

ADMINISTRATIVE LAW – JUDICIAL REVIEW

Filing Attorney:

Junior Advocate Attorneys:

Senior Advocate Attorney:

IMRAN ALI
BAR No. ALI2010075
Chancery Chambers
108 Duke Street
Port of Spain
Tel: 623-4040; Fax: 625-1670
E-mail:
iall.chancery@gmail.com

ELAINE GREEN
BAR No. GRE1993014
Hudson-Phillip Chambers
33 St. Vincent Street
Port of Spain
Tel: 623-2382; Fax: 627-7539
E-mail: elegatt@gmail.com

KIEL TAKLALSINGH
BAR No. TAK2009081
Fortis Chambers
13 Havelock Street
St. Clair
Tel: 628-2168; Fax: 628-9606
E-mail: k.taklalsingh@gmail.com

RISHI DASS
BAR No. DAR2001040
Victoria Chambers
24 Victoria Square West
Port of Spain
Tel: 624-9154; Fax: 625-0440
E-mail: rpdass@gmail.com

KIRK BENGOCHEA
BAR No. BEK2009094
Athena Chambers
19 St. Vincent Street
Port of Spain
Tel: 627-5282; Fax: 627-9766
E-mail: kirkbengochea@gmail.com

DR. LLOYD BARNETT
BAR No. BAL1980005
Chancery Chambers
108 Duke Street
Port of Spain
Tel: 623-4040; Fax: 625-1670
E-mail: dr.lgbarnett@gmail.com

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. CV2019- 03989

In the Matter of an Application for Leave to make a Claim for Judicial Review pursuant to Part 56.3 of the Civil Proceedings Rules, 1998 (as amended) and pursuant to Section 6 of the Judicial Review Act, Chap. 7:08

AND

In the Matter of The Constitution and the Judicial Review Act, Chap. 7:08

AND

In the Matter of the decision of the Honourable Prime Minister of Trinidad and Tobago contained in his letter dated 22nd July, 2019, not to represent to Her Excellency the President that the question of removing The Honourable Chief Justice from office ought to be investigated

BETWEEN

LAW ASSOCIATION OF TRINIDAD AND TOBAGO

Applicant/Intended Claimant

AND

DR. KEITH ROWLEY

THE PRIME MINISTER OF THE REPUBLIC OF TRINIDAD AND TOBAGO

Intended Defendant

NOTICE OF APPLICATION (WITHOUT NOTICE)
FOR LEAVE TO APPLY FOR JUDICIAL REVIEW



The Applicant, THE LAW ASSOCIATION OF TRINIDAD AND TOBAGO, hereby applies to the High Court for an Order granting leave to apply for judicial review against the decision of the Honourable Dr Keith Rowley, the Prime Minister of the Republic of Trinidad and Tobago, contained in his letter to the Law Association dated 22nd July, 2019, not to represent to Her Excellency the President that the question of removing the Honourable Chief Justice from office ought to be investigated ("the Decision").

A. The name, address and description of the Applicant

1. The Applicant is the Law Association of Trinidad and Tobago. The Law Association is a body corporate established in 1986 by section 3(1) of the Legal Profession Act ("the LPA"). By section 3 of the LPA, the affairs of the Association are managed and its functions performed by a Council. The Council is a representative body which is elected from among the members of the Association in accordance with the First Schedule, Part A of the LPA. The purposes of the Association are statutorily defined in section 5 of the LPA. They include the following:
 - (a) to maintain and improve the standards of conduct and proficiency of the legal profession in Trinidad and Tobago;
 - (b) to represent and protect the interests of the legal profession in Trinidad and Tobago;
 - (c) to protect and assist the public in Trinidad and Tobago in all matters relating to the law;
 - (d) to promote good relations within the profession, between the profession and persons concerned in the administration of justice in Trinidad and Tobago and between the profession and the public generally;
 - (e) to promote good relations between the profession and professional bodies of the legal profession in other countries and to participate in the activities of any international association of lawyers and to become a member thereof;

(f) to promote, maintain and support the administration of justice and the rule of law;

(g) to do such other things as are incidental or conducive to the achievement of the purposes set out at (a) to (f)."

2. The Law Association's address is 95-97 Frederick Street, Port of Spain, Trinidad.

B. The name, address and description of the respondent

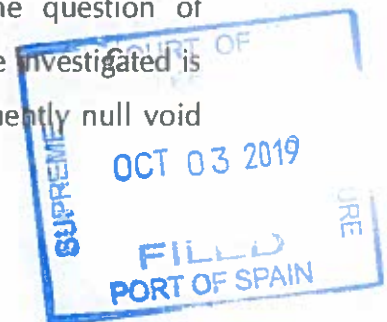
3. The Respondent is the Honourable Dr. Keith Rowley, the Prime Minister of Trinidad and Tobago. By section 137 of the Constitution of the Republic of Trinidad and Tobago, the Prime Minister is empowered to decide whether to represent to Her Excellency the President whether the question of removing the Chief Justice ought to be investigated, in which case Her Excellency is bound to appoint a tribunal to enquire into the matter and report on the facts thereof to the President and recommend to the President whether she should refer the question of removal of that Judge from office to the Judicial Committee of the Privy Council.

4. The Prime Minister's address is 13-15 St. Clair Avenue, Port of Spain.

C. The Relief Sought

The following relief pursuant to the Judicial Review Act 2000 is to be sought from the Court in the substantive claim for judicial review which by this Application, the Applicant seeks leave to bring a claim for:

- i) A declaration that the decision of the Honourable Dr. Keith Rowley, the Prime Minister of the Republic of Trinidad and Tobago, contained in his letter to the Law Association of Trinidad and Tobago dated 22nd July, 2019, not to represent to Her Excellency the President that the question of removing the Honourable Chief Justice from office ought to be investigated is illegal and/or unlawful and/or contrary to law and is consequently null void and of no effect;



- ii) A declaration that the decision of the Honourable Dr. Keith Rowley, the Prime Minister of the Republic of Trinidad and Tobago, contained in his letter to the Law Association of Trinidad and Tobago dated 22nd July, 2019, not to represent to Her Excellency the President that the question of removing the Honourable Chief Justice from office ought to be investigated was not made in the performance of his constitutional functions in the public interest and accordingly contravened Section 137 of the Constitution;
- iii) A declaration that the decision of the Honourable Dr. Keith Rowley, the Prime Minister of the Republic of Trinidad and Tobago, contained in his letter to the Law Association of Trinidad and Tobago dated 22nd July, 2019, not to represent to her Excellency the President that the question of removing the Honourable Chief Justice from office ought to be investigated is irrational and/or unjustified and/or unreasonable and/or an improper exercise of discretion;
- iv) A declaration that the decision of the Honourable Dr. Keith Rowley, the Prime Minister of the Republic of Trinidad and Tobago, contained in his letter to the Law Association of Trinidad and Tobago dated 22nd July, 2019, not to represent to her Excellency the President that the question of removing the Honourable Chief Justice from office ought to be investigated was made in bad faith and/or unfairness;
- v) A declaration that the decision of the Honourable Dr. Keith Rowley, the Prime Minister of the Republic of Trinidad and Tobago, contained in his letter to the Law Association of Trinidad and Tobago dated 22nd July, 2019, not to represent to her Excellency the President that the question of removing the Honourable Chief Justice from office ought to be investigated was made taking into account irrelevant considerations;
- vi) A declaration that the decision of the Honourable Dr. Keith Rowley, the Prime Minister of the Republic of Trinidad and Tobago, contained in his

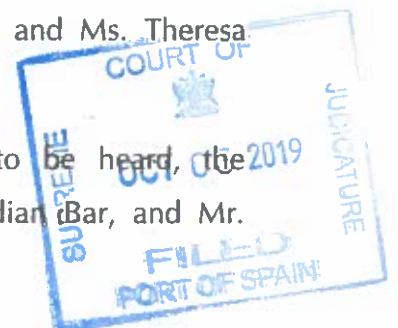
letter to the Law Association of Trinidad and Tobago dated 22nd July, 2019, not to represent to her Excellency the President that the question of removing the Honourable Chief Justice from office ought to be investigated was made without taking into account relevant considerations;

- vii) Consequent upon all/any of the declarations above, an order of certiorari to remove into this Honourable Court and quash the said decision;
- viii) Consequent upon the order of certiorari above, an order of mandamus directing the Honourable Prime Minister to reconsider the said decision subject to any directions and or advice that may be given by this Honourable Court with respect to the exercise of his discretion under section 137 of the Constitution;
- ix) Costs; and
- x) Such other orders directions, declarations and writs as the Court considers just in the circumstances.

A draft of the Order sought is attached.

D. The grounds on which the relief is sought

1. Having regard to repeated and serious allegations made against the Honourable Chief Justice in the media, the Council of the Applicant decided on the 29th November 2017 to establish a Committee to ascertain/substantiate the facts upon which the allegations made against the Chief Justice were alleged to be based and to report back to Council for further consideration. The Committee was comprised of Mr. Douglas Mendes SC, the President of the Applicant, as Chairperson, Mr. Rajiv Persad, the Vice President of the Applicant, Mr. Elton Prescott S.C and Mrs Lynette Sebaran-Suite, both Senior Ordinary Members of the Council, and Ms. Theresa Hadad, the Applicant's Treasurer.
2. After giving the Honourable Chief Justice an opportunity to be heard, the 2019 Committee provided to Dr. Francis Alexis QC, of the Grenadian Bar, and Mr.



Eamon Courtenay SC, of the Belizean Bar, its Report and an Addendum thereto as well as a Procedural Timeline and an Addendum thereto with marked attachments A - ZZ, and asked them to answer the following questions:

- a) On the assumption that the allegations made against the Chief Justice are true, do they constitute inability to perform the functions of his office or misbehaviour under section 137 of the Constitution?
 - b) Having regard to the evidence which is currently available as set out in the said reports, would it be proper for the Prime Minister to represent to the President that the question of removing the Chief Justice ought to be investigated?
 - c) Having regard to the evidence which is currently available, would it be proper for the Law Association to call upon the Prime Minister to consider making such a representation?
3. Mr. Courtenay provided his opinion on the 19th October, 2018 and Dr. Alexis provided his opinion on the 7th November, 2018.
 4. On the 11th December, 2018, the membership of the Applicant, at a Special General Meeting called for that purpose, considered the Committee's Report and the opinions of Dr. Alexis and Mr. Courtenay and by resolution directed the Council of the Applicant to refer the Committee's Report to the Honourable Prime Minister for his consideration under section 137 of the Constitution.
 5. By letter dated the 13th December, 2018, the Applicant informed the Prime Minister of the said resolution and provided him with a copy of the Committee's Report, the opinions of Dr. Alexis and Mr. Courtenay and other relevant documents, including the judgments delivered by the Court of Appeal on the legal challenge brought by the Chief Justice against the LATT's investigation. The Applicant also informed him that it had made no finding of misbehaviour against the Chief Justice but only that there was sufficient evidence to support a referral to him under section 137 of the

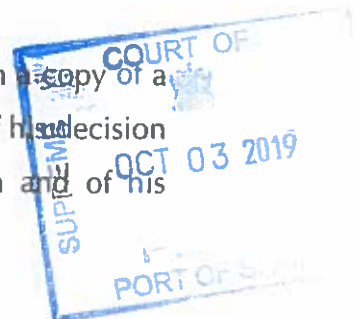
Constitution for him to determine whether a representation to the President was warranted.

6. On the 18th July, 2019, at a press conference, in answer to a question put to him by a reporter, the Prime Minister announced that based on advice that he had received, he had decided not to make a representation to Her Excellency the President. The Prime Minister made the following further comments at the Press Conference:

"From where I sit, it was never, I would never part of that, all kind of attempts were made to draw me into it. As a matter of fact, I think there is some matter in the court right now, and that is one of the reasons why I have been reluctant to say much about it publicly, because there is a matter in the court that sprung up overnight somewhere, about some conspiracy between me and the Chief Justice, and that is an attempt to overthrow a judgment that exists in the court. Are you all aware of that? The UNC took the PNM to court in the election petition matter and a judgment has been given in favour of the PNM members. Out of the blue, arising from this left field of the law association and its various incarnations and activities, overnight while I am dealing was this matter of them sending me their correspondence and their volume of documents, a matter sprung up back in our court here seeking...

Prime Minister Rowley asks Minister Stuart Young: "it's at pre action protocol stage, but have they filed suit?" I don't know the details, but what I do know is that extreme caution is required, because what is happening is that some sort of a trap is being laid to draw me into this matter of the actions of the Chief Justice, so as to make a case against the case that they have lost. To have a judgment overturned, we dealing with some dangerous people here you know, and I now have to be very careful and take the advice that I get, and I have been doing that scrupulously. Thank you very much ladies and gentlemen."

7. On the 22nd July, 2019, the Prime Minister provided the Applicant with a copy of a letter dated the 22nd July, 2019 under his hand advising the Applicant of his decision not to make a representation under section 137 of the Constitution and of his



reasons for coming to that decision along with an opinion from Mr. Howard Stevens QC dated 25th April, 2019 by which he said he was guided.

8. By letter dated the 28th July, 2019 which was delivered to the Prime Minister by email on that day, the Applicant drew to the Prime Minister's attention certain methodological and analytical flaws in Mr. Stevens' advice which the Association feared may have led the Prime Minister into error, informed him that the Applicant disagreed with his decision and informed him further that the Council had decided to seek Counsel's advice on whether there were sufficient grounds to support an Application for judicial review of his decision.
9. The Association's said letter was published in full in the Trinidad Express on the 24th July, 2019 and was reported in the Trinidad Guardian and the Newsday.
10. On the 28th July, 2019, the Honourable Prime Minister delivered a speech in which he said the following, after indicating that he had received the advice of Queen's Counsel on the complaint against the Chief Justice and acted on that advice in making his decision not to act on the report of the LATT:

"The new society that we are trying to build is one that will have a Law Association that would know that it ought not to be at the behest, at the call, at the coming and going of a corrupt political party. The society we are trying to build is not one where the legal fraternity is one where a handful of people with serious political agenda could call a meeting in the law association, this one bring twenty of his party members, that one bring ten and out of four thousand lawyers of thereabout, a hundred and fifty vote to remove the Chief Justice. Led by two of them who are on criminal charges in front of the court. And the same Law Association has suddenly awaked from its slumber to cast aspersions on me and all those who gave advice in this matter...

I'll tell you something else. I just mentioned to you the level of nastiness and danger that the UNC poses to this country and to me personally. They pose the same threat to you as a people. Last election, we, the PNM, took part in an election. It rained very heavily on that day and towards the end of the day the EBC did what

most people would do around the world and would have done, and something strange, they extended the polling time by an hour. When that happened on that day, the UNC thanked the EBC for doing it because they thought that it would have benefited them. All of us was exposed to it.

At the end of the day, we won five seats, some by 3,000 votes, the UNC decide that these are marginal seats and the seats must be declared vacant because the EBC did something wrong and the results of the election must be overturned. Ladies and gentlemen, you will have to stretch your imagination a long way from that to what I just told you about the Chief Justice to see a continuous highway between the EBC and that.

But, you see, the UNC sees the local courts in Trinidad and Tobago as their political playground and they believe that once they get the matter to the court they have an upper political hand. I could tell you, the first thing they did was to go to court and accuse the Elections and Boundaries Commission of acting improperly. They lost that case. The five PNM members who had to defend themselves, the argument made about the seats being overturned was lost. But, halfway through the case, when the PNM said it should be thrown out of office without even being heard because it was a nonsense, the court said, no, it should be heard.

Oh yes? PNM lost. UNC had costs to collect. They said their costs is \$15 million. When the case came to the end when finally the Appeal Court ruled in the PNM's favour and cost is now owed by the UNC, how much you figure that costs were? Up to this day, we're still talking about assessing the costs, but the bottom line is, the UNC has that cost to pay because they lost the substantive matter and, of course, they still think that they could overturn the election results.

So you know what they've done? They filed a petition to the Appeal Court, listen to this very carefully, you know. At the same time they're trying to entrap me and embroil me in some foolishness at the Law Association, they filed a petition to the High Court saying in the High Court that the election petitions which the PNM won in the court must be overturned because the Chief Justice acted with bias in coming to the decision that gave victory to the PNM on that matter against the UNC.



Would you believe that? In attempting to overturn a court decision, this Law Association elements and the UNC fabricate this bias story and file a matter. The matter is in the court going on in the court right now, and while the matter is going on in the court, they want me, as Prime Minister, to strengthen their argument in the court by opening impeachment process against the Chief Justice and that will be their argument to the court to overturn the petition that the Chief Justice was, in fact, biased. Would you believe that? Would you believe that?

And that is what this is all about, you know, because if you look, if you look at who drove the impeachment proceedings at the Law Association, they had about 150 persons on that who voted on that day. Anand Ramlogan went with about 20, Saddam Hosein went with about another 20, Israel Khan went with about 20 and a few stragglers. Those are the ones who voted, you know. While you on bail for attempting to pervert the course of justice, you are a knight in shining armour standing up in defence of the Judiciary in Trinidad and Tobago. While they're being charged with all manner of evil, you are the ones that the children would look up to for defending the Judiciary and the Prime Minister, having not agreed, the Prime Minister and the government, the PNM, must be pilloried. We I will ignore them totally.

And the only thing that they are doing in your eyes is to encourage indiscipline in the Judiciary and in the public service. That's what they're doing and hoping that that will work for them politically because it is a destabilization of our society. They want nothing good for the people of Trinidad and Tobago."

11. The Applicant will refer to the statements of the Prime Minister on 18th and 28th July, 2019 for their full terms purport and effect and in particular their confirmation of the fact that the Prime Minister in making his decision relied on erroneous and improper allegations.
12. On the 30th July, 2019, the Applicant sought Counsel's advice on whether the Applicant had viable grounds for commencing judicial review proceedings challenging the Decision of the Prime Minister. Having received that advice on the 9th September, 2019, to the effect that there were viable grounds to support an

application for judicial review, the applicant by Notice dated 12th September, 2019 and published in the newspapers on the 13th September, 2019, called a Special General Meeting of its membership to consider whether the Law Association should commence judicial review proceedings of the Prime Minister's decision.

13. On the 27th September, 2019, the membership of the Applicant, at the Special General Meeting called for that purpose, resolved that the Applicant should commence judicial review proceedings to challenge the decision of the Prime Minister.

14. In coming to his decision not to represent to Her Excellency the President that the question of removing the Honourable Chief Justice from office ought to be investigated:

i) The Prime Minister erred in law and/or acted irrationally and/or failed to take into account relevant considerations in making the following determination:

"It would not necessarily be inappropriate, when recommending an applicant believed to be deserving of special or urgent consideration, to go further than merely putting forward the person's name. Any communications there may have been by the Chief Justice might be justified on this basis, bearing in mind that in his press release he referred specifically to forwarding the names of 'needy and deserving persons'."

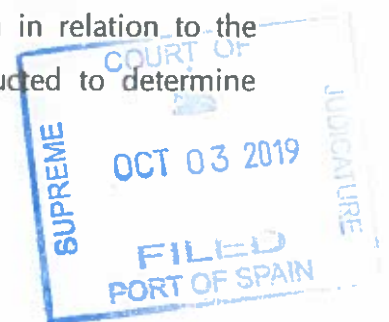
Be that as it may, even if the Chief Justice went further than he ought to have done in relation to any applicant, it is unlikely that it could justify removal from office, at any rate if he did not do so merely at the behest of Romero. He might in such circumstances be criticised for a lack of judgment; but not for such serious misbehaviour as to require removal."

ii) In coming to that conclusion, the Prime Minister



- a) failed to take any account of the views expressed by the members of the Court of Appeal of Trinidad and Tobago on the serious nature of the allegations made against the Chief Justice;
- b) took into account an irrelevant consideration, namely the Ministry and/or the HDC's policy to permit applications for housing to be fast tracked at the recommendation of officer holders including members of the judiciary;
- c) failed to take any or any sufficient account of the undisclosed and secret nature of these recommendations which did not all form part of the records of the HDC and which were not published and/or were not available to or known to members of the public including litigants before the Courts and other applicants for housing and /or account of the matters set out at (v) below;
- d) failed to take any or any sufficient account of the statutory underpinning of the HDC and the allocation of housing by the State which does not provide any basis for priority to be afforded to applicants upon the basis of Judicial or any recommendation;
- e) failed to consider the constitutional and common law obligations of all public authorities involved in the allocation of public housing to act fairly and equally in relation to members of the public and not to afford priority to any applicants on the basis of non-statutory and /or undisclosed criteria, including judicial recommendation.
- f) failed to take any or any sufficient account of the need for an effective constitutional separation between the members of the Judiciary and the Executive and the impropriety of third party benefits being secured from the Executive on the private and undisclosed recommendation of members of the Judiciary;

- g) failed to take any or any sufficient account of the Bangalore Principles of Judicial Conduct and /or paragraph 3.12 of the Statements of Principles and Guidelines for Judicial Conduct which prohibits a judge from using or lending "*the prestige of the judicial office to advance his private interests or those of a member of the judge's family or of anyone else ...*".
- h) Was plainly wrong in finding that the involvement of a judicial officer in making secret recommendations for housing, in light of the foregoing, did not meet the threshold for a reference under section 137 of the Constitution;
- iii) The Prime Minister acted illegally in going beyond merely establishing whether the allegations enjoyed a *prima facie* sufficient basis in fact by resolving issues of contested fact and/or resolving them beyond the threshold question of whether there existed a *prima facie* case. He thereby usurped the proper role of the independent tribunal which would have been established by Her Excellency the President, had a reference been made by the Prime Minister under section 137. Thus, the Prime Minister determined:
- a) That the authenticity of an email which was said to evidence the Chief Justice's recommendations for housing to the Housing Development Corporation was "*...uncertain*" and that it was "*doubtful whether in the event of an investigation by a tribunal, the evidential position in respect of the alleged email or HDC's records would change*", despite the fact that one of the parties to the email had accepted that it was possible that she had sent "*such an email*", even though she had no particular recollection of it, and that the HDC's current Managing Director, who was asked to provide information in relation to the email, never indicated that a search was conducted to determine whether such an email existed;



- b) That there was "*a very real possibility (if not likelihood)*" that none of the persons named in the email "*would be prepared to confirm their involvement with Romero*", thereby forestalling and indeed predicting the result of any enquiry by a section 137 tribunal as to the truth of the reporter's statement that some of those persons had told her that they had been approached by Romero to assist them with housing, which if true, would have supported the inference that the Chief Justice had recommended them at the behest of Romero. By determining both that the authenticity of the email could not be established even upon further enquiry and that the persons named in the email would not come forward to provide corroborating evidence, the Prime Minister went beyond his mandate of determining whether there was a prima facie case and usurped the functions of a section 137 tribunal;

- c) That the extent to which Ms. Jearlean John would be prepared to provide any further information "on the record" must be very doubtful. The Committee considered that Ms. John was the senior HDC official who confirmed to the reporter that the Chief Justice had lobbied her to fast track certain applications;

More generally, the Prime Minister relied on what he perceived to be uncertainties or inadequacies in the evidence, so as to reject the appropriateness of making a reference. In so doing, however, he usurped the fact-finding role of the tribunal.

- iv) The Prime Minister failed to discharge his duties under section 137 of the Constitution by failing to conduct any or any proper enquiry of his own in order to resolve the alleged uncertainties in the evidence when it plainly lay within his power and competence to obtain further information. For example, the Prime Minister could have but failed to:

- a) Contact the Managing Director of the HDC to verify the authenticity of the email;
- b) Contact Ms. Jearlean John to determine whether the Chief Justice had contacted her to fast track applications for housing in circumstances where Ms. John had declined to answer a direct question whether she was the senior HDC officer who it was alleged the Chief Justice had contacted;
- c) Contact any of the persons listed in the email to determine whether they had been approached by Romero to assist them in their applications.

Instead, the Prime Minister wrongly approached his role as being one of reviewing the Committee's report to determine whether the Committee established a prima facie case for a reference under section 137 and took on no responsibility of his own to make even a minimum of enquiries.

- v) In assessing whether the evidence provided by the Committee established a prima facie case that the Chief Justice had used his office to advance the private interests of certain persons at an agency of the Executive, the Prime Minister failed or failed sufficiently to take into consideration that the Chief Justice had not denied the following allegations, made against him, even while denying others:

- a) That the Chief Justice recommended two persons for HDC housing in 2013, namely Calvin Asgarali and Sherwin Rawlins.
- b) That the Chief Justice asked for favourable consideration for ten applicants for HDC housing in 2015, namely, Augustina Alexis, Kathy-Anne Alexis, Nicole St Clair, Agnes St Clair, John Allan, Ebon Fletcher, Hanna Guevara, Jermaine Ferguson, Kern Trotman and Natalie John.



- c) That there is no letter from the Chief Justice in the HDC records concerning any of these recommendations, and the inference is that the Chief Justice made these recommendations orally or by some other private social medium.
- d) That the Chief Justice followed up his recommendations with WhatsApp messages and personal calls to a senior HDC manager, whose identity has not been disclosed to the Law Association.
- e) That the Chief Justice called the Managing Director of the HDC concerning outstanding applicants.
- f) That the Chief Justice, in his WhatsApp message and calls to the senior HDC manager – whose identity the Law Association was not able to ascertain – sought to encourage the HDC manager to fast track the applications.
- g) That the Chief Justice caused his friend or acquaintance, Mr. Colin Edwards, to contact an HDC manager to make representations on behalf of two applicants for HDC housing, providing Mr. Edwards for that purpose with the applicants' names and their application numbers. The Law Association was not given the names of the two applicants.
- h) The Chief Justice communicated with the Prime Minister, Dr. Keith Rowley, sometime after the election in 2015, recommending the following applicants for HDC housing: Dylan Huggins, Carol Williams and Felicia Pierre.
- i) Dylan Huggins and Carol Williams were both persons who Mr. Kern Romero had approached and from whom he obtained money on the promise that the Chief Justice would intercede with the HDC on their behalf.

- j) There were other persons, whose names were not given to the Law Association, who the Chief Justice recommended and were approached on similar terms by Mr. Romero.
- k) That the Chief Justice recommended the persons referred to in (i) and (j) above at the request of Mr. Romero, his personal friend, and as a favour to him.
- vi) The Prime Minister took into account irrelevant considerations, namely:
 - a) his apparent view that the Applicant was at the beck and call of the opposition United National Congress (UNC) political party; and/or
 - b) that the Applicant was pressing him to make a reference under section 137 in order to bolster the UNC's case to set aside a judgment of the Court of Appeal, presided over by the Chief Justice, in certain election petitions; and
 - c) his apparent view that the Applicant's investigation was predicated on a subjective desire on the part of the Applicant (fuelled, it would seem, by support for the UNC) to remove the Chief Justice from office.
- vii) The imputations made by the Prime Minister against the Applicant were inconsistent with the judgment of the Court of Appeal which was upheld by the Privy Council that the Applicant was not biased but acted in accordance with its duties.
- viii) The Prime Minister should, in any event, have disclosed his (incorrect and irrelevant) considerations set out in vi) above as a matter of basic common law fairness and his obligation to act in accordance with natural justice under section 20 of the Judicial Review Act so as to afford the Applicant the opportunity to respond to these imputations and/or correct and/or disabuse him of these considerations;



- ix) Given his subjective views on the nature and purpose of the Applicant's Committee's report as set out in vi) above, the Prime Minister was not capable of properly and fairly determining the question before him in the exercise of a Constitutional function in the public interest. Rather, he was more concerned to shut down what he considered to be the improper action of the Applicant acting at the alleged behest of the UNC and thereby acted for an improper purpose or motive and/or his decision is vitiated by apparent bias.

The facts upon which this application is based are more particularly set out in the affidavit in support of this application.

The Applicant' address for service

c/o Mr. Imran Ali
Chancery Chambers
108 Duke Street,
Port of Spain,
Trinidad

Whether an alternative form of redress exists and, if so, why judicial review is more appropriate or why the alternative has not been pursued

There is no alternative form of redress

Details of any consideration which the applicant knows the respondent has given to the matter in question in response to a complaint made by or on behalf of the applicant

By letter dated 28th July, 2019, the Applicant set out reasons why it thought that the Decision was flawed and suggested that the Prime Minister should reconsider same. The applicant is not aware of any consideration the respondent has given to the concerns expressed by the applicant in that letter as he has not responded to same.

Whether any time limit for making the application has been exceeded and, if so, why

No time limit has been exceeded

Whether the applicant is personally or directly affected by the decision about which complaint is made

The Applicant is personally and directly affected by the Decision since it was the applicant which had asked the respondent to consider exercising his power under section 137 of the Constitution.

The name and address of the Applicant's Attorney

Mr Imran Ali
Chancery Chambers,
108 Duke Street,
Port of Spain,
Trinidad

CERTIFICATE OF TRUTH

I hereby certify on behalf of the Intended Claimant, which has authorised me to sign this certificate, that the facts stated above are true to the best of the Intended Claimant's knowledge, information and belief.



DOUGLAS L. MENDES
President of the Law Association
of Trinidad and Tobago


03.10.2019
DATED

An Affidavit in Support accompanies this Notice of Application



IMRAN ALI
Instructing Attorney for the Intended Claimant

03.10.2019
DATED



NOTICE:

This application will be heard by The Honourable Mr./Madam Justice _____ at _____ o'clock in the forenoon/afternoon on _____ the _____ day of _____ 2019 in Courtroom POS-_____ at the Hall of Justice, Knox Street, Port of Spain.

If you do not attend this hearing an Order may be made in your absence.

OR

The Honourable Mr./Madam Justice _____ will deal with this application by _____

The Court Office is at the Hall of Justice, Knox Street, Trinidad and Tobago; Telephone Number: 623-2416; Fax: 625-8149. The Office is open between 8:00 a.m. and 4:00 p.m. Mondays to Fridays except Public Holidays and Court Holidays.

Dated the 3rd day of October 2019.

TO: THE REGISTRAR
HALL OF JUSTICE
KNOX STREET
PORT OF SPAIN