

**REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**CV 2017-04541**

**AN APPEAL AGAINST A DECISION OF THE DENTAL COUNCIL OF  
TRINIDAD AND TOBAGO UNDER SECTION 37 OF THE DENTAL  
PROFESSION ACT, CH: 29:54**

**BETWEEN**

**DR. ROSSINA WHITNEY RICHARDS-ROBINSON**

**Claimant/Appellant**

**AND**

**THE DENTAL COUNCIL OF TRINIDAD AND TOBAGO**

**Defendant/Respondent**

**Before the Honourable Mme. Justice Jacqueline Wilson**

**Appearances:**

Mr. Brent Winter for the Claimant/Appellant

Mr. Anthony Vieira instructed by Mr. Nigel Greaves for the Defendant/Respondent

**DECISION**

1. This is an appeal by the Appellant, Dr. Rossina Whitney Richards-Robinson, against the decision of the Respondent, the Dental Council of Trinidad and Tobago, refusing the Appellant's application for full registration as a dentist under the Dental Profession Act, Ch 29:54 (the Act).

2. The Appellant seeks a declaration that the Respondent's decision was erroneous in law, irrational and/or unfair and an order remitting the matter to the Respondent with the opinion of the court for rehearing and determination. The Appellant also seeks damages for the loss and damage sustained as a result of the refusal of full registration.
3. The Respondent avers that the Appellant's appeal is frivolous, vexatious and an abuse of the process of the Court and discloses no grounds for bringing a claim. In summary, the Respondent's case is that prior to the amendment of the Schedule to the Dental Profession Act,<sup>1</sup> the Respondent had no legal authority to grant full registration as a dentist to the Appellant, and that the amendment, which took effect subsequent to the refusal of her application, served to resolve the Appellant's concerns.

### **The Registration Process**

4. The Dental Profession Act provides for the regulation of the practice of dentistry in Trinidad and Tobago. The Act establishes the Dental Board of Trinidad and Tobago as a body corporate<sup>2</sup> whose members comprise persons who are registered as dentists or enrolled as dental auxiliaries.<sup>3</sup> The Board is managed by a Council of ten members (the Respondent herein) whose Chairman and Vice-Chairman are the President and Vice-President, respectively, of the Board.<sup>4</sup>
5. The Council exercises regulatory functions on behalf of the Board. In addition to the registration of dentists and the enrolment of dental auxiliaries, the regulatory functions include determining and reviewing the professional qualifications and experience of applicants for registration or enrolment.

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<sup>1</sup> The Dental Profession (Amendment to the Schedule) Order 2017, approved by the House of Representatives on 12 January 2018 and by the Senate on 30 January 2018

<sup>2</sup> Section 3

<sup>3</sup> Section 4

<sup>4</sup> Section 9

6. In order to be registered as a dentist, a person must possess the required qualifications, satisfy the Council that he is of good character and pay the prescribed fee.<sup>5</sup> The required qualifications are a diploma, degree or other certification granted by an educational institution listed in the Schedule to the Act (a listed institution)<sup>6</sup> or by an educational institution whose candidates are recognized by the Council as meeting the required standards for the grant of full registration (a recognized institution).<sup>7</sup>
7. The Schedule lists a number of educational institutions, arranged by jurisdiction. Prior to the amendment of the Schedule, the institutions were limited to four jurisdictions - Trinidad and Tobago, the United States of America, Canada and the United Kingdom. The single listed institution under the rubric of “Trinidad and Tobago” is “The University of the West Indies, Faculty of Medical Sciences – Dental School.” The Schedule was amended to include, under the rubric of “Jamaica,” “The University of the West Indies, Faculty of Medical Sciences – Dental School.”
8. Notwithstanding that the Trinidad and Tobago Dental School is a listed institution under the Schedule, persons holding a diploma therefrom are required to first obtain temporary registration as a dentist<sup>8</sup> and to successfully complete a one-year period of vocational training at the said institution before full registration is granted.<sup>9</sup> The Trinidad and Tobago Dental School is the only institution listed in the Schedule for which this path to full registration is prescribed.
9. Where an applicant for registration holds a professional qualification that is not issued by a listed institution or a recognized institution, the Council may grant temporary registration for a specified period, subject to such terms and conditions as it considers appropriate, with full registration being granted where the applicant performs satisfactorily during the period

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<sup>5</sup> Section 5(1)

<sup>6</sup> Section 5(1)(a)

<sup>7</sup> Section 2

<sup>8</sup> Section 5(1A)(a)

<sup>9</sup> Section 5(1A)(b)

of temporary registration.<sup>10</sup> Alternatively, the Council may grant full registration where the applicant passes an examination conducted by a Board of Examiners.<sup>11</sup>

### **The Application for Registration**

10. The Appellant holds a degree of Doctor of Dental Surgery issued by the University of the West Indies in 2015 and attended the School of Dentistry at the Mona Campus in Jamaica. In 2016 the Appellant was granted temporary registration by the Respondent to complete a one-year vocational training programme administered by the School of Dentistry at the St. Augustine Campus in Trinidad. The Appellant successfully completed the training programme in June 2017.
11. On 17 October 2017 the Appellant applied to the Respondent for full registration as a dentist. The Appellant's application was submitted under cover of a letter by her Attorney-at-law. This unorthodox approach was presumably taken in circumstances where the outcome of the application may have been foreshadowed by the Appellant, having regard to previous communication by the Respondent concerning perceived difficulties arising from the then omission of the School of Dentistry of the Mona Campus from the list of educational institutions in the Schedule to the Act.
12. On 14 November 2017 the Respondent responded to the application. The Respondent stated that the Appellant was not entitled to full registration as she did not hold a degree by a listed institution. The Respondent explained that in the absence of such a degree, the Appellant was required to pass an examination conducted by the Board of Examiners and that her successful completion of the vocational training programme was not a substitute for the examination.
13. The Respondent stated that the requirements for full registration were recorded in its letter of 6 May 2016 issued to students of the School of Dentistry of the Mona Campus when the Appellant was a student at that institution and were further explained to her when she

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<sup>10</sup> Sections 15(a) and 16

<sup>11</sup> Section 15(b)

applied for temporary registration to undertake the vocational training programme at the St. Augustine Campus.

14. The Respondent stated further that while graduates of School of Dentistry at the St. Augustine Campus were eligible for full registration upon the successful completion of the internship programme, graduates of the School of Dentistry at the Mona Campus were not so eligible, as the latter was not a listed institution. The Respondent stated that the Appellant had persisted in undertaking the training programme notwithstanding that it was made clear to her that it was not a pre-requisite for full registration and that she would be required to pass the prescribed examination to be so registered.

### **The Appeal**

15. On 15 December 2017 the Appellant filed an appeal against the Respondent's decision, pursuant to section 37 of the Act. The Appellant contended that she was entitled to full registration as a dentist and that the Respondent's refusal of her application was an erroneous interpretation of the Act.
16. The Appellant maintained that the University of the West Indies was a regional institution with four campuses whose degrees did not carry the designation of any particular campus but were issued under the aegis of the University. The Appellant contended that the rubric of "TRINIDAD AND TOBAGO" under which the University was listed in the Schedule to the Act was mere surplusage aimed only at identifying the jurisdiction in which the School of Dentistry was located at the time the Act was amended in 1998 to include the listed institutions.<sup>12</sup>
17. The Appellant asserted that the School of Dentistry at the Mona Campus commenced its dental programme in 2010 and could not have been included in the 1998 amendment. Therefore, the Act should be given a purposive interpretation to include the said institution,

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<sup>12</sup> The Dental Profession (Amendment) Act No. 31 of 1998, which came into operation on 26 October 1998.

in keeping with section 10 of the Interpretation Act<sup>13</sup> and Article 46 of the Revised Treaty of Chaguanas under which Trinidad and Tobago has “committed to the free movement of university graduates and their right to seek employment in the Caribbean Single Market and Economy member states ‘*without harassment or the imposition of impediments.*’ ”

18. On 1 February 2018, the Respondent filed a defence to the Appellant’s appeal. The Respondent asserted that, notwithstanding that the University of the West Indies was a regional institution, each campus was subject to distinct arrangements regarding its governing legal framework, funding and curricula, including the procedures for the full registration of dentists.
19. The Respondent acknowledged that, as a result of limitations imposed by the Schedule to the Act, graduates of some of the best international dental schools were required to sit qualifying examinations in order to be granted full registration in Trinidad and Tobago. The Respondent advocated that legislative amendments were necessary to bring the existing arrangements in line with international best practice.
20. The Respondent averred that having regard to the existing legal impediments substantial efforts had been made to guide and assist students of the School of Dentistry at the Mona Campus, including the Appellant, in understanding the legal requirements for the grant of full registration by writing to them personally and meeting with them.
21. The Respondent asserted that the recent amendment to the Schedule designating the School of Dentistry, Mona Campus, as a listed institution removed the legal impediment that had previously prevented the grant of full registration to the Appellant and that the Appellant had since been granted full registration thereby rendering her appeal entirely academic.
22. In the circumstances, the Respondent contended that the appeal should be struck out as frivolous, vexatious and an abuse of the process of the Court.

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<sup>13</sup> Section 10 provides that every written law shall be construed as always speaking and if anything is expressed in the present tense it shall be applied to the circumstances as they occur so that effect may be given to its true spirit, intent and meaning.

## Decision and Reasons

23. The Appellant's appeal is brought pursuant to section 37 of the Act which, among other things, provides a right of appeal to a person aggrieved by the refusal of the Respondent to register him as a dentist. Part 60 of the Civil Proceedings Rules 1998 (the CPR) sets out the procedures that govern the hearing of the appeal. The appeal is by way of rehearing;<sup>14</sup> the court may give any decision or make any order which ought to have been made by the Respondent<sup>15</sup> or such further or other order as the case may require<sup>16</sup> or remit the matter with the opinion of the court for rehearing and determination by the Respondent.<sup>17</sup>
24. As stated earlier, the Appellant seeks a declaration that the Respondent's refusal to grant full registration as a dentist in or around 14 November 2017 was erroneous in law, irrational and/or unfair. The Appellant also seeks an order remitting the matter to the Respondent with the opinion of the court for rehearing and determination and damages for the loss sustained by the refusal of full registration.
25. There is an abundance of authority to the effect that the public law courts would not intervene where the grant of relief would serve no practical purpose: *R (Edwards) v Environment Agency* [2009] 1 All ER 57; *Balram Singh v Public Service Commission* [2014] UKPC 26; *R (on the application of C and another) v Nottingham County Council* [2010] EWCA Civ 790.
26. *R (Edwards) v Environment Agency* [2009] 1 All ER 57 involved an application to quash a permit issued to a company by the Environment Agency for the operation of a cement plant. The permit covered a new proposal to use shredded tyres as fuel. A local resident challenged the Agency's decision to grant the permit on the basis that the Agency, in failing to disclose information about the predicted effect of emissions from the plant, acted in breach of its statutory and common law duty of consultation. The House of Lords

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<sup>14</sup> CPR 60.8(1)

<sup>15</sup> CPR 60.8(4)(a)

<sup>16</sup> CPR 60.8(4)(b)

<sup>17</sup> CPR 60.8(4)(c)

dismissed the application holding that the matter had been completely overtaken by events in circumstances where actual emissions from the plant had since been monitored and reports confirmed that no breaches of the relevant environmental quality standard had taken place. The House of Lords held that it would be pointless to quash the permit simply to enable the public to be consulted on out-of-date data, and a waste of time and resources, both for the company and the agency, to go through another process of application, consultation and decision.

27. In *Balram Singh v Public Service Commission [2014] UKPC 26* the Appellant, a Motor Vehicle Officer I, alleged that he was wrongly passed over for appointment to the acting post of Motor Vehicle Inspector I contrary to the general rule of seniority imposed by regulation 26 of the Public Service Commission Regulations. Following the commencement of proceedings, the Appellant was appointed to act as Motor Vehicle Inspector I. The Appellant did not seek financial or other substantive relief, but only a declaration that the Commission acted unlawfully. The Privy Council held that:

“...it is not the practice of the Board to grant declarations in the abstract or for no practical purpose. There is no information as to the motives of the appellant in continuing to pursue proceedings after December 2007 when he received what was presumably his primary aim. It is said on his behalf that there is a public interest in ensuring the lawful administration of the Regulations. In general of course that is so. But there is no evidence that this aspect of the Regulations has given rise to more general problems, nor of support for the appellant from any union or other representative body. In such circumstances it should not be assumed that that even a successful appellant will be entitled to a bare declaration unless it can be shown to have some practical purpose for him or others, nor that he will necessarily be entitled to an order for costs.”

28. Similarly, in *R (on the application of C and another) v Nottingham City Council [2010] EWCA Civ 790* the Court of Appeal refused to grant permission to apply for judicial review

to Appellants who sought to challenge a local authority's failure to treat them as "former relevant children" in circumstances where the Authority had offered the Appellants the complete package of services they were seeking to obtain. The Court of Appeal held that the Appellants had obtained in practical terms all of the remedies they required and that the litigation served no useful purpose.

29. The above principles, adumbrated in public law cases, apply with equal force to this appeal. Having regard to the Appellant's full registration as a dentist, the appeal has been completely overtaken by events and is devoid of any practical significance.
30. While the academic status of a matter is not an absolute barrier to relief, the courts' intervention in such cases is premised upon a need to clarify the law on an issue of general public importance, even if the need for a remedy has passed and there is no live issue between the parties. One such case is where a claim raises a discrete point of law and a large number of similar claims are likely to need to be resolved in the near future: *Balram Singh v Public Service Commission (supra)*; *Clive Lewis, Judicial Remedies in Public Law, 5 edn., para 7-051*.
31. There is nothing in the Appellant's case to demonstrate that her appeal falls within the exceptional circumstances described above. In addition, the Appellant's claim for damages, although pleaded, is entirely lacking in particularity.
32. I am of the opinion that there is no justifiable basis to proceed with the Appellant's appeal, which is now entirely academic or theoretical, and that there is no discrete point of law requiring resolution or clarification.
33. It appears, however, that the Appellant's appeal may well have served as the impetus that led to the amendment of the Schedule for which the Respondent had been advocating, the defence having been issued immediately upon the amendment coming in effect.

34. In all the circumstances, the Appellant's appeal is dismissed. There would be no order as to costs.

Dated this 4<sup>th</sup> day of May 2018

Jacqueline Wilson  
Judge