



**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA**

2017/HP/010

(Civil Jurisdiction)

B E T W E E N :

IN THE MATTER OF:

**ORDER 53 RULE 4 AND ORDER
53 RULE 14(53) OF THE RULES
OF THE SUPREME COURT OF
ENGLAND AND WALES (1999
EDITION) VOL.1**

IN THE MATTER OF:

**AN APPLICATION FOR
EXTENSION OF TIME AND LEAVE
TO APPLY FOR JUDICIAL REVIEW**

IN THE MATTER OF:

**THE DECISION OF EXPULSION OF
THE APPLICANT FROM THE
UNIVERSITY OF ZAMBIA MADE
ON 5th NOVEMBER, 2015**

IN THE MATTER OF:

**THE HIGHER EDUCATION ACT,
2013 (NO. 4 OF 2013)**

SLYVESTER MUSONDA SHIPOLO

APPLICANT

AND

THE UNIVERSITY OF ZAMBIA

1st RESPONDENT

THE UNIVERSITY OF ZAMBIA COUNCIL

2nd RESPONDENT

**Before Honorable Mrs. Justice M. Mapani-Kawimbe in Chambers
on 21st February, 2017**

For the Applicant : *In Person*

R U L I N G

Legislation Referred To:

1. *Rules of the Supreme Court, 1999 Edition*

On 5th January, 2017, the Applicant filed an *ex parte* application for extension of time and leave to apply for judicial review pursuant to Order 53 Rule 4 and Order 53 Rule 14 (53) of the Rules of the Supreme Court. It is supported by an Affidavit and Statement.

The Affidavit was sworn by **Sylvester Musonda Shipolo** who reprises in great detail the facts of his admission to the University of Zambia for various studies pursued between the years 1995 to 2015, the year of his expulsion. The deponent contends that his expulsion from the University of Zambia was in breach of

Regulation 1 of the General Rules and Regulations of 2008 promulgated under the University Act No. 11 of 1999. The deponent asserts that his expulsion is fit for a challenge under judicial review and now brings this application to extend the time within which to contest his 2015 expulsion from the University of Zambia.

I have seriously considered this application together with the Statement and the Affidavit filed herein. The application raises the issue, whether in the circumstances of the case, I can exercise my discretionary power to grant the Applicant leave to file an application for judicial review out of time.

Order 53 Rule 4 of the Rules of the Supreme Court sets out thus:

“An application for leave to apply for judicial review shall be made promptly and in any event within three months from the date when the ground for the application first arose unless the court considers that there is good reason for extending the period within which the application shall be made.”

In my considered view, the Court's jurisdiction under Order 53 Rule 4 of the Rules of the Supreme Court is stated in mandatory

terms. That to say, an application for judicial review must be made promptly and within three months from the date that the grounds for seeking judicial review arose. The only discretion granted to the Court and which must be exercised sparingly is where the Court considers that there is good reason for extending time within which to file an application for judicial review. Although Order 53 Rule 4 of the Supreme Court Rules does not define "good reasons", I would be inclined to suggest that the good reasons are those that are exceptional and compelling to a Court.

From the affidavit evidence, I find that the Applicant was informed of his expulsion on 5th November, 2015. He then pursued a number of administrative remedies that did not yield the result he desired. It is only after that realization that he decided to pursue the remedy of judicial review. I am therefore of the considered view that the Applicant's delay in seeking judicial review is self-induced and does not present good reasons for enlarging time as contemplated by Order 54 Rule 4 of the Rules of the Supreme Court.

Accordingly, I dismiss the application and make no order as to costs.

Leave to appeal is granted.

Dated this 21st day of February, 2017.


M. Mapani-Kawimbe
HIGH COURT JUDGE