

IN THE SUPREME COURT OF SEYCHELLES

---

Reportable

[2021] SCSC 752  
MC70/2021  
(arising in MA228/2021)

In the matter between

**LAURA MAULEON GARCIA**  
*(rep. by Mr. Frank Elizabeth)*

**PETITIONER**

and

**BARBARONS BEACH HOTEL MHG LIMITED**  
*(Ms. Evelyne Almeida)*

**1<sup>ST</sup> RESPONDENT**

**MINISTER OF INTERNAL AFFIARS**  
*(Ms. Evelyne Almeida)*

**2<sup>ND</sup> RESPONDENT**

**ATTORNEY GENERAL**  
*(Ms. Evelyne Almeida)*

**3<sup>RD</sup> RESPONDENT**

---

**Neutral Citation:** Laura Garcia vs Barbarons Beach Hotel & Or (MC70/2021) [2021] SCSC 752  
**Before:** G Dodin  
**Heard:**  
**Delivered:** 15 November 2021

---

**ORDER**

---

**Dodin J**

[1] This is an application for:

1. An order allowing the Applicant to remain in Seychelles until her case MED/W/0/2020/188 is disposed of including APPEAL/2021/06.
2. An order stopping and preventing the 2<sup>nd</sup> Respondent and the Immigration Department from issuing the Applicant with a

prohibited immigrant notice and to forcibly remove her from the Republic of Seychelles until the hearing and determination of her employment case or further order of this Court.

[2] The Applicant was employed at the Avani, Barbarons, Mahe. Her employment was terminated on grounds of redundancy on the 5<sup>th</sup> August 2020. However to date she still has not received her final compensation as approved by the Competent Officer. The Applicant had to file her cases for mediation and appeal stated above which are still pending. In the meantime, the Applicant's permit to stay in Seychelles expired and on the 21<sup>st</sup> August, 2021, the Applicant was issued with a Prohibited Immigration Notice requesting the Applicant to leave the country within 72 hours. The Applicant was not however forcibly removed from Seychelles and she applied for an injunction to prevent her removal until the completion of the employment matters. The Court granted an interim injunction by Order dated 7<sup>th</sup> September 2021.

[3] In reply to the application for injunction the 2<sup>nd</sup> Respondent submitted as per an affidavit in reply that:

1. That the Applicant has already been issued with a prohibited immigrant notice prior to the order of the Court in MA 288/2021 Arising in MC70/2021 ordering not to remove the Applicant out of the jurisdiction of Seychelles until the determination of the case MC70/2021 or until any further order of the Court. The Prohibited Immigrant notice is herewith annexed was Annexure R/1.
2. That in light of the prohibited immigrant notice being issued on the Applicant, the Applicant should first make written representations to the Minister against the said notice as per Section 21(1) of the Immigration Decree Cap 93.
3. That the Applicant has the option to seek for a temporary permit for a prohibited immigrant as per Section 18 of the Immigration Decree Cap 93 in order to allow the Applicant to complete her case

MED/W/0/2020/188 and APPEAL/2021/06 provided that the Applicant has means to sustain herself and family members who depend on her. The 2<sup>nd</sup> Respondent submits that the Applicant has not yet applied for a temporary permit under Section 18 of the Act.

4. That ... only upon unsuccessful representations to the Minister can the Applicant, by way of judicial review, challenge the decision of the Minister. Such representations to the Minister have not been made and the proper statutory procedures have not been followed by the Applicant.

[4] After hearing both counsel in this case and after having considered the position of the Applicant in case MED/W/0/2020/188 and APPEAL/2021/06 I find that the application in MA228/2021 arising in MC70/2021 whilst well founded are premature. I agree with the Respondent that the Applicant had to:

(1) Apply for extension of permit upon the pending expiration of her GOP.

(2) Appeal to the Minister if such extension was denied: and

(3) Seek judicial review if the appeal failed.

[5] On that basis as expressed in the case of *Briganya Narayanan vs Department of Immigration MA 133/2007 arising in MA134/2021*, this application cannot be sustained.

[6] However, on humanitarian grounds and considering that the Applicant has proceedings to attend to before the Employment Ministry and her presence is required until termination I order that she is not deported from the jurisdiction and she is allowed to remain to conclude the matters before the Ministry of Employment.


[7] Nevertheless the Applicant in order to regularise her stay must apply for a temporary permit as per Section 18 of the Immigration Decree. Only if she is not granted a permit and after appeal she can seek judicial review before this Court.

[8] A copy of this order shall be served on the PS Employment for the benefit of the Employment Tribunal and the Minister responsible for the Immigration shall also be notified of this order.

[9] A copy to be served on Immigration Department.

[10] I make no order for cost.

Signed, dated and delivered at Ile du Port on 15 November 2021.

  
**G Dodin**  
**Judge**

