

IN THE SUPREME COURT OF BELIZE, A.D. 2002

ACTION NO. NO. 61

EX PARTE BACONGO

SHARON MATOLA
ELIGIORO SHO
BELIZE ECOTOURISM ASSOCIATION

Applicants for leave for Judicial Review

v

ATTORNEY GENERAL

BEFORE the Honourable Abdulai Conteh, Chief Justice.

Mrs. Marilyn Williams for Applicants together with Mr. Dean Barrow S.C.
Mr. Denys Barrow S.C. with Mr. Elson Kaseke, Solicitor General for Respondents
together with Ms. Minnet Haffiz.
Mr. Michael Young S.C. for BECOL.

RULING

The forensic joust that has engaged the court for the greater part of the day tellingly in my view demonstrates the need to have a more structured and rationalized system for dealing with this type of application before me.

In England, from whence we draw guidance in **Order 53** of its **Courts Rules** to decide applications such as this, now contained in Schedule 1 of its Civil Procedure Rules, a practice direction was necessitated because of the inundation of applications that the then relatively new judicial review application procedure gave flood to in 1978. Thus, a 20-minute time allocation for the Applicant and 10 minutes in reply by the Respondent was arrived at.

Before too long, if the time has not already come and gone, we may need a similar arrangement in this jurisdiction.

In this application before me however, very important and serious issues have been raised and canvassed in support and in opposition to the application.

In the first place, important issues as to the compliance vel non with the Environmental Protection (Environmental Impact Assessment) Regulations in Statutory Instrument No. 107 of 1995 have been raised and averred in the affidavit of Ms. Candy Gonzalez of BACONGO in support of the application.

Secondly, there is a dispute or at least a contention by the Respondent as to whether there was a decision or one which could be reviewed by the Court and if so by whom and to what exactly it related to.

Thirdly, there has also been raised and canvassed the issue of possible prejudice to the interests of others such as the Government of Belize and the second Respondent BECOL. It is noteworthy to state that the learned attorney for the latter Mr. Michael Young S.C. perhaps for strategic reasons, conceded the right to be heard at this initial stage but reserved the right to argue and make submissions at a later stage, that is, the full inter-partes hearing.

For all these reasons, I think that it would, in the interest of justice and the wider public interest and concern in securing compliance with the Environmental laws and Regulations which are, I must think and believe, meant for the protection of the Belizean patrimony, fair and reasonable if I exercised my discretion to give leave to the Applicants.

They have in my estimation established an arguable case which should be allowed to be tested at a full inter-partes hearing.

Accordingly, leave is granted to the Applicants to seek judicial review for certiorari and declaration of the decision of NEAC of 9th November 2001.

I exercise this discretion fortified by the consideration that the Applicants are not insisting on and have not asked this Court for any interim measures by way of temporary cessation of any proceedings consequent on the decision they are seeking to impugn, until the hearing and determination of their application.

A. O. CONTEH
Chief Justice

DATED: 28th February, 2002.