

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

CV 2011-01337

IN THE MATTER OF THE PHARMACY BOARD ACT, CH 29:52

AND

IN THE MATTER OF THE COUNCIL OF THE PHARMACY BOARD

BETWEEN

ANDREW RAHAMAN

Claimant

AND

**ALAN YOUNG
RABIDATT BHAGGAN
CLINTON SAHADEO
GLENWAYNE SUCHIT
AMELIA BIRSINGH
DANE CHARRAN
SEAN BHAGAN
AMEENA ALI**

Defendants

Before The Hon. Madam Justice C. Gobin

Appearances

Mr. A. Rahaman (in person)

Mr. A. Maraj instructed by Ms. T. Haddad

REASONS

1. The claimant is a pharmacist and a qualified attorney-at-law. He represented himself in this matter. On the 11th April 2001 I granted an injunction without a hearing on the basis of an application filed by him restraining the first defendant from convening a meeting of the Council of the Pharmacy Board, which meeting was to be held on the following day. The order also

restrained the defendants from holding themselves out as members of the Council of the Pharmacy Board and from meeting as such until further order.

2. On the returnable date full affidavits of the defendants were before the court. From the contents, it became apparent that the claimant himself had successfully contested the same elections. When he was asked why he did not bring that fact to the attention of the court he claimed that in the rush to file the application he may have omitted certain things and that in any case from certain of the annexures to his affidavit the court could have deduced that he had stood for the elections and was voted in. These explanations were unacceptable, had this fact been disclosed the court would not have granted the injunctions which I then discharged for non-disclosure.

3. In the course of discussions and case management I attempted to resolve what appeared to be a long ongoing dispute involving this claimant and the remaining parties, a dispute which was affecting the proper establishment and functioning of the Pharmacy Board Council. There had already been a trial on the validity of the previous elections in 2008 before Justice Dean Amourer. I felt it necessary to ensure that any order the court made even at this early interim stage, should ensure that the Council would be able to take up duty and to function. This was important for the protection of the public and the regulation of the pharmacy profession.

4. What emerged from the discussions and the affidavits and which is undisputed is as follows:

- (1) The claimant was elected president of the council for the period 2006- 2008. The next elections were due in early 2008 and they were held.

- (2) Following certain allegations of irregularities in the 2008 election CV 2008-02758, the first defendant and others filed an action against this claimant challenging the validity of those elections. In particular there was a complaint that he had taken away certain ballot boxes and had acted improperly.
- (3) This matter was heard and determined by Justice Dean Armourer on the 14th January 2010. I asked the claimant if it was the case, and he accepted that it was, that Justice Dean Armourer had made findings about his personal conduct which led to her decision that the 2008 elections were invalid.
- (4) By the time the judgment in that earlier matter had been delivered in 2010 there was insufficient time to take all the preparatory and preliminary steps to meet the statutory time frames and dates fixed for holding an election in accordance with the Act. Discussions were held and the body of pharmacists agreed to hold the elections in June 2010. The claimant contested these elections successfully along with the defendants.
- (5) The claimant has continued to claim to be entitled to hold office of President since 2006 until the present time. He strenuously maintains, relying on the provisions of the Act that until another president is actually elected at a council meeting, he remains President. He now claims (conveniently it seems to me) that until an election is held on a date and in accordance with the Act, he is entitled to hold on to his current office on a technicality.
- (6) His conduct in the elections of 2008 which led to the impugned elections and to what can only be described as this state of chaos, notwithstanding, he does not believe that it should in any way affect his entitlement to continue to hold the office of President since the last elections in 2006.
- (7) He has claimed to be President since 2006 and has managed after the June 2010 elections to hang on to his presidency by impeding the process of the election of

officers to stop a meeting of newly elected council that was to be held for that very purpose.

5. When I had discharged the injunction to allow the meeting for the election of officers, having regard to the claimant's utterances from the bar table, it became clear to me that there was a good likelihood he would try to defeat the order of the court and in some way would block the election of officers through his control and management of the meeting. Since he represented himself I had the opportunity to assess his obvious intentions from the tenor of his responses to me. When he insisted that even if the meeting went on as I had allowed, according to the statute he would be the President chairing and controlling the meeting, up to the last minute, it became clear to me that this would not end well.

6. I therefore suggested that given the lack of trust and understandable loss of confidence that would have occurred as a result of his previous conduct in the 2008 elections that someone else should chair the meeting with his consent. He strongly objected to this. The claimants behavior, posture and utterances from the bar table sent a clear signal that he could not be trusted to chair a meeting in a manner that would lead to a fair result. I therefore asked the assistance of the defendants as to a suggestion of a neutral person to chair the meeting and they named Mr. Sean Bhaggan.

7. To hold the elections of 2010 invalid even on an interim basis would mean that there would be even now no duly elected Pharmacy Board as there has not been since 2008. In the circumstances of the earlier litigation which had arisen as a result of the claimant's own actions and the fact that the June 2010 elections were held as soon as was practicable after Justice Dean

Armourer's decision, I considered it essential in addition to discharging the injunctions to grant the interim declaration.

8. To avoid the claimant doing anything to frustrate the proper election of officers I considered it necessary to ensure that he was not in a position to control the proceedings or the outcome. The claimant believes he is entitled to hold on to the office of president until 2012. He stated this from the bar table. It could not be in the public interest nor in the interest of the pharmacy profession to allow him to frustrate the purpose of the statute or to use it to hold the body of pharmacists to ransom. To avoid an absurdity I was prepared to read into the statute words which allowed the elections to be held so soon as was reasonably practicable after the time stipulated in the circumstances of this case. To refuse to do so would have led to an obvious absurdity.

9. Having regard to his conduct and to the result of this application I considered that the claimant should pay costs as I ordered. Even at the last stage I gave him an opportunity to withdraw his action completely so as to allow the business of the Pharmacy Board to proceed, clearly indicating to him that this might have had an effect on the quantum of costs. He refused to do so at that time, but was granted leave subsequently on the 11th May 2011 to withdraw his claim.

Dated this 19th day of May, 2011

CAROL GOBIN

JUDGE