

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Port of Spain

Claim No. CV2019-03597

BETWEEN

DAVID ALEXANDER MURPHY

Claimant/Respondent

AND

THE NURSING COUNCIL OF TRINIDAD AND TOBAGO

Respondent/Applicant

THE TRINIDAD AND TOBAGO REGISTERED NURSES ASSOCIATION

THE TRINIDAD AND TOBAGO ASSOCIATION OF MIDWIVES

THE PSYCHIATRIC NURSES ASSOCIATION OF TRINIDAD AND TOBAGO

Interested Parties/Co-Applicant

Before the Honourable Mr. Justice Frank Seepersad

Date of Delivery: March 9, 2020

Appearances:

1. Mr. Gerald Ramdeen and Mr. Umesh D. Maharaj instructed by Ms. Dayadai Harripaul Attorneys-at-law for the Claimant.
2. Ms. Elaine Green Attorney-at-law for the Respondent.
3. Mr. Martin George, Attorney-at-law for the Interested Party.

Decision

1. Before the Court for its determination is the Claimant's claim by virtue of which the following relief was sought:
 - (i) A declaration that any decision of the Nursing Council of Trinidad and Tobago made subsequent to the 14th and 24th April 2019 upon the expiration of the terms of appointment of the members of the last Council appointed on the 15th April 2019 and the 25th April 2019 are null, void and of no effect.
 - (ii) A declaration that the decision of the Respondent made at the 807th Ordinary Meeting of the Respondent held on or about Monday the 26th August 2019 to appoint Mr Chris Craigwell as interim President of the Respondent is ultra vires the Nursing Personnel Act Ch. 29:53.
 - (iii) An order of certiorari to remove to this Court and quash the decision of the Respondent made at the 807th Ordinary Meeting of the Respondent held on or about Monday 26th August 2019 to appoint Mr Chris Craigwell as interim President of the Respondent.
 - (iv) An order directing the Registrar of the Nursing Council of Trinidad and Tobago to withdraw the Notice published in the daily newspaper dated the 31st August 2019 and the 1st September 2019 giving notice of the decisions of the Respondent made at the 807th meeting of the Nursing Council of Trinidad and Tobago.
 - (v) An injunction restraining the Respondent from convening and/or holding any meeting of the Council of the Respondent pending the

hearing and determination of this application or until further order.

(vi) An injunction restraining Mr. Chris Craigwell from assuming the office of interim President of the Respondent and or carrying out any of the functions of the office of President of the Respondent pending the hearing and determination of this application or until further order.

(vii) An order that the Respondent do pay the costs of this claim to be assessed by the Registrar of the Supreme Court in default of agreement.

(viii) Such further or other relief that the Honourable Court deems fits and just in the circumstances of the present case.

2. The Court exercises a supervisory jurisdiction in defence of the rule of law and it is imperative that it ensures that all public authorities discharge their obligations in accordance with the law and in a manner which is consistent with the principles of natural justice.
3. The Respondent is a statutory body and exercises critical public functions which include, *inter alia*, the registration and regulation of the nursing profession. The Court, must therefore in the discharge of its supervisory jurisdiction, consider whether or not the actions undertaken by the Respondent were lawful so as to determine whether the Claimant is entitled to any of the relief sought.
4. The first issue to which the Court addressed its mind was the *locus standi* of the Claimant at the time the instant action was initiated. The Claimant is a

member of the profession and he outlined that the Court's jurisdiction was invoked in three distinct capacities, namely as a citizen, as a member of the profession and as a member of the Respondent body.

5. In relation to his contention that he had concerns as a citizen, the Court noted the Claimant's evidence as contained in paragraphs 15 and 16 of his affidavit. He also referenced the impact which the challenged decisions had on him and this was outlined at paragraph 32 of his affidavit.
6. In **Dumas v The Attorney General of Trinidad and Tobago Civil Appeal No. P218 of 2014**, the right of a citizen to invoke the Court's supervisory jurisdiction so as to ensure that there is compliance with the law, was recognised and endorsed. That right subsists whether or not there is a defined personal interest. *Dumas* (supra) also emphasised the legitimate interest which each citizen, in a participatory democracy, should have and actively exercise in relation to the upholding of the Constitution and adherence to the Rule of Law.
7. An application of the *Dumas* rationale leads the Court to the inevitable conclusion that the Claimant's capacity and locus cannot be questioned.

Procedural History

8. The Court granted leave to apply for Judicial Review on the September 12, 2019 and also granted interim relief in the following terms:
 - (i) That an interim declaration is hereby granted that any decision of the Nursing Council of Trinidad and Tobago made subsequent to the 14th and 24th April 2019 which were decisions made after the expiration of the terms of appointment of the members of the last Council who were appointed on the 15th April 2016 and the 25th April 2016 are null, void

and of no effect. This order shall have effect until the hearing and determination of this matter or until further order.

9. The Court recognised that the instant matter could have a direct and material impact on third parties and invited interested parties to make representations if desired.

10. The interim relief granted by the Court on the 12th September 2019 was varied by the order of the Court dated the 16th September 2019 in the following terms: -
 - (i) The Nursing Personnel Act Chapter 29:53 makes no provision for the holding in office by any members after the expiration of the three-year term which those members were appointed.
 - (ii) No action can be taken for or on behalf of the Council by any of the members who formed part of the former council and whose respective term of appointment ended, until the Council becomes quorate in accordance with Section 4 of the Act or until further order.
 - (iii) The authority of the Ministry to appoint under section 4 of the Act is not contingent upon the election of the nine persons who are to be elected in accordance with section 4(b).

11. By Notice of Application filed the 5th November 2019 the Respondent sought an order under Part 26.2 of the Civil Proceedings Rules 1998 (as amended) that the Fixed Date Claim Form filed the 17th September 2019 be struck out on the ground that: -
 - (i) It is an abuse of the process of the Court,
 - (ii) It discloses no ground for bringing the claim.

12. By the order of the Court dated the 19th November 2019 the Notice of Application filed by the Respondent, which was supported by the Interested Parties, was dismissed.

13. The aforesaid orders of the Court were not appealed.

14. The relevant evidence before this Court comprised:

- i. The affidavit of David Alexander Murphy sworn to and filed the 4th September 2019.
- ii. The affidavits of Russell Salcedo, Chris Craigwell, Franka Olliviere-Andrews, Betty Ann Pilgrim, Karin Pierre, Idi Stewart and Oscar Ocho all sworn to and filed the 9th September 2019.
- iii. Affidavit of Denise Israel-Richardson sworn to and filed the 25th September 2019.
- iv. Affidavit of Letitia Cox, April Ann Wilson and Ainsley Nixon sworn to and filed the 26th September 2019.

15. The Nurses and Midwives Registration Ordinance was enacted in 1960 and was thereafter amended on four subsequent occasions. The final amendment was effected by the enactment of the Nurses and Midwives Registration (Amendment) Act of 2014 (the legislation).

16. The 2014 Amendment changed the title of the legislation to the “Nursing Personnel Act”. Other effected amendments included *inter alia*:

- (i) Amendments to Part 1 Section 3 “Constitution of the Nursing Council of Trinidad and Tobago” to include Section 3A “Functions of the Council” and Section 3B “Powers of the Council.”

- (ii) Amendment to Section 4 “Composition of Council” to include Section 4A “New Council.” Amendment to Section 8 “Remuneration of Officers” to include Section 8A “Registrar.”
- (iii) Amendments to Part 2 Section 16 “Qualifications for admission to the Register of Nurses” to include Section 16A “Provisional Nurse’s or Midwife’s certificate” and Section 16B “Nurse Intern’s Roll.”
- (iv) Amendment to Part 3 Section 21 “Qualification for admission to the Register of Midwives” to include Section 21A “Review by Permanent Secretary.”
- (v) Amendments to Part 5 Section 51 “What constitutes “unauthorised practice” to include Section 51A “Times of emergency” and Section 51B “Visiting nursing personnel”.

The current legislative scheme

17. By the newly enacted section 3A, the Council became empowered to:

- (a) open and maintain the registers or rolls required under this Act;
- (b) register, enrol, certify or licence nursing personnel in accordance with this Act;
- (c) determine, in collaboration with the Minister, the qualifications necessary for registration, enrolment, certification or licensing of nursing personnel;
- (d) set standards for the education and practice of nursing personnel;
- (e) develop a code of ethics and conduct for nursing personnel;
- (f) monitor the adherence to, and investigate breaches of, standards and the code of ethics and conduct;
- (g) promote the interest of the nursing and midwifery professions;

(h) advise the Minister on the requirements for securing continuing competence of the nursing personnel;

(i) advise the Minister with respect to amendments to the law relating to nursing personnel, as it considers necessary; and

(j) perform such other functions as may be conferred on it by this Act or any other written law.

18. Section 3B of the legislation outlines that in the exercise of its functions under section 3A, the Council shall have the power to: -

- (a) register or enrol nursing personnel;
- (b) issue certificates or licences to nursing personnel;
- (c) cancel certificates or revoke licences, where applicable, of nursing personnel;
- (d) suspend or place conditions on the licence to practise;
- (e) set standards for education and practice of nursing and midwifery in consultation with the Accreditation Council of Trinidad and Tobago;
- (f) examine applicants as a prerequisite to initial registration;
- (g) verify the authenticity of certificates and other documents in support of applications under this Act;
- (h) establish such committees as are necessary for the discharge of the functions of the Council; and
- (i) collect fees required to be paid under this Act.

19. Subject to section 4A, the legislation provides that the Council shall be made up of sixteen (16) persons comprised as follows:

(a) six (6) persons appointed by the Minister as follows:

- (i) an Attorney-at-law of not less than five years standing;

(ii) a person with qualifications and experience in nursing administration;

(iii) a person with qualifications and experience as a nursing educator;

(iv) a person registered under this Act, nominated by the Tobago House of Assembly;

(v) a representative of the Ministry; and

(vi) a member of the public who is not an advanced practice nurse, midwife, nurse or nursing assistant; and

(b) nine persons elected as follows:

(i) five nurses elected from among their own number by the persons who are registered as nurses under this Act at the date of the election;

(ii) one person elected from among their own number by the persons who are registered as midwives under this Act at the date of the election;

(iii) two persons elected from among their own number by the persons who are registered as mental health nurses under this Act at the date of the election; and

(iv) one person elected from among their own number by the persons who are enrolled as nursing assistants under this Act at the date of the election;

(c) the Chief Nursing Officer or his nominee who shall be an *ex officio* member.

20. Sections 4A and 5 state that :-

4A (1) Subject to subsection (2), the members of the Council holding office immediately before the commencement of the Nurses and Midwives Registration (Amendment) Act, 2014 shall continue to hold office for six months from the date of such commencement.

(2) The Council shall hold elections for members of a new council under section 4(b) within the six-month period specified under subsection (1).

(3) The Minister shall appoint persons under section 4(a), upon the expiration of the six-month period specified under subsection (1).

5. (1) Members of the Council other than the member shall hold office for three years but shall be eligible for reappointment or re-election.

(2) If the place of a member of the Council becomes vacant before the expiration of his term of office, whether by death, resignation or otherwise, the vacancy for the unexpired portion of his term shall be filled in accordance with the provisions of section 4.

The Issues

21. Having considered the evidence, the relief sought and the legislation, the Court formed the view that the issues to be resolved in this matter are as follow:

- i) Whether the members of the Respondent collectively or individually had the authority to exercise any powers upon the expiration of their respective statutorily determined term.

- ii) Whether the members of the Respondent had the power to hold over in office after the expiration of their respective term by virtue of the Election Rules made under the Nurses and Midwives Registration Ordinance of 1960.
- iii) Whether the decisions which were effected after the expiration of the council members' term post April 19, 2019 are null, void and of no effect.
- iv) Whether the decision at the 807th meeting of the Respondent to remove the Claimant and appoint Chris Craigwell as interim President was valid.

ISSUE I:

22. Having carefully reviewed and considered the legislation, the Court is resolute in its view that the duration of the Council's term was specifically outlined therein. The legislation simply contains no provision which enabled the Council members to hold over in office upon the expiration of their respective statutorily defined term.
23. By virtue of Section 3B of the legislation, a deliberate decision was taken by the Parliament to outline the Respondent's powers. If it was contemplated that there exists a right to 'hold over' in office after the expiration of the defined term and until a new council was formed by virtue of the processes of election and appointment, then such a power ought to have been expressly included.
24. The Respondent is a creature of statute and enjoys no inherent jurisdiction nor is the body vested with the power to do all such acts as are necessary for the carrying out of its functions as defined under section 3A of the legislation.

25. Notably when the legislation was enacted, by virtue of section 4A, Parliament directed its mind to the grant of a power to hold over.
26. Parliament in its wisdom granted to the Council which held office immediately prior to the commencement of the 2014 amendments, the power to continue to hold office for a period of six (6) months from the date of the commencement of the amended Act. When one reads section 4A and section 5, there can be absolutely no doubt as to what Parliament's intention was in relation to the power to hold over. Parliament considered the grant of a power to hold over and limited the grant of that power to one (1) occasion and limited that occasion to the 6 month period which followed immediately after the commencement of the legislation. Evidently, the rationale was to enable the election of a new Council in accordance with the new regime under the 2014 legislation. Parliament's pellucid intent can also be evidenced from the fact that section 5(2) of the Act provides that even in circumstances where a member is unable to complete a term of office and there exists a vacancy, that vacancy can only be filled for the unexpired term of the original member's term of office.
27. The Court has no difficulty in concluding that the law does not provide for the members of Council to 'hold over' in office after the expiration of their respective terms.
28. Accordingly, this Court declares that the Nursing Personnel Act Chapter 29:53 makes no provision for the holding over in office by any member(s) after the expiration of the three year term to which the member(s) was/were appointed or elected.

Issue II:

29. The Court found that the Respondent's argument in relation to the Election Rules was devoid of merit. The Nurses and Midwives Registration Ordinance was repealed and the Election Rules which were outlined therein cannot be used to circumvent the power and authority as outlined under the Nursing Personnel Act Chapter 29:53. Section 27(2) of the Interpretation Act Ch. 3:01 expressly provides that repealed or revoked written law does not continue to have effect after the said repeal or revocation.

Issue III:

30. This Court has found that the elected and appointed members of the Council ceased holding office as at April 19th, 2019. Consequently, the body had no statutory authority to effect any decision post April 19th, 2019.

31. Between April 2019, after the terms of members came to an end and until the date that the Minister appointed new members to the Council, the following decisions were taken:

- a) The Respondent issued 98 letters of registration verification were signed by the Claimant.

- b) The Respondent saw to the registration of the following:-
 - (i) 201 General Nurses (Local Applicants)
 - (ii) 5 General Nurses (Overseas Applicants)
 - (iii) 1 Nursing Assistant (Local Applicant)
 - (iv) 2 Psychiatric Nurses (Overseas Applicants)
 - (v) 7 Midwives (Local Applicants)
 - (vi) 2 foreign applicants as Midwives.

32. The Respondent also administered practical and written examinations for General Nursing Students, Pupil Midwives and Psychiatric Nursing Students. (collectively referred to as the decisions).

33. During the post April 2019 period and until the new members were appointed by the Minister, there was no legal authority vested in the body which purported to undertake the said decisions.

34. Good administration must be premised upon faithful adherence to enabling statutory foundations and decision makers must always act within the boundaries of their remit. In the discharge of constitutional or statutory obligations there can be no tolerance for the arbitrary, unreasonable or irrational exercise of authority. Placed upon the shoulders of decision makers is the heightened obligation to act lawfully and to apply the tenets of natural justice with a concentrated focus upon material and relevant considerations. The Court must always, without fear or favour, adopt a no tolerance approach and should hold decision makers to the highest standards of accountability and transparency. Where decisions are effected without lawful authority such a circumstance must be condemned in the strongest of terms as the effects of such action undermine social order and amounts to the antithesis of good administration. This Court has in the exercise of its supervisory jurisdiction, detected a regrettable, frequent, obvious and unacceptable tendency for far too many decision makers in this Republic to act irrationally, unreasonably or outside the scope of their authority. Such occurrences cannot continue and there has to be a commitment to doing that which is right.

35. Consequently, as the guardian of the rule of law, the Court is mandated to declare that the decisions which were effected were without legal authority are null, void and of no effect.

- 36. The consequences of the aforesaid declaration resonates with the Court but it cannot and will not ignore or sanction the evident disregard for proper administration. During its management of this matter, after the Minister of Health in the discharge of his statutory mandate, acted with alacrity and appointed new members of council in accordance with the legislation. The Court urged the new quorate council to consider a review of the decisions so as to determine if it was minded to ratify same. This call fell on deaf ears and the failure to act, engendered in the Court the uneasy feeling that there was no desire to adopt a non-adversarial approach which had the potential to relieve possible distress to the interested parties and other third parties who were impacted by the decisions. Far too often in this Republic, the best interest of citizens and the proper discharge of statutory obligations are circumvented by insular concerns and focus is not placed upon the issues for resolution but upon the personalities involved. Personal agendas persistently trump propriety, practical implications and the pledge to serve.**
- 37. In the discharge of its supervisory jurisdiction, the Court has an obligation to issue declarations in defence of the Rule of Law and this Court will steadfastly uphold this mandate.**
- 38. Acutely aware and alarmed by the adverse consequences which will follow from its decision, the Court hopes that the quorate council will still act with urgency so as to determine whether it would ratify the decisions, if they do not, then it is hoped that this Court's declaration would catalyse a legislative response so as to remedy any ensuing hardship which may unfold upon those to whom the voided decisions related.**
- 39. The Respondent in its submissions submitted that the doctrine of "de facto officers" should be applied in the circumstances of this case to preserve the validity of the actions taken by the Respondent in the Post-Term Period.**

40. The doctrine of de facto officer is summarised in Wade & Forsyth, Administrative Law, 11th Ed. (2014) at page 238 – 241:

“The acts of the officer or judge may be held to be valid in law even though his appointment is invalid and in truth he has no legal power at all. The logic of annulling all of his acts has to yield to the desirability of upholding them where he has acted in the office under a general supposition of his competence to do so. In such a case he is called an officer or judge de facto, as opposed to an officer or judge de jure. The doctrine is firmly based in the public policy of protecting the public’s confidence in the administration of justice. It is a well-established exception to the ultra vires rule”.

41. The basic rule of the de facto officer doctrine, is that, as a practical matter, the acts of a de facto officer are as valid as the acts of a de jure officer. The correct rationale for the application of this doctrine was accurately set out by Professor Lawrence in his article “The Law of De Facto Officers” Local Government Law Bulletin No. 124 (October 2010). In his article he noted that the difference between the two is that if the status of the officer is directly challenged in an appropriate proceeding, the de jure officer will survive the challenge while the de facto officer will not. Professor Lawrence continued at page 2:

“The procedural element of the doctrine holds that a court will not allow a collateral attack on the status of an apparent officeholder but will hear such a challenge only in a direct action in the nature of quo warranto. That is, if a person is upset with an action taken by an apparent office- holder, the person cannot seek to invalidate the action by attacking the status of the officer holder but must instead find some other reason to challenge the action. Otherwise,

an officeholder's right to the office being held could be litigated and decided in a proceeding in which the officer was not a party".

42. The Court is of the view that this is not the case in the present claim, as the instant matter has been instituted against the Respondent as a statutory body.
43. The reasoning of Professor Lawrence accords with the learning in Professor Wade's treatise in that the application of the doctrine is to prevent collateral attacks on office holders. The cases cited by the Respondent also reveal that the doctrine is employed to prevent a collateral challenge to an office holder.
44. The Claimant submitted that the common law de facto officer doctrine is not applicable in this case. The Claimant also cited a case referred to by the Respondent, **Balmain Association Inc v Planning Administrator (1991) 25 NSWLR 615**, where it was stated that, "The de facto officer doctrine affords no protection to the officer when his or her right to the office in question is challenged by quo warranto proceedings or proceedings of that nature." The phrase "proceedings of that nature" would be akin to judicial review proceedings.
45. This Court holds the view that with the enactment of the **Judicial Review Act Ch. 7:08**, a statutory remedy to address unlawful administrative action was provided for by Parliament. Consequently any common law rule which sought to protect unlawful administrative action or actions and decisions that were effected without legal authority, has no place in current public law jurisprudence.

46. For the reasons which have been outlined, the Court cannot condone, sanction or approve the effecting of important decisions by persons who lacked enabling authority whether inherent or statutory. To apply the doctrine would set a dangerous precedent which may be used to justify unlawful and unauthorised actions and such a situation is detrimental to good administration. The Court also notes that there are viable remedial alternatives which can alleviate the potential distress to affected persons.

47. Parliament has, in the past, intervened in instances where an implementation of the law would have adversely affected third parties. One such instance arose in 2010 with the passage of the Land Tenants (Security of Tenure) (Amendment) Act, 2010 (Act No. 10 of 2010) which sought to amend Section 4(3) of the Land Tenants (Security of Tenure) Act Ch. 59:54.

48. In January 2017 there was an extraordinary sitting in Parliament whereby the Tobago House of Assembly Election (Validation) Bill was presented and later enacted as the Tobago House of Assembly Election (Validation) Act, 2017 (Act No. 1 of 2017). The purpose of this extraordinary sitting was to validate the January 23 date for the Tobago House of Assembly (THA) elections because errors were made by the Office of the President and the Elections and Boundaries Commission.

49. Similarly, in 2019 Parliament enacted the Licensing Committee (Validation) Act, 2019 (Act No. 14 of 2019) which was described in its long title as an Act to validate the constitution of licensing committees established under section 5 of the Liquor Licences Act, Chap. 84:10 as well as the grant, transfer and renewal of licences and all other acts and omissions by licensing committees and for related matters. In 2014 by virtue of the Miscellaneous Provisions (Licensing Committee) Act, 2014 (Act No. 6 of 2014), the Liquor Licences Act was amended and Section 5 thereof which provided for magistrates be a part

of the licensing committee for each licensing district was repealed and replaced by a new Section 5 which provided for the constitution of a new licensing committee which did not comprise the magistrate. Magistrates however continued to sit on the committees in violation of the 2014 amendment.

50. During the period between the enactment of the 2014 Act and the 2019 Act, there were over 14,000 licenses granted under the Liquor Licenses Act, these grants did not accord with the 2014 amendment. Consequently, Parliament by virtue of Section 4 of the 2019 Validation Act, validated the improperly comprised licensing committees which were constituted between July 21st 2014 and the commencement of the 2019 Act.

Issue IV:

51. The Claimant has sought specific relief in relation to the Respondent's decision to remove him as the Respondent's President at the 807th meeting.

52. The "Council" had no authority to execute any decision at the 807th meeting. At the time the said meeting was convened, none of the "council members" including the Claimant were valid members of council and they, individually or collectively, had no authority under the Nursing Personnel Act. The Claimant's position that the appointment of Mr. Craigwell caused him to be subjected to odium is quite frankly absurd. In August 2019 the Claimant was no longer the president of The Nursing Council of Trinidad and Tobago. He however evidently acted as if he was still the President although post April 19th 2019, no such authority existed.

53. There is no dispute that an advertisement outlining the Claimant's "ouster" was placed in the daily newspapers. At the time same was effected, the

Claimant held no office and ironically, the words that he was not “authorised to conduct business on behalf of the Council” was a statement of fact.

54. It is not lost upon the Court that the Claimant participated in the illegal decision making processes which unfolded post April 2019 and the need for public vindication simply does not arise.

55. All the decisions effected post April 2019 are invalid and can have no enduring legal effect. Accordingly, there exists no justified basis upon which the Court could grant the relief sought at items (ii), (iii) and (iv) of the Fixed Date Claim Form.

56. During the management of this matter, it was revealed that there may have been some uncertainty as to the conditions which should operate before the Minister exercised his authority under Section 4 of the Act. For the avoidance of doubt, this Court formally declares that under the legislation, the authority of the Minister to appoint members to the council is not contingent upon the election of the 9 persons as outlined under Section 4(b) of the Act.

57. This matter has instilled a significant degree of disquiet in the Court’s mind. It is inconceivable that elections have not been held in a timely manner especially when one has regard to the critical function that is discharged by the Respondent. Elections must be held as a matter of urgency. The proper and efficient functioning of the health sector is heavily dependent upon the statutory obligations discharged by the Respondent and the public interest has to be protected. It is also troubling that persons who act unlawfully or in breach of their statutory mandate, only seem to recognise that fact ,when they no longer hold the said position. Hindsight it is said is like 20/20 vision and while that may be so, courts must ensure that the zealous discharge of participatory democratic rights, is also where necessary, accompanied by the

recognition of complicity in relation to the voice that is calling for the Court's intervention. Such situations can and should be addressed by appropriate cost orders. Public interest advocates should not benefit from the review of their own unlawful, irrational or unreasonable decisions. The instant claimant was actively involved in the unlawful and unauthorised effecting of the decisions and ought to have sought the legal advice which he subsequently received and which presumably led to the institution of the instant proceedings, before he oversaw the processes which purported to effect the unlawful and unauthorised post April 2019 decisions.

58. For the reasons outlined the Court orders as follow:

- (i) The Court declares that all the decisions effected by or on behalf of the Nursing Council of Trinidad and Tobago which were made subsequent to the 19th April 2019 upon the expiration of the terms of appointment of the members of the last Council, are null, void and of no effect.
- (ii) The Court declares that the Nursing Council of Trinidad and Tobago had no power to hold over in office after the expiration of its term.
- (iii) The Court declares that the authority of the Minister to appoint members to the council is not contingent upon the election of the 9 persons as outlined under Section 4(b) of the Nursing Personnel Act Ch. 29:53.
- (iv) The Court declares that subsequent to 19th April 2019, there was no Council in existence and the Claimant thereafter was no longer President of the Nursing Council of Trinidad and Tobago and he was not affected by the decision made at the 807th meeting to appoint Mr Craigwell as Interim President.

(v) The Registrar of The Supreme Court is directed as a matter of urgency to forward a copy of this Judgment to The Minister of Health.

59. There shall be no order as to costs.

FRANK SEEPERSAD
JUDGE