



**REPUBLIC OF MALAWI**  
**IN THE SUPREME COURT OF APPEAL**

**MISCELLANEOUS CIVIL APPLICATION NUMBER 6 OF 2023**

(Being Judicial Review Cause No. 6 of 2023 in the High Court, Civil  
Division, at Blantyre)

Between

**PROSECUTOR, LEVISON MANGANI.....1<sup>ST</sup> APPLICANT**

**CHIEF RESIDENT MAGISTRATE**

**(LILONGWE) .....2<sup>ND</sup> APPLICANT**

**SECRETARY TO THE PRESIDENT**

**AND CABINET .....3<sup>RD</sup> APPLICANT**

And

**MALAWI LAW SOCIETY .....RESPONDENT**

**CORAM: HON. J. N. KATSALA, JA**

C. Gondwe, of counsel for the applicants

P. Mpaka and C. Ngunde, of counsel for the respondent

Minikwa, Recording Officer

**ORDER**

On Friday 10 February 2023 the applicants came to this Court *ex parte*, seeking an order that the leave to apply for Judicial Review and the order of injunction granted by Honourable Justice Tembo sitting in the Civil Division of the High Court at



Blantyre be stayed pending the determination of their application to have both the leave and the injunction discharged. Upon considering the application, I formed the opinion that it would be prudent and a more efficient use of the Court's time and resources to hear the application on notice. Thus, I ordered that it be heard inter partes today, Monday 13 February 2023 at 11 o'clock in the forenoon.

When we convened for hearing this morning, counsel for the applicants advised the Court that over the weekend there were some significant developments on the matter which have rendered the present application superfluous. The developments include, among others, the fact that on 11 February 2023, the Director of Public Prosecutions, in exercise of his powers under the Constitution, discontinued criminal case number 236 of 2023, the *Republic versus Martha Chizuma*, which was before the Chief Resident Magistrate sitting at Lilongwe, the 2<sup>nd</sup> applicant herein. All the charges levelled against Ms Martha Chizuma, who is the Director of the Anti-Corruption Bureau, in the aforesaid criminal case on account of a leaked audio recording of a conversation she had with another person have been dropped. And it is on the basis of these charges that an interdiction order was issued by the Secretary to the President and Cabinet, the 3<sup>rd</sup> applicant herein, to Ms Martha Chizuma suspending her from exercising the powers and functions of her office as Director of the Anti-Corruption Bureau.

Consequent to the dropping of the charges, the interdiction order against Ms Martha Chizuma cannot stand as it has now lost its basis. According to the applicants' counsel, since it is this interdiction order against Ms Martha Chizuma which constituted the subject matter of the respondent's application for leave to apply for Judicial Review in the court below, it follows that even the leave to apply for Judicial Review, the attendant injunction granted against the applicants and the intended Judicial Review proceedings have in essence all been rendered nugatory. The Court is informed that in view of these developments, the Attorney General and all the parties concerned are now mapping out the best way forward.



In the premises, the applicants' counsel advised the Court that it was his clients' intention not to proceed with their application and pray for a withdrawal of the same. He had already discussed the intention to withdraw the application with the respondent's counsel over the weekend and had agreed that this is the best way to proceed.

Counsel for the respondent confirmed the developments and had no objection to the withdrawal but prayed for costs of the proceeding in this Court.

There is not much that can be said in view of the withdrawal of the application which is before this Court. The most that can be done is to note the withdrawal of the application which I hereby do. The application before this Court is duly withdrawn.

On the issue of costs prayed for by the respondent, my considered view is that since the record before this Court shows that both the Malawi Law Society and its counsel on the one hand, and the applicants' counsel on the other, are acting in this matter on *pro bono* basis, it is only proper and just that there be no order for costs. Therefore, I make no order as to costs.

Made at Blantyre this 13<sup>th</sup> day of February 2023.

A handwritten signature in black ink, appearing to be 'J N Katsala', written in a cursive style.

J N Katsala  
**JUSTICE OF APPEAL**