

**SANMUGAM GOUNDAR v COUNCIL OF THE UNIVERSITY OF FIJI,
BHUVAN DUTT, KAMLESH ARYA (HBJ001 of 2012L)**

HIGH COURT — CRIMINAL JURISDICTION

5 WICKRAMASINGHE, JA

16 March 2012

10 **Administrative law — judicial review — council election — applicant elected Council member — in absence of applicant, Council resolved election process electing applicant was invalid — council then appointed a Vice chancellor — Whether applicant had standing to seek judicial review — whether Councils decision had a public element and reviewable — whether applicant had an arguable case — High Court Rules O 53 rr 3(ii), 5 — High Court (Amendment) Rules rr 3(2), 3(8) —**
 15 **University of Fiji Decree ss 4(1), 4(2), 4(3)(a), 5(1), 6(i), 6(j), 6(p), 6(u), 6(x), 8(2), 8(3), 10(8), 12(4), 13(3), 15, 18(5), 21, 23(3), 23(4), 24, 25, 28(2)(o), 28(2)(u), 41(5), 43(1), 44.**

20 The applicant was elected as “non-professorial member” of the academic staff to the first respondent Council under s 13(3) of the University of Fiji Decree 2011 (the Decree) at an election held for that purpose on 2 December 2011. The applicant attended his first meeting on 8 December 2011, where the Council after deliberations passed a resolution that the election process that elected the applicant as a council member was invalid. The resolution was passed in the absence of the applicant. The Registrar then communicated the decision to the applicant and he was not permitted to enter the venue or participate further at the meeting. At the same meeting, in the absence of the applicant, the Council
 25 also voted and appointed a Vice Chancellor. The applicant sought judicial review of these decisions of the Council.

Held –

30 (1) Section 18(5) of the Decree required the Council to give prior written notice of its intention to remove a member from the Council and an opportunity for such a member to be heard by the Council in person. Ex facie, the applicant’s statutory right as a Council member was affected with the nullification of the election. In the circumstances, the applicant had sufficient interest to seek judicial review of the decision that the election process was invalid.

35 (2) Section 10(8) of the Decree required the Vice Chancellor to be appointed by the Council on the recommendation of the joint committee. The applicant was one of the members of that committee. The Council is authorized to voice and vote on the appointment of the Vice Chancellor. The applicant who was elected as a non-professorial member of the Council was deprived of his voice and vote at the meeting that deliberated on the Vice Chancellor’s appointment. The applicant had sufficient interest to seek judicial review of the appointment of the Vice Chancellor.

40 (3) The invalidity of an election process cannot be construed as a contractual function akin to a dismissal of a staff member of the university. Section 18(5) of the Decree provided the manner in which a Council member can be removed which was breached. The appointment of the Vice Chancellor was a statutory function under the Decree which had a public element, and was therefore reviewable.

45 (4) The application raised arguable cases. Breach of mandatory procedural requirements could lead to a decision being set aside for procedural impropriety. If a Council election is invalidated, all subsequent decisions may become invalid as the Council is thereafter not properly constituted. In electing the Vice Chancellor, s 10(8) of the Decree required the Council to provide reasons from a deviation from recommendations in a joint committee report. The minutes of the meeting did not disclose
 50 such reasons.

Leave to proceed with the judicial review application granted.

Cases referred to

5 *Dennis Rye Pension Fund, Trustees of the v Sheffield City Council* [1997] 4 All ER 747 (CA); *Mercury Communications Ltd v Director General of Telecommunications* [1996] 1 WLR 48 (HL); *Naidu v Attorney-General* [1999] FJCA 55; Abu0039u.98s (27 August 1999); *O'Reilly v Mackman* [1983] 2 AC 237; *Permanent Secretary for Education & Attorney General of Fiji v Savita Devi Nair* FJCA - ABU 0061 of 2008; *Praveen Prakash Palani & Fiji Electricity Authority Executive et al v Fiji Electricity Authority*, FJCA, ABU 0028 of 1996; *Roy v Kensington and Chelsea FPC* [1992] 1 AC 624 (HL); *Wandsworth London Borough Council v Winder* [1985] 1 AC 461, cited.

10 *Dewa v University of the South Pacific* [1996] FJHC 125 Hbj007j.1994s (4 July 1996); *R v Electricity Commissioners; Ex parte London Electricity Joint Committee* [1923] All ER Rep 150, considered.

15 *Inland Revenue Commissioners v National Federation of Self-Employed & Small Businesses Ltd (Fleet Street Casuals Case)* [1982] AC 617, applied.

Young instructed by *Messrs Young & Associates* for the Applicant.

S. Krishna instructed by *Messrs Krishna & Co* for the Respondents

20 [1] **Wickramasinghe J.** This is an application for Judicial Review where the applicant is seeking leave under O 53 of the High Court Rules, 1988 as amended by r 3(2) and (8) of the High Court (Amendment) Rules 1994.

25 [2] The application for judicial review is supported by an affidavit of Sanmugam Goundar dated 9 January 2012. The respondents filed affidavits of Kamlesh Arya and Arun Pratap, both sworn on 13 February 2012, in opposition. Samuel Goundar by his affidavit dated 21 February 2002 replied the opposing affidavits.

[3] Briefly, the alleged facts are as follows.

30 [4] The applicant was elected as the 'non-professorial member' of the academic staff to the council under s 13(3) of the University of Fiji Decree 2011 [Decree No 26 of 2011-(Decree)] at an election held for that purpose on 2 December 2011.

35 [5] The applicant attended his first meeting, on 8 December 2011, where the Chair formally welcomed him. (Vide paragraph 1.1b of the Minutes of the meeting of the Council held on 8 December 2001 – Exhibit KA7 i). Soon thereafter, the third respondent moved the Chair, to request the applicant to vacate his seat, to raise a point on the validity of the applicant's election. Thereafter, the Council after deliberations passed a resolution, that the election
40 process that elected the applicant as a council member was invalid. The resolution was passed in the absence of the applicant. The Registrar then communicated the decision to the applicant and he was not permitted to enter the venue or participate at the meeting thereafter. The applicant deposed that the
45 Chair's request for him to leave the meeting for a short time. He says it was his understanding that the request to leave the venue was temporary and that he awaited to be recalled to participate at the meeting.

[6] At the same meeting, in the absence of the applicant, the Council also voted and appointed the Vice Chancellor.

50 [7] The applicant is thus seeking judicial review of the following decisions of the Council taken at its 21st Council meeting held on 8 December 2011.

(i) *the resolution or decision of the Council of the University of Fiji meeting on 8 December 2011 to exclude the applicant in attending the Council meeting.*

(ii) *the appointment of Dr Mahendra Kumar as Vice-Chancellor of the University of Fiji.*

5 [8] The council minutes containing the impugned orders were produced marked **KA-7(i)** and **KA-7(ii)** to the affidavit of Kamalesh Arya sworn on 13 February 2012. The decision to invalidate the election is at paragraph 2.16 of KA-7(i) whereas the appointment of the Vice Chancellor is at paragraph 6.3 to 6.6 of KA -7 (ii).

10 [9] The applicant deposed that both these actions are (i) in breach of his legitimate expectations as a duly elected council member, (ii) infringed the principles of natural justice; (iii) in breach of the principles of *audi altram partem*; (iv) and *ultra vires* s 10(8) of the Decree. The applicant thus seeks an order to quash the above decisions of the Council and for several other declaratory orders. In the alternative the applicant seeks a writ of mandamus directing the first respondent to appoint the Vice Chancellor in accordance with the Joint Committee recommendations report dated 4 December 2011

15 [10] The respondent strongly oppose the application primarily on the grounds of:

- a) *Applicant has no interest in the subject matter thus has no locus standi to maintain the application.*
- b) *Election process, which resulted in the applicant being elected, is null and void.*
- 25 c) *The University is not amenable to judicial review as it is privately owned.*
- d) *Interpretation of s 10(8) is in favour of the respondents.*
- e) *All decisions by the Council carried out in good faith, bona fide, without any malice or gross negligence.*

30 [11] Order 53 of the High Court rules, 1988 requires me to first determine leave before I venture on the merits of the substantive issue. Although Order 53, r 3(ii) of the High Court Rules provides that the court may determine the application without a hearing, I was of the view (having considered the documents) that a hearing was necessary and heard the application for leave *inter partes* on 29 February 2012.

35 [12] As held by Lord Diplocks in the oft cited case of *Inland Revenue Commissioners v National Federation of Self-Employed & Small Businesses Ltd (Fleet Street Casuals Case)* [1982] AC 617, 643, I am only required at the leave stage to consider whether the application has scope for judicial review. In doing so, I am not required to consider the matter in depth but only on a quick perusal of the material, whether the applicant has an arguable case where he will be entitled to the relief claimed on further scrutiny of the material.

40 [13] Before I consider whether the plaintiff has set out an arguable case which falls within the scope of judicial review, let me first consider the merits of the two threshold objections taken by the respondent relating to (i) *locus standi* and (ii) the first respondent is not subject to judicial review.

Locus Standi - O 53 r 3(5) - sufficient interest

50 [14] The respondents argue that the applicant does not have sufficient interest as stipulated in O 53 r 3(5) therefore has no *locus standi* to maintain the application.

[15] Order 53, r 3(5) of the High Court Rules stipulates that the court shall not grant leave unless the applicant 'has sufficient interest in the matter to which the application relates.'

[16] It appears that the judicial prudence seems to recognize two approaches to the issue on 'sufficient interest'. Firstly, when the *locus* is obvious and apparent and secondly when *locus* is obscure and incomprehensible. In the former scenario, the *standi* is clear. In the latter scenario, the judicial thinking seems to recognize that the Courts should not determine the issue in the abstract or as an isolated point but only when the substantive action is considered in its legal and factual context. [*Naidu v Attorney-General* [1999] FJCA 55; Abu0039u.98s (27 August 1999)]. It was also held in the Naidu's case (*supra*) that the Court's attitude to *standing* has undergone a significant paradigm shift in recent years starting from the judgment of the House of Lords in the *National Federation* case [*supra*], and in particular the observation of Lord Diplock at page 644 where his Lordship said:

'It would in my view be a grave lacuna in our system of public law if a pressure group like the federation or even a single public spirited taxpayer were prevented by out-dated technical rules of locus standi from bringing the matter to the attention of the court to vindicate the rule of law and get the unlawful conduct stopped.'

Commenting on this passage, the learned authors of Wade and Forsyth *Administrative Law* 7th Ed (1994), in the context of the speeches in *National Federation*, said at 712:

'Although Lord Diplock's speech was the most far reaching in its terms, it is fully consistent with the majority view that the real question is whether the applicant can show some substantial default or abuse, and not whether his personal rights or interests are involved.'

[17] Whilst I fully agree with the aforesaid findings, in any event the *stare decise principle* requires the High Court to follow the decision of the Court of Appeal in the Naidu's case.

30 Locus Standi

[18] Let me now consider the issue on *locus standi* in the instant case.

[19] The respondent submits that the applicant does not have sufficient interest, on both the issues. In the first issue on the 'election process', the respondent submits that the Council determined that the election in which he was elected as a non-professorial member is invalid therefore he has no standing to challenge the decision. On the second issue on the 'appointment of the Vice Chancellor', the respondent submits that the applicant has no interest as he was not a contended applicant for the post or the other candidates did not challenge the appointment or had authorized the applicant to act on their behalf. Mr Krishna, counsel for the respondent proficiently submits that the applicant must first satisfy these threshold grounds to be entitled to judicial review. He vigorously argued that the applicant does not have standing therefore the court must refuse the granting of leave at this threshold stage. Since the two issues are dissimilar, I will consider their merits separately.

45 Standing- Nullifying the election and the results

[20] Admittedly, the Council resolved that elections that elected the applicant as invalid. The applicant submits that the Council decision defied the mandatory statutory requirements stipulated in s 41(5) read with s 23(4) of the Decree by not submitting the resolution to vote. *A prima facie* perusal of the minute depicts that the election was invalidated on a motion that was proposed and seconded. The

resolution was not submitted to a vote. Admittedly, the matter was determined in the absence of the applicant. Section 18(5) of the Decree requires the Council to give prior written notice of its intention to remove a member from the Council and an opportunity of such member to be heard by the Council in person. *Ex facie*, the applicant's statutory right as a Council member was affected with the nullification of the elections. In the circumstances, I am satisfied that the applicant has *sufficient interest* contemplated in O 53r 5 of the High Court rules to seek judicial review of the decision.

10 **Standing- appointment of the Vice Chancellor**

[21] Section 10(8) of the Decree requires the Vice Chancellor to be appointed by the Council on the recommendation of the joint committee appointed for such purpose. It is common ground that the applicant was one of the members that was duly appointed by the Senate to serve the joint committee. Section 13 of the Decree provides for the composition of the membership of the Council. University Council, includes a member of the non-professorial academic staff as stated in s.13(3) of the Decree. The core of the University is the Council members and the Decree empowers the Council to take various decisions and those decisions upon a vote. One such decision is the appointment of the Vice Chancellor as provided for in s 10(8) of the Decree. The Council, which consists of the non-professorial member, is therefore authorized to voice and vote on the appointment of the Vice Chancellor. The applicant who was elected as a non-professorial member of the Council was deprived of his voice and vote at the meeting that deliberated on the Vice Chancellor's appointment. Perhaps the applicant's voice or vote would not have made a significant or any impact on the results on either of the two issues. However, I am unable to conclude that his statutory right to voice and vote as a member of the Council is jejune and unimportant.

[22] In my mind, the issue on *standing* in the instant matter is apparent. I am satisfied that the applicant has sufficient interest to prove his standing at this threshold stage of leave to seek judicial review on both the causes.

[23] For the foregoing reasons I conclude that the applicant has *locus standi*.

Scope of Judicial Review

35 [24] Let me now turn to determine whether the University is amenable to judicial review.

[25] The modern trend in judicial review which was formulated by Lord Atkin in the case of *R v Electricity Commissioners; Ex parte London Electricity Joint Committee Co* [1923] All ER Rep 150 where his Lordship said:

'where anybody of persons having legal authority to determine questions affecting the rights of subjects, and having the duty to act judicially, act in excess of their legal authority they are subject to the controlling jurisdiction of the King's Bench Division....'

45 [26] The above statement of Lord Aitkin, oft cited as 'Atkinean formula' was later expanded by Lord Diplock in the case of *O'Reilly v Mackman* [1983] 2 AC 237 by removing the phrase 'having the duty to act judicially' thereby including determinations of statutory tribunals or other bodies or persons 'having legal authority to determine questions affecting the common law of statutory rights or obligations of other persons as individuals' within the scope of judicial review. Subsequent decisions had followed on the expansion. **Wandsworth London**

Borough Council v Winder [1985] AC 461; *Roy v Kensington & Chelsea & Westminster Family Practitioner Committee* [1992] 1 AC 624 (HL); **Mercury Communications Ltd v Director General of Telecommunications** [1996] 1 WLR 48 (HL); *Dennis Rye Pension Fund, Trustees of the v Sheffield City Council* [1997] 4 All ER 747 (CA).

[27] As the law stand today, any impugned decision, which has a 'public element', is amenable to judicial review. Non-statutory bodies, such as professional, sporting, or other authorities regulated by powerful bodies empowered to make decisions, although they are not created by statute¹ are also brought within the scope of judicial review if the impugned decision has a 'public element'. As a rule, contract of employment or commercial matters or if the authority is derived solely from contract then such decisions are beyond the scope of judicial review and probative orders. However even in such matters if the decision contains a 'public element', the courts have considered that the matter could fall within the ambit of judicial review. *Dewa v University of the South Pacific* [1996] FJHC 125 Hbj007j.1994s (4 July 1996).

[28] Mr Krishna, counsel for the respondents submit that the orders made by the first respondent university are not amenable to judicial review as the (i) impugned order does not have a public element; (ii) the decision to remove the applicant creates a contractual relationship; (iii) is in breach of alternative remedies available to the applicant under s 25 s 28 (2) (o) and (u) of the Decree.

Impugned order and public element

[29] Mr Krishna, counsel for the respondent strenuously argued that the university is owned by the Sabha and therefore the university is privately owned, whereby its decisions are not amenable to judicial review.

[30] Section 4(2) of the Decree manifest that the Sabha owns the University. Section 44(1) of the Decree stipulates that the University is an entity of the Sabha. The composition of the Council includes minimum six members from the Sabha. The Sabha also exercises absolute power in granting consent on the matters set out in sections 4(3)(a), 6(p),(u),(x), s 8(2),8(3), 12(4), 43(1) and 44 of the Decree. I have considered these sections carefully and find that despite the conferred power on the Sabha, the Council remains to be independent and is not subservient to the Sabha. Nor the authority vested with the Sabha is dominant and pervasive over the powers and functions of the Council. Although the Sabha is intertwined in many aspects with the university, in its functional reality the university is independent of the Sabha.

[31] The first respondent university is promulgated by Decree. Section 4(3) of the Decree provides for the university to be established as a body corporate with perpetual succession with a right to sue and to be sued in its corporate name, thereby giving the university a juristic veil of corporate personality.

[32] The executive governing body of the University is the Council. I have carefully considered the provisions relating to the objects, the powers and the functions of the University. As enumerated in s.4(1) of the Decree the university is established to provide higher education for members of the communities of Fiji and members of any other global communities who may wish to receive tertiary education as per the objectives set out in s. 5(1) of the Decree. The Council is primarily responsible *inter alia* for management, administration and revenue functions of the university.

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1. Administrative Law by H.W. R Wade and C.F Forsyth 10th Edition page 540

[33] The numerous powers, duties and functions as set out in s. 15 of the Decree, manifest that they are either contractual or statutory in nature. In this scenario, the court would have to consider an impugned decision in its factual context. Decisions that are private in nature, such as issues relating to staff employment, curriculum, Degree courses etc. will not fall within the ambit of judicial review unless the decision making process is flawed.

[34] The mere fact that the university is donned by corporate personality or that it is statutorily incorporated are not conclusive factors that all Council decisions are judicially reviewable. Only decisions taken exercising the statutory power conferred in the Decree which contains a 'public element' would thus be subject to Judicial Review.

[35] Mr Krishna argues that the dismissal of the applicant as a Council member is a contractual function and not a statutory function. He drew my attention to several judgments especially *Praveen Prakash Palani & Fiji Electricity Authority Executive et al v Fiji Electricity Authority*, FJCA, ABU 0028 of 1996 and *Permanent Secretary for Education & Attorney General of Fiji v Savita Devi Nair*, FJCA - ABU 0061 of 2008. Both these judgments and the others relate to employment contracts.

[36] The invalidity of an election process, which resulted in the applicant's removal, as a Council member in my mind cannot even with the widest interpretation, be construed as a contractual function akin to a dismissal of a staff member of the university. Section 18(5) of the Decree provides the manner in which a Council member can be removed. *Ex facie*, there is a breach of this statutory provision.

[37] The appointment of the Vice Chancellor is clearly a statutory function under the Decree. The Vice Chancellor is the chief executive officer of the University responsible to exercise the powers and perform the functions conferred upon the office by the Decree and the Council. I am satisfied that the appointment of a Vice Chancellor to a University clearly has a public element, which is reviewable.

35 **Alternative Remedy**

[38] Mr Krishna argues that the applicant has not exhausted the alternative remedy stipulated in sections 25, 28(2)(o) and (u) read together with s. 6(i), (j) and (x) of the Decree. I have considered these provisions and am satisfied that the provisions have no application, in the present scenario.

Change of circumstances

[39] Mr Krishana argues that the Vice Chancellor is now appointed and he has commenced work therefore the circumstances had changed which does not give rise to review. This argument does not have any merits; therefore, I will not deliberate further on the issue.

Protection of the Members- Section 24

[40] Section 24 of the Decree provides that members of the Council are not personally liable for any acts done in good faith and without gross negligence while executing the functions of the Council.

[41] Mr Young drew my attention to s.21 of the Decree that provides:

- (1) A member has duty of ensuring that the Council performs its functions and exercises its powers appropriately, effectively and efficiently
- 5 (2) In performing the duty, a member shall -
- (a) *act honestly and in the best interests of the University;*
- (b) *exercise reasonable skill, care and diligence;*
- (c) *disclose to the Pro-Chancellor any conflict that may arise between the member's personal interests and the matter being considered or about to be considered by the Council; and*
- 10 (d) *not make improper use of his or her position as member, or of information acquired because of his or her position as a member, to gain, directly or indirectly, an advantage for the member or another person.*

15 [42] Mr Young submits that acts of good faith and gross negligence are factual matters that should be considered on evidence when the substantive matter is examined. The applicant alleges various acts such as the presence of non-council members at the meeting, non-disclosure of pertinent relationships relating to Vice Chancellors appointment, etc in his affidavit. Perhaps these allegations may not

20 have merit and could amount to just feral accusations. However, I agree with Mr Young's submissions that those are matters that should be determined when the substantive matter is considered and not at the stage when I am considering leave.

Leave

25 [43] Lord Diplok in the case of *Inland Revenue Commissioners v National Federation of Self-Employed and Small Businesses Ltd* (supra), which was considered in the Fiji Court of Appeal in the case of *Naidu v Attorney-General* (Supra) made the following observations relating to leave:

30 *'The whole purpose of requiring that leave should first be obtained to make the application for judicial review would be defeated if the court were to go into the matter at any depth at that stage. If, on a quick perusal of the material then available, the court thinks that it discloses what might on further consideration, turn out to be an arguable case in favour of granting to the applicant the relief claimed, it ought, in the exercise of a judicial discretion, to give him leave to apply for that relief. The discretion that the court is exercising at this stage is not the same as that which it is*

35 *called upon to exercise when all the evidence is in and the matter has been fully argued at the hearing of the application.'*

[44] Let me now turn to consider whether there is an arguable case.

40 [45] Kamalesh Arya deposed that a staff officer complained that the election was not fair and proper hence, flawed. The minutes at paragraph 2.13 relating to Mr K.L. Sharmar's query evinces that the alleged written complaint or the grievance was not tabled for deliberations before the Council. The minutes reflect that the Council during the limited period of deliberations had queried the Vice

45 Chancellor and the retuning officer of the election who was the Registrar of the University who happened to be present at the meeting as the Secretary to the Council. The minutes do not reflect the reasons that led to disbelieve the Vice Chancellor and the Registrar who conducted the elections nor the basis of invalidating the elections.

50 [46] The respondents asserts that the election process is flawed as:

1. *The Council had not rectified the election procedure.*

2. *Ballot boxes and the key of the ballot box were kept in the Registrars' office, which could have been compromised, as there were no restrictions of the people who had access to his office.*
3. *No accountability of procedure in place for acceptance of email voting.*
4. *No appeal procedure for guidelines for candidates to appeal their grievance.*
5. *Despite objections to the returning officer regarding the election process no remedy has been granted.*

[47] The above allegations are serious which need proper inquiry. On a perusal of the minutes, it appears that the 'election procedure' did not have Council's approval nor was it tabled before the Council for ratification. The decision to invalidate the election was not put to vote.

[48] On a consideration of the minutes, I can safely infer that the complaint or the grievance relating to election process was not tabled before the Council nor was the matter investigated. The deliberations that seemed to have originated impetuously, without due notice to the Council, had led to the passing of a resolution. Invalidating an election is a serious matter and more so when the election relates to the election of a Council member. At the meeting, the council sought legal advice from one of the co-opted council members Ms Vasantika Patel, who drew the attention of the Council to s 23(3) of the Decree, which provides that a meeting will not be invalidated due to a defect in the election. The minutes do not reflect whether Ms Patel's legal opinion was deliberated or the reasons for disregarding it. The applicant says he had legitimate expectations to voice and vote and he was deprived of his right.

[49] Breach of mandatory procedural requirements could lead to a decision being set aside for procedural impropriety. However, at this leave stage, I am not required to determine whether the procedural requirements such as right to vote and the requirement to obtain Council's approval for the election procedure are 'mandatory' or 'directory' in nature.

[50] Mr Young for the applicant says no sooner the invalidation of the election all subsequent decisions becomes invalid as the Council is thereafter not properly constituted. *Ex facie*, there is merit in Mr Young's argument.

[51] Mr Young, also submits that the Vice Chancellor can only be appointed on a consideration of the recommendation of the joint committee as stipulated in s 10(8) of the decree.

[52] The Joint committee at its meeting held on 4 December 2011, made its recommendation for the post of Vice Chancellor in the following order of priority.

- (i) Professor Denis Gayle;
- (ii) Professor Prem Misir;
- (iii) Professor Mahendra Kumar.

[53] It is noteworthy to mention that although s.10(8) of the Decree requires the Council to consider the joint committee report, the Council is not bound by its recommendations when making decisions. However if the Council deviates from the recommendations, the reasons for such deviation must be recorded to enable the court to make a finding whether the Council acted reasonably, fairly, in good faith and without partiality.

[54] On an *ex facie* consideration of the minutes I find that although the minutes discloses that the appointment of Vice Chancellor was deliberated at length I am unable to find the reasons why the Council disregarded the other two candidates recommended by the joint committee.

[55] In the circumstances I am satisfied that there are arguable causes relating to both the issues that must be further considered by court.

[56] In the circumstances, I grant leave to proceed with the judicial review application.

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Leave granted.

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Adam Anastasi
Solicitor

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