

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

AT DAR ES SALAAM

MISCELLANEOUS CIVIL CAUSE NO. 593 OF 2019

(Arising from EWURA's Compliance Order No. 02 -03-2019 dated 19th March 2019)

ENERGY AND WATER UTILITIES REGULATORY

AUTHORITY("EWURA").....APPLICANT

VERSUS

ZHANG ZHI XIN.....RESPONDENT

RULING

A.R. MRUMA,J.

This is an application for a notice to show cause why the Respondent Zhang Zhi Xin should not be committed to prison for disobedience of a lawful compliance order No. 02-03-2019 of the Applicant the Energy and Water utilities Regulatory Authority (EWURA) with reference number BA. 308/369/480/64/2 dated 19th March 2019.

The application is brought under the provisions of section 39(2), (4) and (6) of the Energy and Water Utilities Authority Act [cap 414], Order XXXVII Rule 2(2) sections 68(c) and 95 of the Civil Procedure Code and as is the practice it is supported by an affidavit and in this case the supporting affidavit is affirmed by Eng. Shabani Seleman Technical Manager, Petroleum of the Applicant.

The Respondent Zhang Zhi Xin has vehemently resisted the application. He sworn a counter – affidavit in which he contends that there has been several developments to comply with the regulatory requirements.

I have read the application, affidavit and counter affidavits and the submissions of the parties. From the facts stated the Respondent is the owner and operator of the Waste Oil Recycling Facility located at Visaga Zegereni Industrial area in Kibaha District Coast Region.

On 2nd March 2019 the Applicant sent inspectors to the Respondent's recycling facility. After conducting some inspections they found that the operations were being conducted in violation of the law and in the manner that was detrimental to health, safety and environmental requirements.

The Respondent was then issued with compliance Orders requiring his facility inter alia to immediately stop its operations. It is the Applicant's contention that the Respondent did not comply.

In his submissions in reply the Respondent contended that there was a compliance order as alleged by the Applicant but he paid Tshs. 5,000,000/= to the Applicant and negotiations were going on with the Applicant to fulfil the requirements.

By admitting that there are ongoing negotiations **"to fulfil requirements"**. The Respondents is confessing that he has not fully complied with the orders of the Authority. Sub- section (2) of section 35 of the Energy and Water utilities Regulatory Authority (EWURA) Act, provides that:

"Subject to the provisions of subsection (1) the orders of the Authority shall be enforceable as orders of the High Court."

One of the ways of executing orders of the High Court is as provided for under Rule 30 (2) of Order XX1 of the Civil Procedure Code which provides

*"Where the party against whom a decree for specific performance or **for an injunction** has been passed is a corporation the decree may be enforced by.....or with the leave of the court, by the detention as civil prisoners of the directors or other principal officers thereof."*

Under sub – rule (1) of Rule 35 of the same Order, Court has discretionary powers to permit judgment debtor to show cause against detention in prison.

On the above analysis of the facts and the laws, I am convinced that the Respondent did not comply with the Orders given by the Authority. I therefore order that the Respondent Zhang Zhix Xin appear before this Court on the date to be fixed hereinafter to show cause why he should not be sent to prison.



A handwritten signature in black ink, appearing to read "A. R. Mruma".

A. R. Mruma

Judge

23/2/2022