

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CIVIL JURISDICTION

HBJ 05 of 2022

IN THE MATTER of **CIVIL AVIATION**
AUTHORITY OF FIJI

A N D

IN THE MATTER of an application by
TIMOTHY JOHN JOYCE, SUNFLOWER
AVIATION PTE LIMITED, JOYCE
AVIATION (FIJI) PTE LIMITED t/a HELI
TOURS FIJI for a Judicial Review and with other
reliefs including an Order of Certiorari to quash the
decision made by the controller of Air Safety dated
10th February 2022 and 11th February 2022.

STATE v **CIVIL AVIATION AUTHORITY OF FIJI** situated at CAAF Compound, Nadi
Airport, Nadi.

FIRST RESPONDENT

JIM SAMSON Controller of Air Safety of the Civil Aviation Authority of Fiji of CAAF
Compound, Nadi Airport, Nadi.

SECOND RESPONDENT

EX-PARTE **TIMOTHY JOHN JOYCE, SUNFLOWER AVIATION PTE LIMITED,**
JOYCE AVIATION (FIJI) PTE LIMITED t/a HELI TOURS FIJI

(APPLICANTS)

Appearances: Mr. Victor Sharma with Ms. Samantha for the Intended Appellants
Mr. R. Singh for the Respondents
Date of Hearing: 09 August 2022
Date of Ruling: 10 August 2022

R U L I N G

1. I did deliver in Court yesterday a Ruling on the above matter. The said Ruling, in effect, declines the Applicants' Summons dated 04 May 2022 in which they had sought leave to issue Judicial Review.
2. The Applicants came to Court yesterday anticipating the said Ruling. Immediately after the Ruling was pronounced, Mr. Victor Sharma requested if he could be heard on an *ex-parte* application to seek stay pending appeal.

3. Clearly, there is no appeal afoot.
4. I understand the urgency of the application in light of the particular circumstances of this case.
5. However, to grant stay effectively means that the status quo which had been maintained up to the time of the Ruling - would have to be extended.
6. The status quo in question was – that Captain Paul Hilton continue to act as Chief Pilot for Heli Tours Fiji.
7. That Captain Hilton act in that position *in lieu* of Tim Joyce – had been the initiative of the Respondent CAAF – as an interim measure –to keep the Applicant Companies in operation until such time as the Applicants were able to appoint a fit and proper Chief Pilot. That arrangement was reached before the Court proceedings were filed by the Applicants. The arrangement was that Captain Hilton act in the said position for three months only to enable the Applicants to find a suitable fit and proper Chief Pilot for Heli Tours.
8. Later – when the application for leave to issue Judicial Review was filed, the Applicants would seek interim injunctive Orders to the effect that Timothy Joyce be allowed to act as Chief Pilot until further Orders.
9. CAAF, as Regulator, could not agree to that. Its main argument was that Joyce had been assessed as being not a fit and proper person to act as Chief Pilot and that to disturb that finding with an interim injunctive order, would be treading on dangerous grounds as there were public safety issues at stake.
10. CAAF however was willing to extend the three-month appointment of Captain Hilton until further Orders. In other words, CAAF was willing to concede to having the status quo.
11. It is awkward for the Court to grant stay at this time after the Ruling has been delivered. To grant stay would mean that Captain Paul Hilton would have to continue to act as Chief Pilot. Mr. Singh is unable to agree to the application. He submits that the temporary appointment of Captain Hilton was intended to be an interim measure only – even though - Captain Hilton did not possess the requisite number of hours to be able to act in that position for Heli Tours, although Hilton is- admittedly highly qualified in other areas of aviation.
12. Accordingly, in light of the public safety issues at stake, I cannot concede to the granting of stay pending appeal.



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Anare Tuilevuka
Judge