

IN THE HIGH COURT OF FIJI
AT LAUTOKA
WESTERN DIVISION
CIVIL JURISDICTION

Civil Action No. HBM 37 of 2017

BETWEEN : PRANIL SHARMA APPLICANT
AND : THE ATTORNEY GENERAL OF FIJI 1ST RESPONDENT
AND : THE COMMISSIONER OF CORRECTIONS 2ND RESPONDENT
AND : THE SOLICITOR GENERAL OF FIJI 3RD RESPONDENT

Counsel : Applicant in person
(Ms) Olivie Manuliza Faktaufon for Attorney-
General's Chambers

Date of hearing : Monday ,19th March, 2018
Date of ruling : Friday , 20th April, 2018

R U L I N G

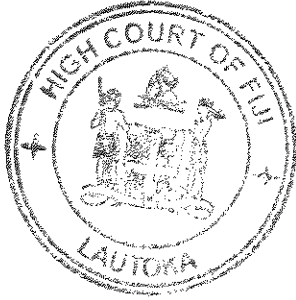
- (1.) The applicant applies for constitutional redress pursuant to Section 44(1) of the Constitution of the Republic of Fiji 2013 (the Constitution) by way of Notice of Motion and Affidavit.
- (2.) The applicant claims a declaration that human rights and fundamental freedom guaranteed to him by Chapter 2 of the Constitution had been contravened and seeks redress from the High Court under Section 44 (1) of the Constitution.

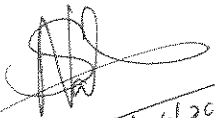
- (3.) His complaint is that he was subjected to inhuman or degrading treatment by officers at the Nasinu Correction Centre. Moreover, in his affidavit, he deposes to having been mistreated and sexually abused by officers at the Nasinu Correction Centre.
- (4.) I note with concern that the date and the time of these alleged breaches of human rights are unspecified.
- (5.) The application was served on the Attorney-General and the Commissioner of Corrections. The Attorney-General and the Commissioner of Corrections were represented by Counsel.
- (6.) At the outset, the Attorney-General raised a preliminary objection. It was argued that the application is time- barred and moved to have it dismissed in *limine*.
- (7.) I heard full argument of the Attorney - General on the preliminary objection. The applicant did not argue against the preliminary objection.
- (8.) As earlier mentioned, the exact date and the time on which the alleged breaches arose is unspecified. The applicant claims that he was seen by the "Deputy Commissioner of Corrections" on 20th November 2016 with regard to those allegations. It can be assumed from the above that the alleged breaches of human rights took place sometime prior to 20th November 2016.
- (9.) **The High Court, (Constitutional Redress Rules, 2015) Rule 3(2) provides:**

"An application under paragraph (1) must not be admitted or entertained after 60 days from the date when the matter at issue first arose unless a judge finds there are exceptional circumstances and that is just to hear the application outside that period."
- (10.) As I can tell from the record, the application for constitutional redress was filed on 25th September 2017. The sixty (60) days expired on 20th January, 2017 and therefore the application is made out of time. **The applicant has not shown any exceptional circumstances for this Court to act upon his belated application.**
- (11.) Therefore, I uphold the preliminary objection raised by the Attorney-General.

ORDERS

- (1.) The application for constitutional redress is dismissed.
- (2.) There be no order for costs.




..... 20/04/2018
Jude Nanayakkara
Judge

**At Lautoka ,
Friday, 20th April 2018**