

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CIVIL JURISDICTION

Judicial Review No: HBJ 01 of 2014

IN THE MATTER of an Application
for leave to Apply for Judicial Review
pursuant to Order 53 Rule 3, High Court
Rules 1988.

AND IN THE MATTER of a decision of the
Western Division Liquor Licensing
Authority in respect of the decisions dated
the 31st of December 2013 made by the
under mentioned Respondent which affects
the Applicant.

BETWEEN: **THE STATE**

AND: **WESTERN DIVISION LIQUOR LICENSING AUTHORITY**
RESPONDENT

AND: **GANPATI** and **PARWATI** both of 33 Drasa Avenue, Lautoka

EX-PARTE: **AVITESH NARAYAN SHARMA** of 33 Drasa Avenue, Lautoka,
Businessman, trading as Venus 3 Mini Mart.
APPLICANT

Counsel: Mr N. Nand for the Applicant
Mr Pickering J. for the first Respondent
Mr Pillay for the second Respondent

Date of Hearing: 09 April 2014
Date of Ruling 12 February 2020

R U L I N G

1. The Applicant, Avitesh Narayan Sharma ("**Sharma**") seeks leave to issue Judicial Review proceedings against the Western Division Liquor Licensing Authority ("**Authority**"); His application was filed on 07 January 2014.

2. Sharma, apparently, used to rent some shop space from the interested parties, Ganpati and Parwati.
3. From that shop space, Sharma operated a small retail store. He also sold liquor from that store.
4. On 13 December 2013, Sharma wrote to the Authority to seek a renewal of his liquor licence.
5. By letter dated 31 December 2013, the Secretary to the Authority wrote to Sharma to advise that Sharma's application had been declined.
6. The reason for declining Sharma's application was said to be due to Sharma's landlord not consenting to the operation of his business and also partly because Sharma had not submitted the required documentation.
7. It was that decision for which Sharma seeks leave for Judicial Review.
8. Section 23 of the Liquor Act provides:

Appeal from decision of an Authority

23. Any applicant or objector who is aggrieved by the decision of an Authority may, if dissatisfied with such decision as being erroneous in point of law, apply to the Board in writing within 21 days from the date of notification to him or her of the decision.

9. The Applicant did not exhaust that avenue of applying to the Board within 21 days of the decision in question.
10. The Respondent has cited **Mani v Chand** [2012] FJHC 1411; HBC41.2012 (5 November 2012) at page 11 paragraph 12 where the Court cited **R (Bancoult) v Secretary of State for the Foreign & Cwth Office** [2001] Q.B. 1067 (ca) where Laws LJ said:

"..... juridical review is a legal recourse of last resort; and a claimant must exhaust any proper alternative remedy open to him before the judicial review court will consider his case"

(see also Suresh Charran & Ors v Shah & Ors HBJ 0014/94; Tony Udesb Bidesi,
Judicial Review No. HBJ 0020 of 1997; Amrit Lal v The Senior Education
Officer, Nadroga & Navosa & Ors HBJ 001 of 2005).

11. I adopt the above principle and accordingly, refuse leave.
12. I also award costs in favour of the Respondent which I summarily assess at \$500-00 (five hundred dollars only).



Anare Tuilevuka
JUDGE
Lautoka