



**REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL DIVISION
JUDICIAL REVIEW CAUSE NUMBER 06 OF 2025
(Before Honourable Justice Muhome)**

BETWEEN:

**THE STATE (On Application of:
AMBOKILE BLESS SALIMU)**

APPLICANT

AND

MALAWI LAW SOCIETY

DEFENDANT

CORAM: HON. JUSTICE ALLAN HANS MUHOME

Mr Bruno Matumbi, of Counsel for the Applicant
Mr Lovemore Chikopa, of Counsel for the Applicant
Mr Chrispin Ngunde, of Counsel for the Defendant
Mr Alfred Masamba, of Counsel for the Defendant
Ms Ellen Gwedeza, Court Clerk

RULING

1. This is an Application by the Applicant under Order 19 rule 20 and rule 22 of the Courts (High Court) (Civil Procedure) Rules 2017 (CPR). The Applicant sought permission to commence judicial review proceedings against the Defendant and the same was granted without notice on 13th February 2025. During the hearing with notice, both parties relied on their sworn statements and skeleton arguments and also made oral submissions.
2. The background to this matter is that the Disciplinary Committee of the Malawi Law Society ('the Society') received a complaint against Mr Ambokile Salimu, a legal practitioner, who is the managing partner in the firm Salimu & Company. The complaint was bordering on professional misconduct. That on or about April 2024, a Ms Chipojola made a comment on some trail of Facebook posts from a Mr Kondwani Ng'ambi. Mr Salimu replied to Ms. Chipojola's comment, and for no apparent reason he insulted and used derogatory words towards her. Among other things, Mr Salimu called her a whore and further alleged that she used to extort money from blessers (sugar daddies). Other Facebook users were also insulted in the process by Mr Salimu.
3. The Disciplinary Committee invited the Applicant to a conduct meeting on 15th November, where Mr Salimu was informed about his alleged conduct that resulted in the complaint and he confirmed understanding the consequences of his alleged actions.
4. The Disciplinary Committee invited Mr Salimu to a Disciplinary Hearing on 14th February, 2025. A day before, this Court granted Mr Salimu an injunction restraining the Disciplinary Hearing from proceeding. The issue is now whether the permission to commence judicial review should be sustained together with the order of interlocutory injunction.
5. The Applicant argues that section 91 of the Legal Education and Legal Practitioners Act 2018 (LELPA) makes the Disciplinary Committee the 'investigator, jury and judge' and so it is unconstitutional for being inconsistent with section 43 of the Constitution which provides as follows: -

Every person shall have the right to—

- a. lawful and procedurally fair administrative action, which is justifiable in relation to reasons given where his or her rights, freedoms, legitimate expectations or interests are affected or threatened; and
 - b. be furnished with reasons, in writing, for administrative action where his or her rights, freedoms, legitimate expectations or interests are affected.
6. That the Applicant's rights and legitimate expectations were disregarded considering that the Society is proceeding to charge a legal practitioner with professional misconduct based on a complaint by a member of the public when such a complainant or informant is not in a lawyer-client relationship with the Applicant. It was argued that the Society's Code of Ethics is primarily concerned with a lawyer's professional conduct and their responsibilities while practicing the law. That the Society should not poke its noses into private and purely personal businesses of lawyers which will lead to regulation of morals on such matters as swearing in public, calling someone a whore or cheating on a spouse.
7. The Defendant opposes the application and filed a Sworn Statement in opposition by Shabir Latif SC who is a member of the Disciplinary Committee. In essence, it was illustrated that the Disciplinary proceedings were instituted in accordance with the LELPA and the Disciplinary Committee Rules of Procedure, 2024.
8. This Court is aware that the purpose of a permission application, like the instant one, is firstly to eliminate at an early stage, applications which are either frivolous, vexatious or hopeless and secondly to ensure that an application is only allowed to proceed to substantive hearing if the Court is satisfied that there is a case fit for further consideration. See *State and Governor of the Reserve Bank of Malawi ex parte Finance Bank of Malawi*; Miscellaneous Civil Cause Number 127 of 2005 (High Court) (unreported) and *Ombudsman v Malawi Broadcasting Corporation* [1999] MLR 329.
9. This Court is further aware that there have been developed very renowned key legal principles in a judicial review, as submitted by Counsel. The same were aptly summarised by Hon. Tembo J. in the case of *The State and The Deputy Governor of the Reserve Bank*

of Malawi, Ex Parte NBS Bank Limited Judicial Review Cause Number 91 of 2016 at page 16 as follows:

- a) The remedy of judicial review is concerned with reviewing, not the merits of the decision in respect of which the application for judicial review is made, but the decision-making process itself.
 - b) The court in judicial review proceedings does not act as a court of appeal. If the court were to attempt itself the task entrusted to that authority by law, the court would, under the guise of preventing abuse of power, be guilty itself of usurping power. Judicial review looks at the procedure in the decision-making process of the public body.
 - c) The remedy of judicial review is not available in cases where other remedies exist and have not been used, such as an appeal to the superior court or the statutory appellate tribunal or recourse to another forum.
10. This Court has reviewed the arguments and holds that section 91 of the LELPA does not offend section 43 of the Constitution. It actually enshrines the right to administrative justice. The Applicant argued that the Disciplinary Committee is the ‘investigator, jury and judge.’ This is incorrect as the promotion of self-regulation by professional bodies allows such bodies to investigate and discipline their members, whilst permitting them to challenge such decisions through judicial review proceedings. In any event, a reading of sections 63, 90 and 91 of the LELPA makes a distinction between the Executive Committee’s role which is limited to receiving complaints and referring them to the Disciplinary Committee which conducts the entirety of the disciplinary process.
11. In the present matter, the Disciplinary Committee has not yet subjected the evidence of Ms Chipojola to scrutiny, neither has the Applicant been heard. Therefore, this Court agrees with the Society that this application is premature.
12. The argument that the complaint is based on matters outside of the legal practitioner’s professional conduct and that it is based on a complaint by a member of the public when such a complainant or informant is not in a lawyer-client relationship with the Applicant, must fail as well. In *R v Registrar of Financial Institutions ex Parte Malawi Law Society*,

Judicial Review Cause Number 68 of 2014, Hon. Justice Potani (as he then was) added to the weight of professional boundaries when he aptly stated as follows: -

Whoever voluntarily goes into regulated space should be prepared to be governed by the rules in that space and cannot turn around and say that their rights are being violated when they find themselves subjected and amenable to rules.

13. The Society's Code of Ethics provides, in Chapter 3 rule 1, that 'A lawyer must refrain from personal or professional conduct that brings discredit to the profession.' This requirement clearly covers both *personal* and professional conduct. In *The State (On Application of Henry Dama Phoya T/A Phoya and Associates v Disciplinary Committee of Malawi Law Society* Judicial Review Cause Number 51 of 2023, this Court clearly held that a failure to repay a loan, is a form of bringing the profession into discredit. Under Chapter 16 Rule 2 of the Code, it is up to the Disciplinary Committee to decide whether calling someone a whore on Facebook, in the present circumstances, discredits the profession of the law and whether the Applicant's conduct was compatible with the best interests of the profession and the justice system.
14. To that end, the leave to commence Judicial Review proceedings, granted without notice, is hereby discharged. This Court finds that this application does not enthruse any hope: see *The state (On the application of Dr. Justice Michael Mtambo) v Judicial Service Commission and Another* Judicial Review Case Number 25 of 2022. The application for an injunction has no legs to stand on and it automatically falls away.
15. Costs are in the discretion of the Court and in the present circumstances, the Court orders each party to bear their own costs.

Made in Chambers this 11th day of March, 2025.



Allan Hans Muhome

JUDGE