

BENJAMIN JENGWA
and
GEORGE MUSHIPE
and
AUGUSTINE MANYAU
versus
ZIMBABWE TEACHERS ASSOCIATION (ZIMTA)

HIGH COURT OF ZIMBABWE
MATANDA-MOYO J.
HARARE, 23 September, 7 and 17 October, 2013

Ms P. Chaparira, for applicants
A. Muchadehama, for respondent

Civil Application

MATANDA-MOYO J: Counsel for the applicants withdrew the application after conceding that the order sought had been overtaken by events. The application sought to bar the respondent from conducting Zimbabwe Teachers Association (ZIMTA) national elections which ran from 22 – 25 April 2005 in Victoria Falls. The application was heard on 17 October 2013 well after such elections had taken place. It was incompetent for the court to bar elections which had already been conducted. Thus the concession by applicants counsel was properly made.

Counsel for the respondent submitted that this was a case where the court should express its displeasure by awarding costs on a higher scale. I am fully persuaded by such argument considering the manner the application has been handled. Applicants unsuccessfully attempted to bar the conducting of the elections through an urgent chamber application number HC 2766/13. The matter was held not to be urgent. Applicants proceeded to file an ordinary court application seeking the same remedy on 17 April 2013. Respondent filed its opposing affidavit on 3 May 2013 after the elections were held. Such facts were brought to the attention of the applicants. However applicants persisted with the application by filing an answering affidavit and subsequently heads of argument. Applicants even argued the matter when it was apparent from the onset that the order sought had been overtaken by events.

Accordingly it is ordered as follows:-

The application is withdrawn with costs on a higher scale.

Munangati & Associates – Applicants’ legal practitioners

Messrs Mbidzo, Muchadehama & Makoni – respondent’s legal practitioners