bearing the following meanings:

- (i) that the plaintiff only said or does what the Prime Minister told him to do or say;
- (ii) that the plaintiff was not capable of independent thoughts and actions;
- (iii) that the plaintiff was not fit to be a Parliamentarian and Assistant Minister in the Cabinet;
- (iv) that the plaintiff by contradicting the Prime Minister's comments was shown to be incompetent.

14.0 Shedding Light After Dark

The Plaintiff was again called 'Mahen ke chamcha' on the 28th of August 1999 in the Opinion/Feature page titled: "**On the Bright Side**" by the same person, Netani Rika. The offending words from the article allegedly were :

"This week two members if one may be forgiven the expression disgraced the house and all who went before them.

Lekh (Mahen ke chamcha) Vayeshnoi and David Pickering attacked each other on after dark issues.

Haven't they learnt that it is better to keep quiet and be thought a fool than to speak up and remove all doubt?

The plaintiff argued that the words referred to him and meant that he only did what the Prime Minister told him to do, that he was disgracing the Parliament and engaged in futile and pathetic debate and that he was unfit to be a Parliamentarian and an Assistant Minister.

- 15.0 The learned Judge found the word "Chamcha" used in the two articles to be defamatory of Mr. Vayeshnoi. In paragraph 23 of his judgment the Judge said:

"I find the word "chamcha" as used in the two contexts defamatory. Simply because it is put in an Opinion/Feature page does not take away its sting. It is one of those Hindi words which, when used to describe people has no equivalent English word for it. I do not consider a stooge or puppet are its equivalent English. In the second instance the words "Mahen ke chamcha" are put in brackets in the middle of the plaintiff's Christian name and surname giving it a permanent feature to his name."

- 16.0 In the plaintiff's evidence at page 182 of the record he said, according to the Judge's Notes:

"I took offence in the words in the third Column. Use of words "Chamcha". As a layman it is not proper to call a man "chamcha". For Hindi speakers it is very insulting. It is ridiculing someone in public".

- 17.0 Referring to the article of the 28th of August 1999 the plaintiff again said that to call him "Mahen Ke Chamcha" was insulting as was the previous use of the term. He said he felt it was unfair and insulting. The learned Judge, as we have said, held that the use of the word "chamcha" was defamatory. This Court disagrees and here it is relevant to refer to some of the overseas authorities we mentioned, at the beginning of this judgment.

18.0 In Albert Chang and Another v. Tsey Wai Chun Paul (Court of Final Appeal, Hong Kong) Lord Nicholls of Birkenhead, NPJ said at page 5 of the Court's Judgment on the defence of fair comment:

"The title of this defence is misleading. Comment, or honest would be a more satisfactory name". He then stated the five ingredients of this defence as follows:

First, the comment must be on a matter of public interest. Public interest is not to be confined within narrow limits today; See Lord Denning in London Artists Ltd v. Littler (1969) 2QB 375, 391.

Second, the comment must be recognizable as comment as distinct, from an imputation of fact. If the imputation is one of fact, a ground of defence must be sought elsewhere, for example, justification or privilege.

Third, the comment must be based on facts which are true or protected by privilege. If the facts on which the comments purports to be founded are not proved to be true or published on a privileged occasion, the defence of fair comment is not available.

Next, the comment must explicitly or implicitly indicate at least in general terms, what are the facts of which the comments is being made. The reader or hearer should be in a position to judge for himself how far the comment was well founded.

Finally, the comment must be one which could have been made by an honest person, however prejudiced he might be, and however exaggerated or obstinate his views. It must be germane to the subject matter criticized. Dislike of an artist's style would not justify an attack upon his morals or manners. But a critic need not be mealy-mouthed in denouncing what he disagrees with. He is entitled to dip his pen in gall for the purposes of legitimate criticism; See Jordan, CJ Gardiner v. Fairfax (1942) 42 S.R.(NSW) 171, 174." As Lord Nicholls said, "These are the outer limits of the defence. The burden of establishing that a comment falls within these limits, and hence within the scope of the defence lies upon the defendant who wishes to rely upon the defence".

19.0 Reynolds v. Times Newspapers Ltd and Others (2001) 2 AC 127 concerned the plaintiff, a prominent public figure in Ireland who began proceedings for defamation against the defendants, the publishers of an article contained in the British mainland edition of the national newspaper. The publication related to the political crisis in Ireland in 1994 culminating in the plaintiff's resignation as *Taoiseach* and the collapse of his coalition government which had during its course, progressed the peace process in Northern Ireland. The plaintiff claimed that the words complained of bore the meaning that he had deliberately and dishonestly misled the Dail and his Cabinet colleagues. He sued for defamation.

20.0 On appeal to the Court of Appeal Lord Bingham of Cornhill, CJ in a reserved judgment on behalf of the whole Court said at p. 165 dealing with the defence of fair comment that "it is the right of fair comment or honest opinion which has, up to now, provided the main protection of free political discussion in places and on occasions not attracting the protection of privilege". Later, at p. 170 the Court of Appeal mentioned with approval the decision of the House of Lords in Derbyshire County Council v. Times Newspapers Ltd (1993) AC 534 where the House held that since the threat of Civil Action for defamation would place an undesirable fetter on freedom to express criticism of a democratically elected government body, it was contrary to the public interest for institutions of central or local government to have any right at common law to maintain an action for damages for defamation. Then, at p. 174, and in our view very relevant to the facts of this case, the Court said :

"There can be little doubt that in a modern parliamentary democracy electors have a proper interest in being informed about the activities of their elected representatives when those activities are relevant to their performance as such and their fitness to hold their representative office. That being so, members of the news media and others have a proper interest, some would say duty, in informing electors as a whole of relevant activities of individual politicians".

21.0 In the House of Lords, Lord Nicholls of Birkenhead delivered the leading judgment. At page 193, he said :

"Traditionally one of the ingredients of this defence is that the comment must be fair, fairness being judged by the objective standard of whether any fair-minded person could honestly express the opinion in question. Judges have emphasized the latitude to be applied in interpreting this standard. So much so, that the time has come to recognize that in this context the epithet "fair" is now meaningless and misleading. Comment must be relevant to the facts to which it is addressed. It cannot be used as a cloak for mere invective. But the basis of our public life is that the crank, the enthusiast, may say what he honestly thinks as much as the reasonable person who sits on a jury. The true test is whether the opinion, however exaggerated, obstinate or prejudiced, was honestly held by the person expressing it": see Diplock, J in Silkin v. Beaverbrook Newspapers Ltd [1958] 1 WLR 743,747.

22.0 Towards the end of his judgment, Lord Nicholls said at pg. 205;

"Above all, the court should have particular regard to the importance of freedom of expression. The press discharges vital functions as a blood hound as well as a watchdog. The court should be slow to conclude that a publication was not in the public interest and, is in the field of political discussion. Any lingering doubts should be resolved in favour of publication".

23.0 The other judgment of the House which we mentioned is that of Lord Cooke of Thorndon who was formerly a member of this Court and of the Supreme Court before his elevation to the House of Lords. At page 218 he said that arguments invoking freedom of speech in a democracy have ready moral, intellectual and emotional appeal. He noted what was eloquently said by Judge Learned Hand in United States v. Associated Press (1943) 52 F Supp 362,372 that the First Amendment presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection. To many this is, and always will be, folly; but we have staked upon it our all".

In like vein was the pronouncement of Holmes, J, dissenting but with the concurrence of Brandeis, J in Abrams v. United States (1919) 250 US 616,63. The best test of truth is the power of the thought to get itself accepted in the competition of the market".

24.0 It has to be said however, that, potent though these statements are, neither of the cases in which they were made was a defamation case and, as Lord Cooke said it would be dangerous to stretch them out of context.

25.0 The clear conclusion to be drawn from the judgments of Lord Nicholls and Lord Cooke is that although the constitutional structures vary, the pervading ideals are the same. Freedom of speech on the one hand and personal reputation on the other have the same importance in all democracies. The whole purpose of defamation law is to enable a plaintiff to clear his or her name.

26.0 Because we consider this question of fair comment is so important we believe it necessary to refer to two judgments of Mr. Justice Eady in the Queen's Bench Division of the English High Court, Branson v. Bower (2002) QB 737 and Sara Keays v. Guardian Newspapers Ltd and 2 Others, the only citation for which we have is (2003) EWHC 1565 delivered on the 17th of June 2003, a copy of which was provided by the appellants and not disputed by the respondent.

27.0 In Branson v. Bower the Judge held that the touchstone for fair comment on a matter of public interest was always honesty and should not be watered down by considering issues such as fairness or moderation even if the words complained of could be characterized as attributing corrupt or dishonourable motives to the claimant; and that, accordingly, the only requirements for establishing a defence of fair comment were that the defendant had expressed his opinion honestly or has done so upon facts accurately stated. It was not submitted by the respondent in this case that the expression "chamcha" was not accurately stated by the appellants nor that it was stated dishonestly.

28.0 Even of more interest was the decision of Mr. Justice Eady in Sara Keays v. Guardian Newspapers Limited. In this case the judge was concerned with a daughter Flora of the Plaintiff Ms Keays whose father was Mr. Cecil Parkinson, at that time a well known Conservative Politician. Flora had been born out of lawful wedlock and,

unfortunately when she was very small suffered brain damage which gave rise to special education needs. The plaintiff engaged in various media attempts to obtain more money from Mr. Parkinson for the support of her daughter. The English Press capitalized on Ms Keays action which clearly had her encouragement and support. Newspaper headlines included **"THE GIRL CECIL TRIED TO HIDE"** and **"I'M THE LOVE CHILD CECIL TRIED TO HIDE"** and **"LUST, LIES, AND CRUELTY"**.

29.0 It was against this background that there appeared in the newspaper Observer an article by Carol Sarler in the "Comment" section of the Newspaper under the heading: **"THE MOTHER OF ALL WOMEN SCORNED"**.

30.0 Mr. Justice Eady quoted the article in full. We do not need to do that but content ourselves with this selection :

(i) "WHAT A PREPOSTEROUS piece of work is Miss Sara Keays, prowling print and airwaves with the finest furies of a woman scorned as, nearly two decades after the event, she manages to excise yet another pound of Parkinson flesh. Or, as Edwina Currie once put it, rather more succinctly: "What a right cow!"

(ii) "She plays a clever game, mind, does Sara. She doesn't actually badmouth Parkinson - well, not much; mostly she lets poorly Flora do that bit. The girl says" "If he loved me, he would want to see me", and tells us there wasn't a birthday card even for her eighteenth, 'though Mummy told me not to expect one'. You can bet she did.

(iii) "Let us be clear here: this is neither defence nor excuse for Lord Parkinson. He is a selfish adulterer, as surely as Miss Keays is a well of apparently limitless bitterness, and in a just world they probably deserve each other. But on the distasteful showing of the past week, we are left to wonder whatever poor Flora did to deserve either of them".

31.0 As Mr. Justice Eady remarked it was true that the article was in pungent and offensive terms, but it is recognized that hard-hitting comments may be made on matters of public interest without the author being hobbled by the constraints of conventional good manners.

32.0 At paragraph 46 of his judgment Mr Justice Eady referred to an Austrian case *Jerusalem v. Austria* where it was said that politicians..."inevitably and knowingly lay themselves open to close scrutiny of word and deed by both journalists and the public at large".

33.0 The judge concluded his judgment in paragraph 50 when he said:

"Anyone who chooses to enter the public arena invites comment and often this will include scrutiny of and comment about motives. Such persons cannot expect as of right to be taken at face value. It is sufficient protection in such circumstances for personal reputation that any adverse comments should be made in good faith, and that that the words should be subjected, at the appropriate stage, to the objective test of whether the inferences or deductions could be drawn by an honest person with knowledge of the facts: see e.g. Lord Nicholls in *Albert Cheng* at [41] and [45]"

34.0 This Court whole-heartedly agrees with this statement. In the result Mr Justice Eady held that the words complained of constituted fair comment.

35.0 We cannot conclude our comments on the defence without referring to the classical summing up to the Jury by Diplock, J in *Silkin v. Beaverbrook Newspapers Limited (1958) 2 ALL.E.R. 516*.

His Lordship began his summing up with these words:

"This is an important case, for we are here concerned with one of the fundamental freedoms – freedom of speech, the right to discuss and criticize the utterances and the actions of public men. Freedom of speech, like the other fundamental freedoms, is freedom under the law, and over the years the law has maintained a balance between the right of the individual, like the plaintiff, whether he is in a public life or not, to his un-sullied reputation if he deserves it. That is on the one hand. On the other hand, but equally important, is the right of the public, which means you and me, and the newspaper editor and the man who, but for the bus strike, would be on the Clapham omnibus, to express his views honestly and fearlessly on matters of public interest, even though that involves strong criticism of the conduct of public people. If I spend a little time in talking to you about the law in this matter, I hope you will excuse me, because it is an important matter, not merely to the parties in this case, but to all of us".

36.0 At page 518 the judge said:

"People are entitled to hold and to express freely on matters of public interest strong views, views which some of you, or indeed all of you, may think are exaggerated, obstinate, or prejudiced, provided – and this is the important thing – that they are views which they honestly hold. The basis of our public life is that the crank, the enthusiast, may say what he honestly thinks just as much as the reasonable man or woman who sits on a jury, and it would be a sad day for freedom of speech in this country if a jury were to apply the test of whether it agrees with the comment instead of applying the

true test: was this an opinion, however exaggerated, obstinate or prejudiced, which was honestly held by the writer?"

37.0 The passages from the various judgments we have quoted on fair comment leave us in no doubt that the words complained of by Mr. Vayeshnoi were not defamatory and we so hold.

38.0 Ground 3 of the Grounds of Appeal relates to the article: "VAYESHNOI WANTS OFFICER REMOVED" and is in the following relevant terms:

"A government Minister wants a senior civil servant removed from his ministry because the officer raised complaints about the Minister's treatment of staff.

Assistant Minister for Information Lekh Ram Vayeshnoi has asked the Public Service Commission to remove the officer because he could not work with the officer.

Mr Vayeshnoi refused to listen to them and ordered them out of his office when they would not disclose the names of staff who were not happy with him".

39.0 Mr Vayeshnoi pleaded that in their natural and ordinary meaning, the words meant:

- [i] that the Plaintiff was incapable of working together with his staff;
- [ii] that the Plaintiff mistreats his staff;
- [iii] that the Plaintiff asks for the removal of staff who could not work with him;
- [iv] that the Plaintiff was not prepared to listen to the staff grievances; and
- [v] that the Plaintiff was arrogant and stubborn.

40.0 His Lordship found that there was no evidence to suggest that Mr. Vayeshnoi wanted the Public Service Commission to remove Mr. Kau (The Public Servant). Accordingly he held that the article was defamatory of Mr. Vayeshnoi. We do not agree. In the light of the comments of Lord Nicholls, Lord Cooke, Mr. Justice Eady and Diplock J, we consider it would be unreasonable for the reasonable man to consider such remarks defamatory. No reasonable and ordinary person expects a Minister to be able to work with all his staff or would think any less of him if he could not. Similarly, no ordinary and sensible reader would think any less of the Minister for asking for the removal of a staff member who cannot work with him. If Mr. Vayeshnoi could not work with some of his staff, we see no reason why he did not attempt to obtain staff with whom he could work. There is no evidence that he did.

GROUND 4 - ARROGANT MINISTER

41. This alleged defamation was contained in a letter published in the Fiji Times "Voice of The People" Letters Column. It was as follows:

"The refusal of the Assistant Minister for Information, Lekh ram Vayeshnoi, to allow the Fiji Television reporters into the media conference on the shredding of documents is more evidence, if any were required, that the man is disingenuous and of questionable character.

Clearly he is out of his depth in the post that he holds.

Mr Vayeshnoi is employed by the taxpayers of this Country.

He should remember this while conducting petty vendetta's (sic.) of the school yard variety aired on the news this evening, such behaviour brings the Government into disrepute.

The Assistant Minister (sic.) is of questionable character.

This new example of his clearly highlights the glaring fact that his limited educational background and his personal conduct makes him unsuitable for public office.

It is suggested that the taxpayers of this country who pays (sic.) for his wage and fancy automobile, as well as his other expenses would be better served by someone who is properly qualified.

After all it is called 'public service', not 'service to suit self'.

- 42.0 Mr Vayeshnoi pleaded that in their natural and ordinary meaning the words meant:

- [i] that the Plaintiff was unfit for the office which he then held;
- [ii] that the Plaintiff was of limited intelligence and petty minded;
- [iii] that the Plaintiff had not had a proper educational background;
- [iv] that the Plaintiff was dishonest and dishonourable and abusing the positions he held in some way.

- 43.0 We accept that Mr. Vayeshnoi was probably offended by the article but this does not preclude the operation of the fair comment defence. The issue for His Lordship to decide was whether or not any fair man, "however prejudiced he might be, however exaggerated or obstinate his views, could have written this criticism" to use the words of Lord Esher in Merivale v. Carson (1887) 2QBD 275.

44.0 It has to be remembered that public figures do not live in a cocoon, safely protected from the slings and arrows which the media may see fit at times to fire at them. This is part and parcel of a public figure's life and he or she must be prepared to accept it or choose another occupation. We therefore reject Mr. Justice Singh's finding that this article was also defamatory of the Plaintiff.

45.0 Ground 5, - "The Mouth Returns" referred to an article in the form of a letter published in the Fiji Times Voice of the People - Letters Column and was in the following terms:

"Lekh Ram Vayeshnoi, the once deposed and now sacked information minister, just can't get rid of this motor mouth despite washing it with soap.

During the Fiji One Television news on Sunday night, when asked by a reporter when he would vacate his Government quarters, Vayeshnoi barked like an irate puppy. "Why should I? Why should I?"

A report in your newspaper titled : 'Ousted MP's defiant' (F/T 20/3) quotes Vayeshnoi, which referring to the Caretaker Government, as saying: 'At the moment they have no legs to stand on'.

Obviously Vayeshnoi wants to portray himself as a fearless person. But he needs to be reminded of the day he fled Parliament with his tail (sic.) between his legs after only two days in captivity following the coup of May 19.

That day Vayeshnoi surely had the legs to run. It's a pity he wasn't selected for the Sydney Olympics."

46.0 In our judgment this was the most offensive of all the articles complained of by Mr Vayeshnoi and defamatory in law. We endorse what Mr. Justice Singh said in paragraph 41 of his judgment :

"It is highly insensitive to the plight of people who were held hostages with their lives at great risk. There was absolutely no need for this description. It obviously means and suggests that the plaintiff is a coward. It does not suggest, as the plaintiff also pleaded, that he was unfit for the office he held, or that he was of limited intelligence or that he lacked proper educational background. It is only defamatory in suggesting that the plaintiff was a coward."

47.0 In our view to call Mr Vayeshnoi a coward given the circumstances of his incarceration was contemptible and unjustified. Worse still no apology has ever been made by the appellants for this article. In our view this was the least that could be expected of them but they chose instead not to commiserate with the plaintiff in his forced imprisonment but rather to sneer at him for being released before most of his co-prisoners.

48.0 We consider that he should receive damages for this article which we assess at \$50,000.00.

49.0 Grounds 6 and 7 were formulated as follows:

“ (6) The learned Judge erred in law in failing to take sufficient account of the Appellants’ rights of free speech under S.30 of the Constitution of Fiji.

(7) The Learned Judge erred in law in failing to take sufficient account of the fact that the Respondent, as a public figure, offered himself to public attack and criticism.”

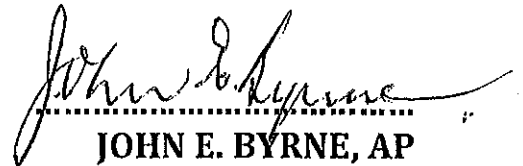
50.0 We uphold these grounds basing ourselves on the fact that any public figure must expect to be criticized. He or she must expect that not everybody will agree with opinions he offers, or actions he takes.

51.0 In our judgment the Learned Trial Judge should have given greater weight than he did to the fact that Mr. Vayeshnoi was a public figure and criticism of his actions was part and parcel of his job.

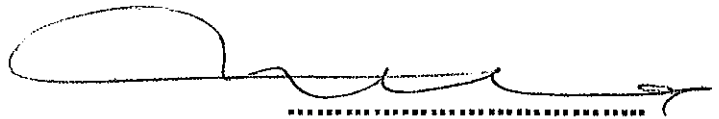
52.0. CONCLUSION

We have thus found that only one of the articles complained of by Mr. Vayeshnoi was defamatory but that was defamation of a very serious nature. We therefore vary the award of damages by Mr. Justice Singh and substitute for the amount of \$30,000 the amount of \$50,000.00. To an extent therefore the respondent has succeeded but overall he has not. Nevertheless he is entitled to some costs which we fix at \$2,000.00. There will be orders accordingly.

Dated at Suva this 16th day of July 2010.


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JOHN E. BYRNE, AP




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S. INOKE, JA


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W. CALANCHINI, JA