

CONSTITUTIONAL COURT OF SEYCHELLES

Reportable

[2019] **SCCC** 1

MA 15/2019 and MA 16/2019

(Arising in CP 04/2018)

In the matter between

JEAN JOSEPH MELLIE

(rep. by Alexia Amesbury)

Petitioner

and

GOVERNMENT OF SEYCHELLES

ATTORNEY GENERAL

(rep. by Brigitte Confait)

Respondents

Neutral Citation: *Jean Joseph Mellie v Government of Seychelles and Or* MA 15/2019 and MA 16/2019 [2019] **SCCC** 1 29 January 2019.

Before: Burhan J, Dodin, Vidot JJ

Summary: **Application to include ombudsmen as a party rejected. Application to tender report of ombudsmen allowed.**

Heard: 29 January 2019

Delivered: 29 January 2019

RULING

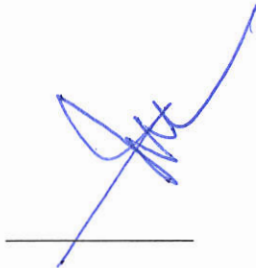
BURHAN J (DODIN, VIDOT JJ concurring)

- [1] This Ruling applies to both MA15 of 2019 and MA16 of 2019. In MA 15 of 2019 Learned Counsel for the Petitioner has made an application for leave to join the Ombudsman as a party pursuant to Schedule 5 Section 1 (1)(d) of the Constitution. We have considered the

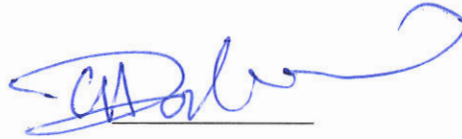
submissions of Learned Counsel for the Applicant and Learned Counsel for the Respondents. Firstly we are of the view that the application to join the ombudsman as a party is belated as the pleadings have closed and the matter is for hearing today.

- [2] Further Rule 3(2) of the Constitutional Court (Application Contravention, Enforcement or Interpretation of the Constitution) Rules states “all persons against whom any relief is sought in a petition under Sub Rule 1 shall be made a Respondent”. This is in line with Section 109 of the Seychelles Code of Civil Procedure. We find that no relief has been sought against the ombudsman in the said application.
- [3] Further on a reading of Schedule 5 (1)(d), it is clear the Section states that it is the Ombudsman who should seek the leave of Court to become a party to the proceedings. The Section does not refer to the Ombudsman being made a party by a litigant. In this regard we are in agreement with Learned Counsel for the Respondent. For the above reasons we reject the application of Learned Counsel for the Petitioner to include the Ombudsman as a party to the proceedings.
- [4] In respect of MA 16 of 2019 which is an application to file a further Affidavit on behalf of Jean Joseph Mellie even though Learned Counsel for the Respondent has objected to the said application, it is clear what Learned Counsel intends to file, on the facts set out in the Affidavit, is a report of the Ombudsman.
- [5] We are of the view that the report would assist Court in coming to its findings and therefore we grant permission for Learned Counsel of the Petitioner to file the said report and the Affidavit. Learned Counsel for the Respondents however is permitted to reply to this Affidavit if the need arises at the main hearing.


Signed, dated and delivered at Ile du Port on 29 January 2019



Burhan J



Dodin J



Vidot J