

**IN THE INDEPENDENT  
LEGAL SERVICES COMMISSION**

**NO. 002/2010**

**BETWEEN: CHIEF REGISTRAR**

*Applicant*

**A N D: VIPUL MISHRA 1<sup>st</sup> Respondent  
MEHBOOB RAZA 2<sup>nd</sup> Respondent  
DR MUHAMMAD SHAMSUD-DEAN SAHU KHAN 3<sup>rd</sup> Respondent  
SAHU KHAN & SAHU KHAN**

**Applicant : Ms V. Lidise & Mr A. Chand  
Respondent : In Person  
2<sup>nd</sup> Respondent : Mr A Vakaloloma  
3<sup>rd</sup> Respondent : In Person**

**Date of Hearing : 16<sup>th</sup> November 2010  
Date of Judgment : 16<sup>th</sup> November 2010**

**RULING**

1. In this matter there is before the Commission today two Notices of Motion.
2. The first filed in time is that filed on behalf of the 1<sup>st</sup> Respondent Mr Mishra.
3. That motion seeks two orders. Firstly that the charges be dismissed and alternatively that those charges against the 1<sup>st</sup> Respondent be severed from the balance of the action.
4. The motion is supported by an affidavit sworn by Mr Mishra on the 26<sup>th</sup> October 2010.
5. The second motion before the Commission today is that filed on behalf of the 2<sup>nd</sup> Respondent, Mr Raza.
6. That motion is supported by an affidavit of Hemant Kumar who is described as the Chief Legal Executive of Mehboob Raza & Associates.

7. Mr Raza's motion seeks that the hearing date of today be vacated and that the substantive action and "all other applications" be adjourned until January 2011 for mention.
8. In view of the orders sought in Mr Raza's notice of motion notwithstanding that it is the second in time filed I have dealt with his motion first.
9. Mr Raza's motion is opposed by the Applicant but in all other respects the parties effectively leave the matter to the Commission.
10. The affidavit in support the motion and the submissions made are that Mr Raza is currently recuperating from heart bypass surgery in Auckland New Zealand.
11. And that his Cardiothoracic Surgeon advises in a four line report on the 4<sup>th</sup> of November 2010 that her professional view is that Mr Raza stay stress free and has advised him to stay away from any matters pertaining to his profession or any court matter and further that his position will be reviewed in early to mid January 2011.
12. Also attached to the affidavit is an earlier report of the same surgeon dated the 17<sup>th</sup> of September 2010.
13. In that report the doctor said that Mr Raza was to stay back in Auckland for 3 months of recovery.
14. No explanation is offered as to why he is now not being reviewed until early to mid January 2011.
15. There is, for completeness, a further report of the same doctor of the 26<sup>th</sup> October 2010 which makes reference to chest x-rays and radiology reports which are attached and which were performed on the 20<sup>th</sup> of October 2010.
16. The surgeon at that time states that Mr Raza was to be reviewed again in one week's time.
17. There is nothing at all that offers any explanation as to why his period of convalescence is apparently extended beyond that detailed in the first report.
18. The affidavit of Mr Kumar and the evidence that he gave before the Commission today is in many respect quite unsatisfactory.
19. He expresses views on matters about which he clearly has no personal knowledge.

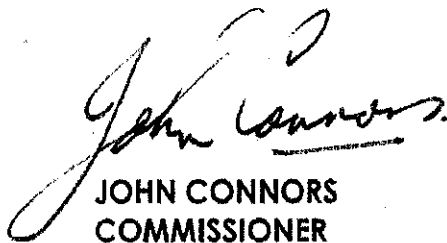
20. He says that he has spoken to Mr Raza about once a week but that he has not forwarded Mr Mishra's motion or supporting affidavit to him.
21. His reason he says is that the doctor's view is that Mr Raza should remain stress free and that he merely contacts him to report the adjournment of his various matters in various courts.
22. I find the totality of the evidence in support of the motion is quite unsatisfactory.
23. I am however concerned that if I am to refuse the motion and proceed to hear the motion filed by Mr Mishra and then perhaps to proceed and hear the substantive matter without Mr Raza's presence, whether the matter be severed or not, it will be seen as being prejudicial to Mr Raza.
24. The possible consequences of such a course maybe even more destructive to all those involved and the Commission than it would be to grant the orders sought in the motion.
25. It is of serious concern that the evidence given today by Mr Kumar clearly indicates the practice of Mehboob Raza & Associates is operating contrary to the provisions of the Legal Practitioners Decree and in particular the Rules of Professional Conduct and Practice which I would have thought would be well known by a practitioner of Mr Raza's standing.
26. Those rules appear to be a re-enactment of the rules that existed under the Legal Practitioners Act of 1997.
27. It is a matter in my opinion of significant seriousness.
28. There is a reason why the legal profession is governed and there is a reason why people holding themselves out as solicitors and barristers are required to have appropriate training and appropriate practising certificates.
29. There is a reason why people without those qualifications are not entitled to provide legal services and charge for those services.
30. There is a reason why legal offices are required to be manned by a qualified legal practitioner in accordance with the Decree and the rules.
31. All of these reasons relate to the protection of the community and protection of the public at large.

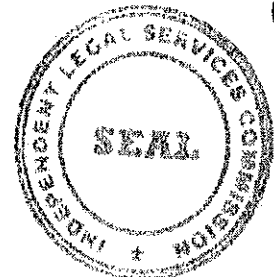
32. I view that conduct very seriously and trust the Chief Registrar will deal with the matter appropriately.

33. For the reasons that I have given there is no choice but to vacate the hearing dates allocated to matter 2 of 2010 and those dates will be vacated.

## ORDERS

1. The hearing date is vacated
2. The motion filed by the 1<sup>st</sup> Respondent is adjourned to the 6<sup>th</sup> of December 2010 at 9.30 am for hearing.
3. The substantive matter is adjourned for mention on that day at that time.
4. I indicate that if the motion is successful that the severed hearing of the action against the 1<sup>st</sup> Respondent is to take place on the 7<sup>th</sup> and 8<sup>th</sup> December 2010.
5. I further indicate that if the motion be not granted or if it be granted the balance of the severed action that is against the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondent be heard between the 17<sup>th</sup> and 28<sup>th</sup> of January 2011 excluding the 20<sup>th</sup>, 21<sup>st</sup>, 24<sup>th</sup>, 27<sup>th</sup> and 28<sup>th</sup> of January 2011.

  
JOHN CONNORS  
COMMISSIONER



16 NOVEMBER 2010