

BARBADOS

No. 533 of 2004

IN THE SUPREME COURT OF JUDICATURE

HIGH COURT

CIVIL DIVISION

IN THE MATTER OF the Administrative Justice Act Chapter 109B

AND IN THE MATTER OF an application for an Order of Certiorari

AND IN THE MATTER OF an application for a Declaratory Judgment

BETWEEN:

CLINT HARPER Applicant

- AND -

OWEN SEYMOUR ARTHUR First Respondent

MINISTER OF FINANCE

THE ATTORNEY GENERAL Second Respondent

Before the Honourable Mr. Justice Randall Worrell, Judge of the High Court

2005: November 10, 11 and 14

2007: June 7

Mr. Maurice A. King, Q.C., Mr. Edmund King and Mr. Adrian King for the Applicant.

Mr. Roger Barker, Ms. Sharon Deane and Ms. Steffna Greenidge for the First and Second Respondent.

REASONS FOR THE DECISION

INTRODUCTION

[1] This is an Application for Judicial Review made by Clint Harper under the Administrative Justice Act, Cap. 109B against the Minister of Finance and against the Attorney General in her representative capacity under the Crown Proceedings Act Cap. 197. This Court accepts that the Second Respondent as in such a representative capacity was properly joined in this matter. The First Respondent, the Minister of Finance is the subject of the complaint in these proceedings. Mr. Clint Harper sought a declaration to the effect that “the decision of the First Respondent in not acceding to the Applicant’s request for duty free concession on this motor vehicle Mercedes Benz was initiated by: -

- i. unreasonable or irregular or improper exercise of discretion
- ii. abuse of power
- iii. absence of evidence upon which his findings could reasonable be based.

[2] The Applicant seeks an Order for Certiorari quashing the decision of the Minister of Finance in not acceding to the Applicant’s request for duty free concession on his motor vehicle Mercedes Benz imported as part of his personal and household effects in accordance with the charter for returning nationals and overseas nationals as established by the First Respondent.

[3] The evidence in this case consisted of various Affidavits and exhibits and also the oral evidence of the Applicant Mr. Clint Harper. The Affidavit evidence on behalf of the Applicant was filed on the 8th day of April 2004 having been sworn on the 7th day of April 2004. This Affidavit of the Applicant contains exhibits lettered A-I, at total of nine (9) which are filed in support of this Application.

[4] The First Respondent has filed two Affidavits, that of Mr. William Layne, the Permanent Secretary in the Ministry of Finance and that Affidavit exhibits the application for the duty free concession under the Returning National’s Policy of the Ministry of Finance. On the second page of this document it states: -

Proof of the vehicle being

- (a) purchased abroad by me on
- (b) owned and registered above by me

[5] The form also has two (2) boxes under this heading to indicate the name of the Bank to presumably indicate proof of purchase and the other boxes indicate Registration documents and other. The box indicated Registration and also confirmation of the Bank are both “ticked” and indeed one of the important exhibits in this case is the document of title, namely “**Exhibit H**” which purports to show the ownership of the vehicle which is the subject matter of this action.

[6] Additionally, the First Respondent has also filed an Affidavit (Chandler's Affidavit) of June Chandler, the Acting Deputy Permanent Secretary of the Ministry of Finance which details the policy of the Ministry of Finance and deals specifically with the documentation provided by the Applicant to that Ministry in support of his application for the duty free concession under the Returning National's Policy of the Ministry of Finance.

PROCEDURE FOR APPLICATIONS FOR DUTY FREE CONCESSIONS

[7] It must be stated at the outset that no returning national is entitled to duty free concession in respect of a motor vehicle as of right. "**Exhibit B**" of the Applicant's Affidavit is herewith reproduced and the last sentence of that exhibit clearly states that qualification for duty free importation of personal and household effects by a returning national "does not automatically entitle one to a duty free vehicle". "**Exhibit C**" of the Applicant's Affidavit, the charter for returning nationals indicates under the heading **Importation and Clearance of Vehicles** that "with effect from March 1st 2003, returning nationals will be required to own their vehicles for a period of six (6) months prior to importation". It is not disputed by the parties to this action that this precondition exists, that the returning national who wishes to avail himself of the duty free concession must have owned the vehicle six (6) months prior to the vehicle being imported into Barbados. It also is not disputed that the procedure is that requests for duty free concessions must be made in writing to the Ministry of Finance for approval.

UNDISPUTED EVIDENCE

[8] Mr. Clint Harper is a returning national and "**Exhibit B**", a letter from the Ministry of Foreign Affairs attests to this and there is no dispute among the parties to this.

A motor vehicle bearing the identification number WDBKK65F42 F243909 was imported into this Island on the 27th day of October 2003. On the 29th day of October 2003, the Applicant applied to the Minister of Finance for a duty free concession on a motor vehicle namely a Mercedes Benz. This application was based on the fact that the applicant was a returning national and accompanying this application was a document which states "Certificate of Title". This is "**Exhibit H**". The original document was submitted to the Ministry of Finance and a copy of the said document is what makes up Exhibit H, a copy of the front of that document and a copy of the rear of that document.

[9] On December 15th, 2003, the Ministry of Finance wrote to the Applicant informing him that the Minister of Finance had not acceded to the request for duty free concession in respect of the motor vehicle. In response to this letter the Applicant sought clarification as to why the concession had not been granted and by letter dated January 20th, 2004, the Permanent Secretary of the Ministry of Finance informed the Applicant that the Minister of Finance had reviewed the Applicant's application but that the earlier decision still stood and that decision was informed by the policy of the Ministry which required inter alia that in order to be considered for the grant of duty free concession a returning national must have owned the vehicle for at least six (6) months prior to the date of settlement in Barbados. This is all set out in the "**Exhibit G**" of the Applicant's Affidavit.

[10] The Applicant in that Affidavit claimed that he further submitted on the 29th day of January 2004 to the Ministry of Finance an Affidavit of ownership which he had sworn to and requested a further review in light of this Affidavit which bears the letter I in these proceedings.

[11] In response to this, there is a letter bearing the Exhibit number JC2 dated March 23rd, 2004 which again shows that the matter had been reviewed by the Minister of Finance and that the decision not to grant still stood. There has been no additional Affidavit evidence from the Applicant that this letter was not received by him and there has been no objection to the reception of this letter into evidence.

THE AFFIDAVIT OF MR. CLINT HARPER

[12] The Affidavit of Mr. Clint Harper contains the argument that he is of the belief that the Minister of Finance has not acceded to his request and that he had received information from the office of the Ombudsman that the Minister of Finance had not acceded to his request. The Statement filed in this matter clearly indicates at paragraphs (17) and (18) that the Minister of Finance has refused and continues to refuse the Applicant's application for duty free concession on his motor car and that the Minister has exercised that power unreasonably.

[13] The Applicant's complaint put succinctly is that the First Respondent has refused to accede to his request for duty free status to this vehicle and that the Minister has acted unreasonably in the exercise of his discretion, he has abused his power and that he has acted in the absence of evidence on which his findings could reasonably be based.

UNREASONABLE OR IMPROPER EXERCISE OF DISCRETION

[14] One of the grounds upon which the High Court may grant relief by way of the remedies of declaration or certiorari, inter alia is set out in Section 4(e) of the Administrative Justice Act, Cap. 109B as -

“(e) unreasonable or irregular or improper exercise of discretion.”

[15] As the Learned Chief Justice Sir David Simmons said in **Pearson Leacock vs. The Attorney General** No. 1712 of 2005 –

“unreasonable or improper exercise of discretion is a ground upon which evidence and particularly relevant facts, rather than legal principles tend to predominate the Courts evaluation of a case”.

When one looks at the Affidavit evidence and indeed the oral testimony of the Applicant in this case and the examination in detail of this evidence this has to be done against the background of the Minister's exercise of this discretion whether to grant duty free concession in respect of the motor vehicle which the Applicant claims was his property. What are the facts and matters surrounding this case as between October 29th

through to March 23rd, 2004 when the last review of the decision not to grant duty free status was reinforced?

[16] The evidence put forward by the Applicant mainly concerned Affidavits by himself and one Patrick Okeoke, a Lawyer in New York and the Certificate of Title from the State of New York. Indeed the Affidavit evidence of Mr. Okeoke at paragraph 4 of the Exhibit D states “thereafter on or about June 2002, by Physical delivery of the car from Glyne Leon Harper, Esq. to Dr. Clint B. Harper’s possession and custody and by execution of an affirmation dated February 28th, 2003 and by transferring of title (refer to back of the title) of the said car from Glyne Leon Harper, Esq. to Clint B. Harper O.D, the transfer of the said vehicle was complete to Clint Harper, O.D. **Therefore, in accordance with the Laws of the State of New York, Dr. Clint B. Harper became the owner of the said vehicle, Mercedes Benz SLK identification number WDBKK65F42 F243909.** This Affidavit was provided by the Applicant to the Ministry of Finance.

[17] Dr. Harper’s Affidavit of ownership dated January 29th, 2004 and submitted to the Ministry of Finance in support of his original application dated October 29th, 2003 (that is some three (3) months after the submission of the said application) states at paragraph 6 and I quote:

“On the 28th day of February 2003, the legal ownership of that vehicle was passed to me as evidenced by the Certificate of Title issued by the Department of Motor Vehicles, a copy of which was already submitted to you.”

[18] Dr. Harper in effect is saying that the Certificate of Title issued by the Department of Motor Vehicles shows that the legal ownership of that vehicle was passed to him. Now having had those Affidavits, that of Dr. Harper, the Ministry of Finance was to first consider the Applicant’s request for duty free status and it is clear that this application was decided upon and subsequently reviewed on at least two (2) occasions.

[19] The Affidavit of June Chandler, the Deputy Permanent Secretary in the Ministry of Finance filed on behalf of the First Respondent at paragraph 6b(2) states (and I quote):

The documentation provided by the Applicant:

“did not disclose that the vehicle was owned by him for a period of six (6) months preceding its importation into Barbados as the documentation provided with respect to the said vehicle disclosed that it was registered in the United States in the name of Glyne Harper.”

[20] A close examination of the front of the document indicates that the owner is one Glyne Harper of address 143 75 230 St. Rosedale, New York. On examination of the rear of this document there is what appears to be a statement indicating change of ownership of this vehicle, that is a change in the title to Clint Harper as the buyer and the seller being Glyne Leon Harper and that this document was signed on February 28th, 2003. It also shows that this document was changed and the dates of this statement purporting to indicate the change of title were made on February 28th, 2003.

[21] The address of the Applicant is stated as being 41 Lily Drive, Wanstead, St. Michael on this document.

Mr. Clint Harper's evidence surrounding the changes before this Court is as follows:

“As I said I signed it in the month of February 2003. If it is the date that he put that is the date that he put. My father affixed his stamp to it on that date February 28th 2003.”

He further said of the changes:

“I do not know the reason for the changes. I do not know, whatever error he made, he signed. Whatever mistake he made, he made. The documents were not signed on 8-28-03. It was not changed to satisfy the six (6) months period to own that vehicle.”

Of this address on the Certificate of Title he said:

“I was not living at this address on the 28th February 2003. I was living in New York at this time.”

[22] In consideration of all of the Affidavit evidence in this case, can it be said that the Minister acted in an unreasonable manner? What are the factors taken into account on the way to reaching the decision or the way the decision was justified or reasoned?

Was there an absence of logical connection between the evidence and the reasons for the decision of the Minister?

[23] Let us look at the documents which were sent in support of the Applicant's application to the Minister.

The three (3) documents upon which Mr. King, Q.C. placed heavy reliance were the Affidavit of Okeoke, that of the Applicant and last but not least the Certificate of Title from the Department of Motor Vehicles of the State of New York, U.S.A.

[24] At paragraph 11 of the Skeleton Arguments of the Applicant it was stated that “On the 28th day of February 2003, the legal ownership of that vehicle was passed to the Applicant as is evidenced by the Certificate of Title issued by the Department of Motor Vehicles of the State of New York, U.S.A. The original of that Certificate was submitted to the Ministry of Finance.

[25] A careful look at the Certificate of Title, on the rear of it, which the Applicant relies on states:

“Any changes or erasures will void this title” - that is stated on the document provided by the Applicant.

The document also states under the section Transfer by Owner:

“This vehicle cannot be registered or titled in the name of the new owner unless mileage is disclosed.”

The document also indicates that S2113 of the vehicle and traffic law requires that application for title must be made within thirty (30) days of transfer.

[26] Can it be said, that based on the documentation supplied to the Minister of Finance that legal ownership had passed to the Applicant on the 28th day of February 2003, namely six (6) months prior to the importation of the vehicle? I think that this is in effect the crux of the case. The Respondents' Affidavit, that of June Chandler, clearly states at paragraph 6b(2) that the documentation provided by the Applicant did not disclose that the vehicle was owned by him.

[27] At paragraph 6(c) the First Respondent relies on this paragraph of the Affidavit and states:

“There was no evidence produced to the Ministry of Finance to demonstrate that the vehicle registration was recorded in the name of the Applicant at the Department of Motor Vehicles for the State of New York.”

This circumstance led to the Ministry to conclude that the said motor vehicle remained registered in the name of a person other than the Applicant at the date of its export from the State of New York.

[28] Paragraphs 6(f) & (g) of the affidavit of June Chandler sets out the policy of the Ministry of Finance not to permit the Returning Nationals Programme to be abused and states that the Ministry of Finance has never granted duty free concession on a motor vehicle where the documents of title are in the name of another person.

[29] What is the effect of this document of Title? Is the Minister of Finance to state that ownership was transferred based on the Certificate of Title produced by the Applicant? Is it unreasonable for the Minister of Finance to form the view based on the Certificate of Title, that the ownership of the vehicle was not indeed vested in the Applicant as at 28th February 2003? The document itself indicated that any changes or erasure null and void the title. They were changes on the document for whatever reason. Is a Minister considering this document to be unaware of these changes and also unaware of what an official document states. I think that it would be improper and unreasonable for a Minister to ignore what is officially stated on the document.

[30] The Minister on considering this application would have had the document before him and he could not deny the fact that there written on the Certificate of Title the words: “This vehicle cannot be registered or titled in the name of the new owner unless mileage is disclosed” – Surely the mileage is not disclosed on this document and it cannot be unreasonable then to find that the vehicle remained in the name of Glyne Harper as owner after the 28th February 2003 and indeed at the time of its exportation to Barbados.

[31] The Affidavit of Patrick Okeoke which also is in support of the Applicant's application, clearly states at Paragraph 4:

“Therefore in accordance with the Laws of the State of New York Dr. Clint B. Harper became the owner of the said vehicle, Mercedes Benz SLK identification number WDBKK65F42 F243909.”

Can this be said to be the case in light of the conditions as set out on the rear of the Certificate of Title? Surely this cannot be the case as it is contrary to what is set out on the rear of this document. It cannot therefore be deemed an unreasonable exercise of his discretion by the Minister to deny the request of the Applicant for the duty free concession in respect of this vehicle. I cannot therefore accept that the Minister of Finance wrongly exercised his discretion because there is the presence of a logical connection between the evidence and the reasons for the decision as set out in the Affidavit of June Chandler and also Exhibit G in this case.

[32] This Court is of the opinion that there was evidence before the Minister of Finance upon which his findings could reasonably be based. This Court is not called upon to say whether his decision is right, but as this is a case of judicial review the function of the Court is to determine whether the process by which the Minister of Finance came to his decision accorded with the notion of fairness and reasonableness.

[33] I do not find that this process was initiated by an unreasonable or irregular or improper exercise of discretion. Neither do I find that there was an abuse of power by the Minister of Finance in not acceding to the request of the Applicant to grant duty free concessions in respect of the Mercedes Benz vehicle.

LEGITIMATE EXPECTATION

[34] That this doctrine exists as a public law remedy is certainly without doubt and this is established in the long line of cases starting with **Schmidt v Secretary of State for Home Affairs [1969] 1 AER 904** and the **GCHQ** case (reprinted) 1984 3 AER. 943-944.

[35] Quoting from **Pearson Leacock v The Attorney General No. 1712 of 2005** the Honourable Sir David Simmons, Chief Justice stated at page 25:

“At its birth, the scope of doctrine was limited to providing a public law remedy for procedures, unfairness and emphasised the duty on public officials to act fairly in the exercise of their duties. Since 1969, the doctrine has taken firm roots in public law through a succession of cases all over the Commonwealth and its boundaries lane has been explained and expanded. It is, however, a doctrine still very much in a state of evolution. But it is now settled that the phrase means no more than a reasonable expectation. In the words of Persuad JA in - Attorney General of Trinidad and Tobago vs. KC Confectionary Ltd. 1985 34 WIR 387, “The word legitimate”, is not confined to mean legal but means “reasonable” - p. 405.

[36] Also Lord Fraser in the **GCHG** case at 1984 3 AER 943-944 states of the doctrine:

“But even where a person claiming some benefit or privilege has no legal right to it, as a matter of private law, he may have a legitimate expectation of receiving the benefit or privilege, and, if not, the courts will protect his expectation by medical review as a matter of public law. This

subject has been fully explained by Lord Diplock in O'Reilly vs. Mackman 1982 - 3 AER 1124 and I need not repeat what he has recently said. Legitimate or reasonable expectation may arise from an expressed promise given on behalf of a public authority or from the existence of a regular practice which the claimant can reasonably expect to continue."

[37] In this case, it is the contention of the Applicant, although not mentioned in the Statement in support of the Originating Notice of Motion, that he as a returning national had a legitimate expectation to having the duty free concession approved in respect of the Mercedes Benz motor vehicle. This obviously would have been based on the practice which has developed in respect of returning nationals **who would have satisfied the requirements of the Ministry of Finance** in respect of the programme which has been implemented to facilitate the returning nationals in relation to the importation of their personal effects and motor vehicles into Barbados. Indeed it is the Applicant's contention that he had met these requirements and that he therefore had the legitimate expectation that the Minister would have acceded to his request for a duty free concession to be approved in respect of the Mercedes Benz motor vehicle.

[38] The Ministry of Finance clearly has such a policy of waiving the Custom's duty in respect of motor vehicles brought in by returning nationals subject to certain requirements. That this is the case is clearly evident from the application form, in this case "**Exhibit - WL1**", which is to be completed by the returning national who is requesting the duty free concession.

Exhibit WL1 clearly indicates a section dealing with:

- (a) Proof that the vehicle was purchased by the Applicant; and
- (b) Proof that the vehicle was owned and registered by the Applicant.

[39] There is a space on the application form for confirmation of the purchase, requesting the details of the bank in respect of the purchase of the vehicle and there is also a box for the vehicle registration document to be enclosed and also another box indicating other, presumably relating to any other documentation verifying ownership of the vehicle in the name of the applicant.

[40] The Applicant submitted together with this application, the Certificate from the Vehicle Licensing Authority of the State of New York. That Certificate which was issued on the 15th July, 2002, clearly states on the front that the owner of the vehicle was Glyne L. Harper. Indeed, the rear of that document purports to show that there was a transaction between Mr. Glyne Harper as a **seller** and a Mr. Clint Harper as a **buyer** of this vehicle and this transaction took place on the 28th February 2003. This document, along with two other Affidavits which were later submitted to the Minister of Finance formed the supporting documentation provided by the Applicant to indicate proof of ownership of the vehicle. The Affidavits of the Applicant and Mr. Okeoke do not speak of any such **sale** transaction and these would have been before the Minister of Finance. Indeed these Affidavits speak of the vehicle being given to the Applicant by his father.

[41] It therefore must be common ground based on the Affidavits of the Respondent and the Applicant that such a

practice in relation to the grant of concessions, in respect of motor vehicles, existed at the time. The Affidavit evidence of June Chandler, the Deputy Permanent Secretary in the Ministry of Finance states as follows at paragraph 6.

- (e) The Returning Nationals programme, which was designed to assist Barbadians who had reached retirement age to smoothly resettle in Barbados, has been hampered by gross attempts at abuse over the years. Between the years 1997 and 2004 at least seven (7) motor vehicles were seized by the Customs and Excise Department due to individual attempts at abuse of the programme.
- (f) It has been the policy of the Ministry of Finance not to permit the programme to be abused if possible thereby ensuring that the Government of Barbados is not wrongly deprived of revenue.
- (g) In the circumstances the Ministry of Finance has never granted duty free concession on a motor vehicle where the documents of title are in the name of another person.
- (h) The Applicant is not the only person who has applied for a duty free concession on a motor vehicle registered to another person. In all such cases the Minister of Finance has consistently refused to exercise his discretion in favour of the Applicant.
- (i) The grant of a duty free concession on a motor vehicle is a benefit that may be obtained by a returning national, in a proper case. There is however no right to the concession.
- (j) Based on the position of the Ministry of Finance the Applicant failed to make a proper case for the grant of a duty free concession and in the circumstance none was granted.

[42] Paragraphs (l) and (m) of the said Affidavit are also instructive in that it is clear that the Applicant's circumstances were reviewed by the Minister of Finance who "determined that the original decision would stand as there was nothing disclosed during the review process that merited a reversal of the policy that vehicles must be owned personally by an Applicant for the requisite period.

[43] Paragraph (m) reproduced below states:

"The policy of the Ministry of Finance in relation to ownership is foreshadowed in the application form for the duty free concession. As proof of ownership the form requires that documentation be produced either disclosing that the vehicle in question was purchased abroad by the Applicant and the date of purchase or that the vehicle was owned and registered abroad by the Applicant."

I now reproduce a copy of the form "**Exhibit WL1**" as submitted by the Applicant to the Minister of Finance.

[44] Based on the above I must ask myself "what could Mr. Clint Harper have legitimately or reasonably expected? In this Court's opinion Mr. Clint Harper, based on the practice of the Ministry of Finance in relation to the grant of a duty free concession in respect of motor vehicles would have legitimately expected to receive the benefit of the grant of the duty free concession in respect of the motor vehicle if he had met the requirements of the Ministry of

Finance. There is no right to this concession but there can be a reasonable expectation to this benefit **provided that the requirement and the policy considerations of the Ministry of Finance were met.** The expectation must derive from an applicant meeting the requirements of the Ministry of Finance in relation to proof of purchase and/or ownership for in excess of six (6) months of resettlement in Barbados and it is on this basis that the benefit would accrue to any applicant. The practice of the Ministry of Finance as set out in the Affidavit of Ms. June Chandler clearly indicated the Minister of Finance's policy in respect of the grant of such concessions and the Minister based on the information before him, refused the grant of the concession. There was evidence before him which could have informed this decision.

[45] An applicant could only have a legitimate expectation if he brings himself within the established practice. In this case the established practice is that those who **own** vehicles for a period in excess of six (6) months do supply proof of such ownership as indicated by a Certificate of Registration in the name of the applicant or proof of purchase by the applicant. Indeed if this were not the policy of the Ministry of Finance, why then would the application form for such a concession speak to the need for proof by any of these documents?

[46] This Court finds that there was sufficient evidence before the Minister which could have led him to the view that the Applicant did not bring himself within the category of one who had owned the vehicle or purchased the vehicle six (6) months prior to its importation into Barbados and the resettlement of the Applicant into Barbados. In fact it can be argued that based on the documentation supplied to the Minister by the Applicant there was evidence which could be interpreted to show that the vehicle was not registered in his name as the owner, but in the name of Glyne Harper. It is this evidence which could clearly indicate that the Applicant did not meet the relevant requirements to avail himself of the established practice of granting duty free concessions in respect of such motor vehicles and he could not therefore claim that he had a legitimate or reasonable expectation to receive such a benefit.

[47] As I said earlier, it is not part of this Court's duty in a judicial review application to substitute the Court's decision for that of the relevant competent authority. Judicial Review is not an appeal of that decision. Such review seeks to determine not whether the decision is right or wrong but to determine whether the process which resulted in the Minister's decision was one which, met with the concept of fairness. I do not find this process to have been unfair in any manner and accordingly I so hold:

As: The Learned Chief Justice said in the Pearson Leacock case, quoting Sedley J *in R v Ministry of Agriculture, Fisheries and Food in ex parte Hamble Offshore Fisheries Limited* 1995 2 AER p.714 at p.731 "while policy is for the policy maker alone, the fairness of his or her decision not to accommodate reasonable expectations which the policy will thwart remains the Court's concern (as of course does the lawfulness of the policy).

DISPOSAL

[48] In the circumstances of this case and based on the evidence which would have been before the Minister of Finance, I cannot find that the Minister of Finance acted unreasonably or improperly or irregularly or arbitrarily in exercising his power in refusing to accede to the Applicant's application for a grant of duty free concession on the Mercedes Benz motor car. I do not find that there was any abuse of power as set out at paragraphs (17) and (18) of the Applicant's Statement in support of the originating notice of motion filed pursuant to Section (2) of the Judicial Review (application) Rules.

[49] I also find that the Applicant has not brought himself within the ambit of those persons who could reasonably or legitimately claim to be entitled to such a benefit of a grant of a duty free concession in respect of the said vehicle. Accordingly, I dismiss this application with costs to the Respondents certified fit for two (2) Counsel.

Randall Worrell

Judge of the High Court