THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE
Port of Spain High Court (Virtual Hearing)

Claim No. CV2020-02707

Between

Shirlanne Sacha Singh

Claimant

And

The Minister of National Security

Defendant

Before the Honourable Madam Justice Eleanor Joye Donaldson-Honeywell

Delivered on: 11 December, 2020

Appearances:

Mr. Naveen Maraj instructed by Mr. Varun Dabideen, Attorneys-at-Law for the Claimant

Mr. Reginald Armour S.C., Ms. Vanessa Gopaul, Ms. Laura Persad, Mr. Raphael Ajodha and Ms. Adana Hosang, Attorney-at-Laws for the Defendant

ORAL RULING

A. Introduction

1. The Applicant seeks leave to apply for Judicial Review so as to obtain the following relief:

    - A declaration that there has been unreasonable delay by the Respondent in the discharge of his obligations under Regulation 11 of the Public Health [2019 Novel Coronavirus] Regulations NO.19 ["the Regulations"] to determine the Applicant's application for permission to enter Trinidad and Tobago.
    - A declaration that the continuing failure and or refusal of the Respondent to perform his functions under Regulation 11 to determine the Applicant's application for permission to enter Trinidad and Tobago is illegal, *ultra vires* and irrational and;
    - An interim order that the Respondent do, within one day, determine the Applicant's application.

B. Legislative Framework for Leave

2. In considering the Application for Leave, I had to look firstly, at the Judicial Review Act Chapter 7:08 Section 6(2) which provides that the Applicant must have sufficient interest in the matter to which the Application relates or it can be a matter of public interest.

3. I looked at the Civil Proceedings Rules 1998 (as amended) ["the CPR"], Rule 56.3(3)(g). The Application for Leave must state the grounds. At (f) the said rule provides that there must be details of considerations the Applicant knows the Respondent has given to the matter in response to a complaint.

4. The Applicant must also state whether the Applicant is personally or directly aggrieved by the decision and importantly, the Application must be verified by evidence on affidavit, which must include a short statement of all of the facts relied on.

C. The Applicable Tests in considering the grant of leave

5. I move, then, to the test for the grant of leave. I am actually looking first at the test of arguability which is well established in the case of **Sharma v Brown-Antoine and Others [2006] UKPC 57**. The Judgement in that case listed a number of governing principles, some of which are not applicable to this case but number 4, at page 786-7 of the judgment explained that, "…*the court will refuse leave unless satisfied that there is an arguable ground for judicial review having a realistic prospect of success*."

6. In order to determine this, the **Sharma** judgment underscored that the judge must fully analyse the evidence and I refer specifically to paragraph 26, page 793 of the judgement. The judge must identify the particular reasons for considering the challenge arguable. That is at paragraph 36.

7. I then looked at the more up-to-date test that was introduced by Jamadar JA, as he then was, in **Civ Appeal No: 207 of 2010 Ferguson and Galbaransingh v The Attorney General** at paragraph 3. "*The test of arguability must be applied contextually and cannot be divorced from the nature of the challenge which is raised by the litigant*." Here I recognise that the context of the Application is in the context of national security measures to protect the citizens and the economy from the impact of a deadly pandemic and the impact of that on the rights of citizens to return home.

8. Returning to the case of **Ferguson** at paragraph 5, Justice Jamadar said that "*in fulfilling its mandate as the guardians of democracy and the rule of law;… the court must not lightly refuse a litigant permission to apply for judicial review. It must only*

be in wholly, unmeritorious cases which are patently unarguable… that the courts should exercise its discretion in refusing to grant leave."

9. At paragraph 6 of **Ferguson**, Justice Jamadar indicated that the Court must give itself sufficient time to properly receive and digest the appellant's argument for permission. In this case, I have been considering the matter since September 3 and that is more than four months. In addition to that, I have had the grounds in the notice of Application, the six submissions that I mentioned before, two affidavits to consider as well as one short hearing when I asked questions. Therefore, I think that the time has come for a decision.

10. I looked also at the point of non-justiciability also known as non-reviewability. The landmark case cited in that regard is **Civil Appeal P271/2017 Keith Rowley v Eden Charles**. At paragraph 23, the Court said, "*The purpose of an application for leave is to weed out unsuitable claims. Such unsuitable claims would include challenges to decisions not susceptible to judicial review. Before applying the ordinary rule referred to in the* ***Sharma*** *decision therefore, a judge first has to determine whether the decision challenged was one that is amenable to judicial review*."

11. At paragraph 38, Mendonça JA went on to say, "…*whatever the source of the power, statutory, prerogative or both, there are some matters which are not amenable to judicial review because of their nature and subject-matter*." Justice Mendonça mentioned that the list given by Lord Roskill is not exhaustive. He was referring to the list in the case of **CCSU v Ministry of Civil Service [1984] 3 All ER 935** at pages 955 to 956.

12. In **Rowley v Eden Charles**, it was found that a matter of political judgment, (in that case it was the removal of a diplomatic representative), was not to be subject to interference by the Court.

13. Also, I found of relevance the reference made by the Respondent to the text "Judicial Review-Principles and Procedure" by **Auburn, Moffet & Sharland** at paragraph 2.86 where those authors mentioned that, when the Courts decline to adjudicate upon a ground of challenge on the basis that it is non-justiciable, they are applying a rule of law and not exercising their discretion. "*Courts are particularly concerned not to decide issues, which are essentially matters of political judgement viewing such matters as properly the role of the executive. In some cases the subject matter is such that there are simply 'no manageable standards by which to judge' an issue*."

14. I also looked at "**De Smith's Judicial Review**" 8th Edition, cited by the Respondent, where they set out in detail many other matters that are not amendable to judicial review. At paragraph 1-041, they talk about decisions where there is no objective criteria on preference. They give an examples of public emergency threatening the life of the nation and pre-eminently political questions; a matter of political judgment; matters admitting of no objective challenge.

15. Also of relevance would have been the case of **The Secretary of State for the Home Department v Rehman** [2002] 1 All ER 122 where at paragraph 62 the Court mentioned that, "…*in matters of national security, the cost of failure can be high. This seems to me to underline the need for the judicial arm of government to respect the decisions of ministers of the Crown on the question of whether support for terrorist activities*…" In that case, it was about terrorist activities, "…*in a foreign country constitutes a threat to national security. It is not only that the executive has access to special information and expertise in these matters. It is also that such decisions, with serious potential results for the community, require a legitimacy which can be conferred only by entrusting them to persons responsible to the community through the democratic process. If the people are to accept the consequences of such decisions, they must be made by persons whom the people have elected and whom they can remov*e."

16. Therefore, I would just say *obiter* that I think that the words “global pandemic” can, perhaps, be substituted here for “terrorist activities” but that’s just a point of *obiter* there. The case of **Regina v DPP, Ex parte Kebiline and others [2002]2 A.C. 326** also highlighted that there are certain types of decisions that are really for the elected policy makers.

17. At paragraph 1-043 of **<u>De Smith</u>**, the authors further discussed subject matter unsuitable for judicial review and mentioned matters involving specialist knowledge and expertise in risk assessment, national security matters based on assessment of dangers involved, cases where national security officials need to be informed by a network of informers about this risk assessment. In this case, we could look at where national security needs to be informed by global authorities such as the World Health Organization and so on. Again that is *obiter* but I am just fitting that within the context of these examples given in **<u>De Smith</u>**.

18. In **DeSmith**, the authors included polycentric decisions, decisions with regard to allocation of resources as not suitable for Judicial Review. Here, perhaps, we could look at the quarantine facilities and so on as being the type of resources that need to be allocated. Matters of socio-economic and political preference - here I found of relevance what appears really to be an *obiter* statement in **Dolan and others v Secretary of State for Health and Social Care [2020]EWHC 1786 (Admin)** at paragraph 7. I will read it. In that case, the Court said at paragraph 7 of **Dolan** that, “*The role of the Court in judicial review is concerned with resolving conflicts of law. The Court is not responsible for making political, social or economic choices. The Court is not responsible for determining how best to respond to the risks to public health posed by the emergence of a novel coronavirus. Those decisions and those choices are ones that Parliament has entrusted to ministers and other public bodies*.”

19. I say that that is *obiter* because at the end of the day, in that case, the Court did not decide based on justiciability. They decided against granting leave based on the arguability of the grounds. But that paragraph, though, seems to fall in line with the general thinking about non-justiciability.

20. Those authorities set out the general learning on non-justiciability. However, I did note that although there is strong precedent with regard to non-justiciability of political matters and some national security matters as well, there is an indication from the authorities that even if the subject matter of a decision, that is the power itself, is not amendable to judicial review, the Court can adjudicate on the way it is being exercised. For example, whether or not it is being exercised in a procedurally fair manner.

21. Accordingly, the process, it seems, can be reviewed. I am not saying that the authorities say this is so in all cases but the possibility for a process to be reviewed is clear in terms of those authorities. I note from the speaking note at paragraph 11 that the Respondent highlighted that this case is really all about the process. It is the process.

22. Again, the text of **Auburn, Moffet & Sharland** referred to by the Respondent, at paragraph 2.88[1], I found that to be relevant. I would not read it out at this time. But I will just give as an example from my perspective, a case that I think may be an example of something that is justiciable even though it may involve political matter and security and so on.

23. If a complaint is made about differential treatment in the exercise of the power based on a ground such as race or sex or sexual orientation, as is highlighted by **De Smith** at

[1] "While a court may consider itself unable to adjudicate on whether a particular type of power should be exercised, or in what way it should be exercised, it may nevertheless be prepared to adjudicate on whether consideration should be given to its exercise or whether a relevant public policy is subject to a duty to act fairly when considering its exercise."

paragraph 1-037, "*The Court will scrutinize with intensity any reasons said to constitute justification*." That was an example of the type of case where process may be justiciable.

24. Look at some of the cases highlighted in the submissions by the Respondent, I want to highlight that, despite the political and security related subject matters, in these cases it seems that there was justiciability. For example, in **Tabassum Hussein v the Secretary of State for Health and Social Care [2020]EWHC 1392 (Admin)No. CO/1846/2020**, when I look at paragraph 33 of that case, I see that leave was granted.

25. In **Dolan**, leave was refused, not based on non- justiciability, but on an examination of the evidence with regard to each ground of the claim to see whether it was arguable. In **Dolan**, in the Court of Appeal[2], they went further. They held that leave should have been granted with regard to the *vires*, to consider the *vires* of the regulations even though the particular regulations had by then been repealed and the issue raised was academic. They still said that it was justiciable. I think, at the end of the day, they threw out the points raised in challenging the regulation on substantive grounds but the challenge was justiciable.

26. In the New Zealand case of **Andrew Borrowdale v Director-General of Health and the Attorney General and New Zealand Law Society as intervener [2020]NZHC 2090,** the Court extensively considered the merits of the challenge to the health regulations. It was not a case of throwing out the challenge at a preliminary stage. They fully considered it. They seemed not to have found that it was non-justiciable.

27. In the Australian High Court case of **Palmer v State of Western Australia (No 4) [2020] FCA 1221**, the Court considered and threw out a complaint about border control regulations. In that case, the subject matter was internal borders within Australia

[2] [2020]EWCA Civ 1605 delivered on 1 December 2020

where persons were not allowed to cross internal borders to different parts of the country of Australia. The border control complaint was thrown out but the decision was not based on non-justiciability.

D. Considerations

28. The foregoing analysis set the background to the principles that I considered. I now go on to my considerations. I will start from the end by giving what my end finding was and then go into the details.

29. Based on my review of the authorities applied to this case, I consider the following:
    i. The decision complained of is prima facie justiciable. I am being very careful about saying this because, at the end of the day, it may not have been justiciable but prima facie it would have been justiciable. In other words, the alleged delay, bias, unfairness, un-constitutionality and so on of the process of dealing with the complaint by this Applicant as an individual could have been justiciable. So that is my first finding that would be explained later on.

    ii. My second finding is that the Application for Leave ought not to be granted because the claim, that is the grounds on which it is pleaded, is unarguable.

30. The grounds were (as I continue, you will see that I am addressing the grounds separately and the evidence cited in support and against) accessed to see whether the claim is arguable or applying the **Ferguson** test wholly unmeritorious. That analysis is what I am addressing now.

31. The grounds of the challenge were very broadly stated in the Application. However, the ten points listed relate to three main grounds. Accordingly, those are the three main grounds that I put them into for purposes of considering the Application. There were ten grounds listed but I put them into three.

32. The primary of those grounds is the point of unreasonable delay in relation to which the reliefs claimed are pegged. Importantly, it is not the power under the regulations that is challenged. Parties in this matter are aware that there is another case[3] pending which was said to have been related to this one where the vires of the regulations is challenged. In this case, it is the process used by the Respondent, vis-à-vis, the Applicant that is challenged. All this serves as a preliminary statement with regard to the grounds. I now examine each separately.

33. Ground number one, I have identified as delay. I am seeing that at paragraph 7 of the Notice of Application, grounds 2, 3, 4, 5 and 10, all are tied up with delay.

34. At paragraph 6 of the reply submissions, in fact, the Applicant says "*the issue is the unreasonable delay and failure of the Intended Defendant to determine the Intended Claimant's Application."*

35. I therefore examine the evidence with regards to delay in relation to the actual border closure exemption requests made by the Applicant. So the first request was made on 3rd June 2020. That is the first application seeking permission to return. It was a specific request to enter by the end of June. The response was dated 4th June which said, "*Your application would be reviewed by the Ministry of National Security and you'll be informed of the decision within the next few days*." Therefore, that was a timely response, one day after the application.

36. The second application, I am calling it an application, but there was an email dated 25th June 2020. The content of that email was reiterated in two emails on 4th July 2020. The Minister responded on 4th July 2020. My interpretation of the response is that he denied entry on the date requested which was a specific request to enter on July 8th. It was a request for a group to enter on July 8th but that was denied.

[3] CV2020-03855 Takeisha Clairmont v The Min of Health & The AG of T&T

37. This 4th July 2020 response, to my mind, was also timely. It was made just four weeks after the first response and about a week after the second request. Unfortunately, the response was a denial of the Applicant's specific request. My conclusion on ground one is that it is patently unarguable because the specific exemption request with regard to travel at the end of June or the first week of July was determined without delay by a refusal.

38. Apart from those specific date requests for end of June or beginning of July, the Applicant is among thousands of others unfortunately awaiting exemption to re-enter, the Respondent's evidence is that all requests are kept under review. Thus, the Applicant's request is one of many kept under review. My finding is that no evidence of unreasonable delay has been presented with regard to that process as it relates to the Applicant. And again, all of my findings only relate to the circumstances of one case. No evidence of unreasonable delay has been presented in this case.

39. I say that because, for example, nothing has been said about what is the normal length of wait time of others or that others have wrongly been given priority for grant of an exemption before the Applicant in similar circumstances. I will go into more detail about the similar circumstances later on.

40. In this case, neither the Applicant's circumstances nor those of comparators listed in the Application have been particularised as evidence of unreasonable delay. No evidence to support that it was unreasonable to prioritise the grant of exemption to others before the Applicant has been provided. I am just looking at what is provided in the Applicant's notice and affidavit because, as I indicated earlier on, the CPR provides that there must be a statement of the facts relied on.

41. I move on to ground two. I am categorising the second ground as unfairness, abuse of power and bias. At paragraph 7 of the Notice of Application, number 7 and 8 seem

to relate to that ground. At paragraph 11 of the affidavit, a point is made that it is as a result of certain emails exchanged with the Minister on 25th June 2020, 4th July 2020 and 5th July 2020, in which the Minister has refused to determine "her said application". And those emails are at VD-4 of the affidavit.

42. So I am looking at the emails. The 25th June 2020 email: this was addressed to the Minister and one Ms Stephens at the Travel Exemptions email address. There the Applicant said that she is in the United States for nearly five months which "*is bordering my allotted time*" to stay there. She says she has business, her house sale and court matters to attend to. She has chartered a private jet through her United States company. She and all persons on the flight will stay at Chancellor Hotel to quarantine. She said she knew of a past minister, Hadeed, who was allowed to enter Trinidad a week before and quarantined at Chancellor. And she asked that the email be kept confidential.

43. Then there was an email from Travel Exemptions email address saying they acknowledged receipt and "*Information on your application would be provided soon*." A week later, there was an email on 4th July 2020 at 1:16 p.m. This one, addressed to "Mr. Young", referred to ignored WhatsApp texts. An accusation is made of allowing in persons, namely a former Minister Hadeed and one Mr. Padarath, who may help in elections or somewhere else in life. The email complained about the circumstances of persons on a flight that has been arranged. There was a paragraph about some personal details of the Minister's family life. The email accused the Minister of approving the wealthy and spoke about the Applicant's ability to capture the nation's attention and of a planned television interview. In the email, there was a specific request made to enter Trinidad and Tobago on July 8th, 2020 with a group of nine persons. That was the request I dealt with earlier on in dealing with ground number one.

44. Then on 4th July 2020 on 3:39 p.m., there was an email to the Travel Exemptions email address that said, "*I emailed you this. This was my initial application"* and reiterated that the request was for a flight chartered for July 8th.

45. Then on 4th July, same day, at 4:00 p.m., the Minister emailed the Applicant. It was a lengthy email but I will just read the two parts that I consider relevant. It indicated, "*We cannot grant approval for exemption of the persons to whom you refer in the time frame you have suggested*." And, bear in mind that was the July 8th time frame. There was also a comment that the Minister indicated he would "*not dignify with any response*", the defamatory and threatening comments in the email received.

46. Then on 5th July, 2020 at 1:47 p.m., there was an email to the Minister's email address and copied to Travel Exemptions with a plea for passengers listed on the flight to return home "*in this coming week*". Again, that is the same time frame and that would have been after the Minister has sent an email indicating the refusal.

47. Additionally, the email chain continued thereafter but the other emails were not disclosed by the Applicant; they were only disclosed by the Respondent. And those emails included one on 6th July at 9:52 p.m. and that one was addressed to "Stuart". And included in the email was a statement where there was a plea for other persons on the flight but a statement that "*I can stay. I live in the United States*." Then on 13th July, there was another email to "Mr. Young" and in this email there was an apology for a prior aggressive email and continued request for consideration.

48. I outlined in detail the email correspondence, as I had to indicate that I have considered it, because it is this email correspondence, which is said to be the basis for the allegation of unfairness, abuse of power and bias by the Minister. I had to consider how to measure the unfairness. According to the Applicant at paragraph 9 of the affidavit, other similarly circumstanced persons were allowed to return. The Applicant/Claimant says at paragraph 24 of submissions that it is not enough to state

the general procedure without taking account of personal facts and matters in the instant case. But no particulars of "similarly circumstanced" were cited by the Applicant, except for the travel arrangements, with regard to those other persons listed in the affidavit in support of this Application.

49. On the other hand, the Respondent's affidavits swear that decisions were guided by the Chief Medical Officer, made by a team of 30 persons in the Ministry of National Security, based on listed factors which are also listed in the affidavit of the Respondent, and that decision-making is in progress. They say, for example, that persons on the list supplied by the Applicant, persons at number 2 and 12 of paragraph 9 of the Applicant's affidavit have been returned home.

50. The Respondent also disclosed, and again this has to be weighed in the balance of similarity of circumstances of the persons being compared, that the Applicant had said that she lives in the United States and can remain there. The email correspondence reveals a degree of personal contention by the Applicant against the Minister. His response, on my review, does not provide proof of contention on his part. Of course, I cannot say whether or not there is contention on his part against the Applicant but I can only go by what has been provided. In his response, it did not appear that he expressed any contention or bias against the Applicant.

51. In conclusion, there is no evidence of unfairness specific to the Applicant provided. Ground number two is also unarguable.

52. Ground number three, I categorised as breach of constitutional rights and other statutes. The Applicant alleges at page 10 (j) of the Application that failure of the Respondent to determine the application of the Applicant is contrary to the protection of law or guarantee enshrined in Section 4(b) of the Constitution, contrary

to Section 15 of the Judicial Review Act and not in accordance with Section 23 of the Interpretation Act Chapter 3:01.

53. At paragraph 10 of the affidavit in support, the point is made that Section 4.1 of the Immigration Act says citizens of Trinidad and Tobago have the right to be admitted into Trinidad and Tobago. On a first reading, it seems that this ground was a challenge seeking that the regulation be found *ultra vires*, which is the challenge in the pending related matter of CV2020-03855 Takeisha Clairmont v The Minister of Health & The AG of T&T that has been assigned to my docket. On a review of the entire matter, including the reliefs sought, it is clear that this is really a reinforcement of ground one about unreasonable delay.

54. The Applicant is actually relying on the application of the exemption granting regulation and not really challenging the *vires* of the regulation itself. Her challenge is to the process; that is the alleged delay and unfairness. Just as with grounds one and two, this ground is unarguable.

55. Just to mention a fourth ground. I did not consider that to be one of the main matters to be considered. A ground alleged among the ten cited is the failure of the Respondent to take relevant considerations into account. That was pleaded at page 7, number 6 of the Application but with no particulars as to what was not considered. I took note of the fact that there is barely a scintilla of information, with regard to the Applicant, provided in the Application.

56. It is difficult to see what should have been considered because no information is provided, no information of the Applicant's particular circumstances, nothing about her intended length of stay when she travelled abroad, although mention is made of business abroad, no particulars regarding whether she had to come back earlier than planned. In other words, the expected date initially planned is not indicated. The Applicant did indicate the need to return because of business in Trinidad and Tobago.

The nature of the business and other particulars with regard to the exemption criteria are absent. The Applicant has not provided information, in the Application, on the prioritization of exemption factors pertaining to herself which the Respondent failed to consider in addressing her exemption request.

57. The exemption prioritization criteria are set out in the Respondent's affidavit.
    - Availability of accommodation - there is indication in the Application that the Claimant/Applicant had said that she and nine others would quarantine at the Chancellor Hotel; there was no indication in the affidavit as to availability of that accommodation although they indicated that they would pay the cost of it. But as to availability, that was not covered.
    - As to capacity of the parallel health care system, that was not addressed in the Application.
    - As to whether there is any serious health issues concerning the Applicant; that was not addressed.
    - The issue of age, whether persons are elderly, in terms of the Applicant, was not addressed.
    - New born babies, not addressed.
    - Families with young children, not addressed. Students, whether the Applicant is a student, not addressed.
    - Persons experiencing financial hardship, that was partially addressed but without particulars. I think the Applicant indicated that the cost of remaining in the United States is something to be considered.
    - The date when the Application was first made and the length of time out of the jurisdiction that is covered in the Application.
    - The circumstances of the Applicant being abroad, it is indicated that it was to attend to business but again insufficient detail is provided especially bearing in mind the indication in the email correspondence that the Applicant indicated that she lives abroad, so it is not sufficient information in that regard.

- Whether the Applicant has in place family and friends where they can shelter, there was nothing indicated in the proceedings in that regard.
- The number of nationals applying from different jurisdictions, no information was volunteered in that regard by the Applicant.
- Ability to make travel arrangements - that was indicated in the Application. With regard to the arrangements for a flight and as to whether any other factors that demonstrated immediate need to return home, that was not provided with sufficient particulars.
- Other factors were mentioned including some business to attend to at home, a court matter and a house sale but no sufficient particulars as to the immediate need in that regard.

58. In all the circumstances, I did not think that there is sufficient basis for holding that it is arguable, that relevant considerations had not been taken into account by the Respondent.

E. Conclusion

59. In conclusion, the issues raised in the Applicant's grounds do not relate to the lawfulness of border closure or the lawfulness of the exemption function under the regulations or the national policy in dealing with the pandemic. They relate to the process specifically applied to the Applicant's request for exemption.

60. The Respondent has not established that the process vis-à-vis this specific application is per se non-justiciable in judicial review proceedings. My finding is against the Respondent with regard to the non-justiciability point.

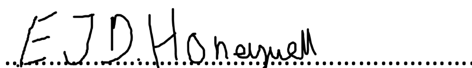
61. My finding is that the process complained of in this case is justiciable. Each case turns on its own circumstances. My finding in this matter would not be applicable, generally, to all cases concerning exemption requests.

62. I do recognise the difficulty of the situation facing citizens of Trinidad and Tobago abroad including, I am sure, those known to all of us; relatives, friends, colleagues, unfortunately, are trapped abroad. I understand the circumstances of the Applicant. It really is unfortunate and unimaginable for me to understand what it would be like to not be able to return to your home country. It is an unfortunate situation. It is unprecedented but it is part of the difficult restrictions that we are all facing. As you see, we cannot even attend court. We are operating from various places. There is no in person court attendance. We cannot readily enter the Court buildings. We do not have access to hard copy files. It is a very difficult situation and it is caused by this global deadly pandemic and the measures that need to be taken to protect all of us. It is very unfortunate for the persons affected by the restrictions.

63. I have considered the grounds of challenge to the process and assessed all the evidence submitted by the parties pertaining to this particular challenge and my conclusion is that the Applicant's case is unarguable and wholly unmeritorious. This is so because it is unsupported by the relevant evidence.

64. **It is hereby ordered that**:

    i. Leave to apply for judicial review is denied.
    ii. A decision on the costs of the Application is reserved.



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Eleanor Joye Donaldson-Honeywell
Judge