

**IN THE HIGH COURT OF TANZANIA  
(MAIN REGISTRY)  
AT DAR ES SALAAM**

**MISCELLANEOUS CIVIL APPLICATION NO. 7 OF 2022**

**PETER LUTASHOBYA BANDIO.....APPLICANT**

**VERSUS**

**THE ATTORNEY GENERAL.....RESPONDENT**

**RULING**

25 April & 2 June, 2022

**MGETTA, J:**

After the dismissal of the application for leave on 22/2/2022 filed by the present applicant against Tanzania Institute of Education and the Attorney General, Mr. Peter Lutashobya Bandio, in Misc. Cause No. 25 of 2021 for being time barred, he has made endeavor to apply for extension of time to enable him come back before this court equipped with an application for leave to apply for judicial review against the President of the United Republic of Tanzania, who, according to law is sued through the Attorney General. Through a legal service of Mr. Richard Clement, the learned advocate, on 02/3/2022 the applicant filed a chamber summons supported by his affidavit under the provision of **section 14 (1) and (2) of the Law of Limitation Act, Cap. 89** and **Rule 17 of the Law Reform (Fatal Accident and Miscellaneous Provisions) (Judicial Review Procedure and Fees) Rules, GN No.324 of 2014.**

When the application was called on for hearing, Mr. Richard Clement, the learned advocate appeared for the applicant. He adopted the applicant's affidavit and stated that time to file application for leave expired on 22/1/2022 counting from 23/7/2021 the date the final decision was made by the President. He advanced the reason for the delay that from 22/1/2022 to 22/2/2022, the applicant was prosecuting Misc. Cause No. 25 of 2021 which according to him was instituted against a wrong party, that is the Tanzania Institute of Education, instead of the President of the United Republic of Tanzania. From 22/2/2022 to 25/2/2022 (three days) he was preparing the documents for this application. He insisted that he was vigilant to pursue his right. To substantiate all his arguments, he referred this court to the case of **Vodacom Tanzania Public Limited Co. Versus Commissioner General, Tanzania Revenue Authority;** Civil Application No.101/ 20 of 2021 (CA) (Dodoma) (unreported) at page 10 where Her Ladyship of the Court of Appeal observed that:

*I am of the view that the said days (9 or even 10 days) are reasonable since they were spent preparing and filing the current application.*

On his part, Mr. Stanley Kalokola, the learned state attorney for the respondent adopted the counter affidavit and added that because the

application for leave was dismissed for being time barred, the applicant could not have come back before this court; instead he ought to file an application for review or appeal to the Court of Appeal against the dismissal order. On my part, I see this application on a different angle that since the applicant intends to file application against a different respondent and since the present application is for the extension of time, I find it tenable before this court. The proposal by Mr kalokola that the applicant could have filed application for Review or an appeal to the Court of Appeal against the dismissal order is untenable. Hence the cases he cited become inapplicable.

Having heard the rival submission of the parties, it is not in dispute that the final decision of the President of the United Republic of Tanzania was delivered on 23/7/2021. Then on 16<sup>th</sup> December, 2021, the applicant filed a Miscellaneous Cause No.25 of 2021 seeking for leave to apply for judicial review against the Tanzania Institute of Education and the Attorney General in order to impugn the decision of the Tanzania Institute of Education which was delivered on 18/10/2018. The said application was dismissed on 22/2/2022 for being time barred. Hence this application for leave intending to challenge the final decision of the President which was delivered on 23/7/2021.

From the above series of events, Miscellaneous Cause No.25 of 2021 was filed within prescribed time of the law of six months, however it was found out of time due to the fact that the applicant intended challenge the decision of Tanzania Institute of Education which was not final. The said decision was appealed to the Public Service Commission which upheld the decision of Tanzania Institute of Education. Then he lodged an appeal to the President of the United Republic of Tanzania who delivered final decision on 23/7/2021. In the dismissed application, the applicant neither intended to challenge the decision of the Public Service Commission nor that of the President.

With that view, I concur with the submission of the Mr. Richard Clement that the applicant was delayed while pursuing an application which had defects. And by referring to section 21(2) of the Law of Limitation Act, the delay amount to a good cause to warrant this court to exercise its discretion to extend time. See: the case of **Stephen B.K Mhauka vs District Executive Director, Morogoro District Council & Others**; Misc. Civil Application 104 of 2017 [2018] TZHC 103 (15 May 2018).

At the end, this being application for extension of time, I find it proper to invoke the discretion of this court and proceed to give the



applicant extension of fourteen (14) days from today within which to file an application for leave to apply for judicial review.

It is so ordered.

**Dated at Dar es Salaam** this 2<sup>nd</sup> day of June, 2022.



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**J.S. MGETTA**  
**JUDGE**

**COURT:** This ruling is delivered today this 2<sup>nd</sup> day of June, 2022 in the presence of Mr. Richard Clement, the learned advocate for the applicant and in the presence of Mr. George Magambo, Ms Pili Magongo and Ms Lightness Msuya, all learned state attorneys for respondent.

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**J.S.MGETTA**  
**JUDGE**  
**02/6/2022**