

IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION

Miscellaneous Action No. 01 of 2022

SHAZRAN ABDUL LATEEF of 5
Albert Lee Place, Suva, in the Republic
of Fiji, Solicitor.

AND

**IN THE MATTER OF THE
PRACTITIONERS ACT 2009** for an
application to Appeal the
decision(s)/actions(s) of the Registrar
under Section 46.

BETWEEN: **SHAZRAN ABDUL LATEEF** of 5 Albert Lee Place, Suva in the
Republic of Fiji, Solicitor.

APPELLANT

AND: **THE REGISTRAR** High Court of Fiji, Government Buildings, Suva, in
his capacity as the Regulator pursuant to the Legal Practitioners Act
2009.

1ST RESPONDENT

AND: **ATTORNEY GENERAL OF FIJI** Suvavou House, Suva, as the
representative of the State, the employer of the First Respondent.

2nd RESPONDENT

Before: Hon. Mr. Justice Deepthi Amaratunga

Counsel: **No Appearance for** the Appellant
Ms J. Solimailagi for the Respondents

Date of Judgment: 1.12.2025

JUDGMENT

INTRODUCTION

- [1] This is a matter where Appellant did not appear for the hearing and for that reason this appeal is struck off. There is no requirement to provide reasons. Considering circumstances reasons are given.
- [2] Without prejudice to that this judgment is and reasons given considering the importance of the issues involved and matters raise in the Originating Motion in Appeal Grounds.
- [3] Appellant has instituted an action pursuant to section 46 of the legal Practitioners Act 2009 and Order 55 Rules 1, 3, 4(1) (a) and Rules 6, and 7 of the High Court Rules 1988 seeking various orders and declarations against the First Respondent, by way of an Originating Motion and Affidavit in Support, both filed on 31 .1. 2022 .
- [4] First Respondent had filed an Affidavits in Opposition on 17.7.2022 and also on 30.8.2022. The later affidavit in opposition was relating an interlocutory 'Notice of Motion for Discovery' filed by Appellant. Respondent relied on the facts stated in both affidavits .

Reliefs Sought by the Appellant

- [5] The relief sought by the Appellant in his Originating Motion are as follows:
- a. "That it be ordered that the First Respondent's decision(s)/ action(s) of refusing to uplift the cancellation of the Appellant's Practicing Certificate effective 2.4.1 2019, be set aside.
 - b. That it be ordered that the alleged evidentiary statement to two (2) officers from the legal Practitioners Unit relied upon by the First Respondent, in forming the basis of refusal for such decision/ action in order 1 above be set aside.
 - c. That it be ordered that the preliminary decision/ action of the First Respondent to unilaterally and indefinitely suspend the Appellant's Practicing Certificate in March 2019 be set aside.
 - d. That it be ordered that the simultaneous decision/ action of the First Respondent to suspend then direct "stop operations" of the law firm Lateef and Lateef Lawyers issued alongside the suspension in order (3) above be set aside;
 - e. That it be ordered that the preliminary decision/action of the First Respondent to cancel the Appellant's Practicing Certificate in MARCG 2019 set aside on the basis of Part A(V) above and by virtue of order(s) 1 and 2 herein;
 - f. That it be ordered that the Appellant's Practicing Certificate remains valid, and therefore, the Appellant be granted a Practicing Certificate subject to any such conditions(s) that this Honourable Court may deem fair, just and expedient;
 - g. That it be declared that the Appellant's rights recognize and protected under public law, the Constitution of Fiji 2013, and the Legal Practitioners Act 2009

were infringed as a result of the unlawful decision(s)/action(s) of the First Respondent, as a statutory functionary, in conducting the entire proceedings, to be accorded to the Appellant as of duty;

- h. That there be direction and/or an opinion from this Honorable Court that the Appellant be entitled to be compensated in damaged in a court of competent jurisdiction as section 46 of the Legal Practitioners Act 2009 providing the right to appeal nevertheless, restricts the Appellant from making a claim for damages or costs based on the breach as sought in Order(s) 1, 2, 3, 4 and 5 above, as section 46 of the Legal Practitioners Act 2009 governing the right to appeal the decision(s)/action(s) of refusal, neglect, suspension and cancellation of a Practicing Certificate by the First Respondent, excludes this Honourable Court from awarding damages or costs against the First Respondent/ State and that this restriction is limited to this Court only as it is a Court of inherent jurisdiction but predominantly only has a supervisory role. Such restriction would not apply to other Courts;
- i. Order for costs on an indemnity basis; and
- j. Any further order(s) that this Honourable Court deems fair, just, and expedient in this matter. “

[6] For the abovementioned orders sought following Appeal Grounds relied;

Grounds of Appeal

- i. “With reference to Order 1 sought below, the First Respondent erred in law , when he refused to uplift the cancellation of the Appellant’s PC notwithstanding the Appellant’s due compliance to the First Respondent’s request in the show cause notice to provide factors establishing that the Appellant is a “fit and proper person” in light of public interest” which were the only factors request by the first Respondent and duly provided by the Appellant, with a voluntary submission of a medical report from a well-regard medical practitioners which stated that the Appellant has no mental or physically illness which was more than sufficient to establish that the Appellant is a “fit and proper person” to hold a PC. The reason to refuse the uplifting of cancellation was an irrelevant consideration, and not relevant to the purpose of the matter as requested in the notice to show cause. 1
- ii. With reference to Order 2, sought below, the First Respondent’s reason to refuse the uplifting of the cancellation is based on tainted evidence not put to the Appellant and raises issues of conflict of interest within the First Respondent’s office as such evidence was obtained from two LPU officers directly involved with his investigation. Further, the reason used to refuse the uplifting was surely considered when the First Respondent suspended and cancelled the appellant PC as the statement dates back to August 2018, that is, prior to the suspension and cancellation notice. Such reason for refusing the decision therefore cannot be considered as a basis for refusing, and is therefore unfair, and an abuse of process, which statement should be completely disregarded henceforth.

- iii. With reference to Order 3, sought below, the First Respondent erred in law when he indefinitely suspended the PC of the Appellant based on the grounds of “pending criminal charges and public interest” as he does not have powers to suspend on these grounds because they are not grounds stipulated in Section(s) 44(1)(a-j); 45(1); and 33(1)(d)(i) if the LPA 09, and furthermore, after such decision/ action to suspend the PC, the First Respondent then failed to allow due process to the Appellant by commencing disciplinary proceedings against the Appellant I the Independent Legal Service Commission (hereinafter referred to as “Commission”) pursuant to Section 45(1)(a) and as required being a statutory duty of the First Respondent under Section 109(1)(c) for a charge of professional misconduct under Section 82(1)(b).
- iv. With reference to Order 4 sought below, the First Respondent erred in law in the preliminary decision/ action in issuing a directive to stop operation of the Firm as the First Respondent has no powers under the LPA 09 to make such directives and that only the Commission has this power pursuant to Section 121(1)(b) of the LPA 09 to do so. Further, as the notice was a suspension only, meant that the Appellant’s PC still remained valid and the fact there was another existing partner in the Firm, such Notice should not have been issued.
- v. With reference to Order 5 sought below, the First Respondent erred in law when he cancelled the PC of the Appellant on the grounds of “pending criminal charges, and the issued being a matter of public interest as he has no powers to do so because the charges and/or the conduct of the Appellant do not fall under any of the grounds of cancellation in Section 44(1)(a-j) of the LPA 09, and furthermore, the federal matrix of the charges did not lend itself to what one may constitute professional misconduct as per the LPA 09.
- vi. With reference to Order(s) 7 and 8, sought below, Section 46 of the LPA 09 provides the right to appeal however, is restrictive and prejudicial to the Appellant as it excludes a claim for damages against the First Respondent/ State to be made in this Honourable Court, however excludes/ restricts this Court from awarding damages and costs against the First Respondent and/ or State which arises from the breach of the Appellant’s rights that are recognized and protected under public law and private law, in particular the supreme of the land being the Constitution of Fiji. “

FACTS

[7]

Following facts are not disputed;

- a. The Appellant was a Legal Practitioner and Principal of the firm Lateef and Lateef Lawyers .(the Firm)
- b. In 2019, the Appellant was issued a practicing certificate by the Legal Practitioner Unit (‘LPU’) with effect from 4 .2. 2019 to 29 .2. 2020 (‘Practicing Certificate’);
- c. The Practicing Certificate was cancelled by first Respondent by letter dated 2 .4. 2019;

- d. A subsequent letter dated 4 .4 2019 was addressed to and served on Zarin Ranbir Lateef in relation to the operation of the Firm and matters pertaining to the Firms' Trust Account held at the ANZ and BSP banks;
- e. Letter of 2 .4. 2019 cancelled the Appellant's Practicing Certificate with reasons while Appellant was in remand while facing criminal charges at the material time including any irregularity of the Firm's Trust Accounts;
- f. Letter dated 6 .12. 2019, of the Appellant informed that that he was released on bail on 12.4.2019 from remand and in two cases where he was charged for theft were withdrawn on 20.6.2019.
- g. Letter of 30.01. 2020, the Appellant wrote to first Respondent seeking for the removal of alleged 'suspension' of his Practicing Certificates and there was no valid practicing certificate at that time to suspend.
- h. Again by letter dated 28.10. 2020, the Appellant wrote to first Respondent requesting for 'suspension' for Practicing Certificate to be uplifted pending determination of charges.
- i. Letter of 4.2. 2021, the Appellant wrote to first Respondent seeking urgent response to his letters dated 6 .12. 2019 and 28 .10. 2020;
- j. Letter of 16 February 2021, first Respondent replied to the Appellant's letters advising that the reconsidering of his practicing in process.
- k. On 23.3. 2021, first Respondent issued a 'Show Cause Notice'; regarding six criminal charges pending trial and determination. It further stated
'..the charges you face are serious in nature hence in light of the public interest , you are hereby required to show cause in writing within twenty one (21) days of receipt of this Notice that you are a fit and proper to be issued with a practicing Certificate.
If your fail to submit an explanation by this stipulated date a decision would be taken without further reference to you.'
- l. There was no reply from Appellant , within stipulated time or even after the time. There was no evidence of such reply, but Appellant had produced an unsigned draft and state that he had replied and first Respondent denied this fact .
- m. 3 .6. 2021, the Appellant wrote to the First Respondent, informing that the show cause notice had been responded to, however, no reply was attached to said letter.
- n. Letter dated 8 .12. .2021, the First Respondent wrote to the Appellant advising the Appellant of the investigation against the conduct of the Appellant and the Appellant's fitness to practice

THE LAW

[8] Section 42(1) of Legal Practitioners Act 2009 states:

"Every person admitted to practice as a practitioner shall before commencing practice and thereafter, while continuing on practice, during the month of January in each and every year apply for and obtain from the Registrar a certificate.

.certifying that that person is entitled to practice as a legal practitioner according to the laws of Fiji..."

[9] Section 44(1)(i) of Legal Practitioners Act 2009 :
"The Registrar may refuse to issue a practicing certificate, and the Registrar may cancel a practicing certificate issued pursuant to this Part if the applicant for or the holder of such certificate as the case may be

(a)

(i) is by reason of infirmity, injury or illness (mental or physical), unfit to carry on and conduct his or her practice and it is in the interests of clients or the public that the certificate should not be issued, or should be cancelled as the case may be".

[10] Section 46 of Legal Practitioners Act 2009 states:
"Where the Registrar refuses or neglects to issue a certificate or the Registrar cancels or suspends a certificate, or grants a certificate subject to conditions, the applicant or the holder, as the case may be, **may apply to the court or a Judge** thereof who may make such order in the matter, **excluding any order for damages** or costs against the Registrar or the State"

[11] So the jurisdiction conferred under Section 46 of Legal Practitioners Act 2009 cannot grant damages or costs to Appellant. So orders sought by Appellant for compensation, damages or costs cannot be granted in terms of Section 46 of Section 46 of Legal Practitioners Act 2009.

[12] Section 48(1) and (2) of Legal Practitioners Act 2009 states:

"(1) Every practicing certificate shall be deemed to expire on the last(2) A practicing certificate issued other than pursuant to an application for renewal, shall take effect from the day the certificate is issued by the Registrar. A practicing certificate issued pursuant to an application for renewal shall take effect from the first day of March in each year"

[13] Accordingly, when the Originating Motion was filed on 31.1.2022 there was no Practicing Certificate issued to Appellant for years ending February, 2021, and February 2022. So there was no issue of suspension of Appellant's Practicing Certificate. So this application should have been dismissed in limine by the court at that time. This matter was referred to me later in 2023.

[14] Section 100(1) of the Legal Practitioners Act 2009 states:
"The Registrar may investigate the conduct of a legal practitioner or a law firm or any employee or agent of any practitioner or any law firm, if the Registrar has reason to believe that the conduct may amount to **professional misconduct** or **unsatisfactory professional conduct**, even though no complaint has been made about the conduct..."

[15] First Respondent had power under above provision to 'investigate' any unsatisfactory professional conduct or professional misconduct. Repeated arrest of Appellant relating to Illicit Drugs Act 2004 , is a grave concern for the legal profession and first Respondent has power to investigate such allegations. It is reasonable to investigate Appellant.

APPLICATION

Appellant's Practicing Certificate was cancelled

[16] First Respondent's Affidavit in Opposition of Motion for Discovery filed on 30.8. 2022 sets out at Annexure 'AC3' the practicing certificates issued to the Appellant by the LPU prior to 2019.

[17] In 2019, the Appellant was issued the Practicing Certificate with effect from 4 .2. 2019 to 29 .2. 2020. This Practicing Certificate was cancelled by the first Respondent via letter dated **2 .4. 2019** (Annexed as AP2 to affidavit in opposition filed by second Respondent which provides the grounds for the cancellation as follows:

"Take note that your Practicing Certificate valid until the 29.2. 2020 is now **cancelled with immediate effect.**

This is a result of your pending criminal matters before the Suva Magistrates Court and the fact that you are currently in remand.

Whilst we note that the charges are at preliminary stage, in the public interest as well as to protect you against any irregularity in the Trust Account of Lateef & Lateef Lawyers whilst you are in remand, the Chief Registrar has invoked his powers to cancel your practicing certificate." (emphasis added)

[18] So there was no suspension, as alleged by Appellant in his affidavit in support filed on 31.1.2022, but cancellation of practicing certificate of Defendant.

[19] Grounds of appeal are stated in the 'Originating Motion' and they are briefly dealt with below

Ground 1

Plaintiff's main allegation is that he was fit and proper person despite he had admitted to Vinit Prasad and Avneel Chand who were under first Registrar, that he was using a banned substance "Ice" on **numerous occasions** and had denied an addict to that.

It is clear in the interest of public and specially legal fraternity's dignity and confidence was already lost by constant arrest and remanding of Appellant in relation to criminal offences relating Illicit Drugs Control Act 2004 and he had admitted use , though denied he was an addict.

By his admissions to officers of LPU ,Appellant had allegedly admitted using "Ice" which is an offence in terms of Section 5 of Illicit Drugs Control Act 2004, irrespective of whether he was an addict or nor.

“5 Any person who, without lawful authority –

(a) Acquires, supplies, possesses, produces, manufactures, cultivates, uses or administers an illicit drug; or”

[20] It is also noted Affidavit in opposition filed on 30.8.2022 by second Respondent for interlocutory application for discovery annexed an communication by second Respondent on 8.12.2021 which had informed the Appellant of his admission of use of ‘Ice’ and there was no reply or denial provided in the affidavit in reply . There was no affidavit in reply filed by Appellant for this affidavit in opposition. So this allegation remained not denied by Appellant in this proceedings. There was no evidence of that communication being denied by Appellant prior to the institution of this action.

[21] In such an instance first Respondent had acted reasonably with relevant consideration.

Appeal Ground II

[22] Appeal Ground II refers to first Respondent relying on ‘tainted evidence’ of Appellant’s admission of using an Illicit drug to officers of LPU who had investigated the same. There is no inadmissibility of such evidence by first Respondent for the decision to cancel practicing certificate.

Grounds of Appeal III

[23] This refers to suspension of Practicing Certificate and there was no suspension but cancellation as stated earlier in this judgment.

Ground of Appeal IV

[24] Appellant contended that the first Respondent had no powers to cancel the Practicing Certificate claiming that the reasons for the cancellation of the Practicing Certificate do not fall within the provisions of section 44(1) of Legal Practitioners Act 2009

[25] Section 44(1)(i) of Legal Practitioners Act 2009 states;

“the Registrar may cancel a practicing certificate issued pursuant to this Part if the applicant for or the holder of such certificate as the case may be —

(a)

(J) is by reason of **infirmary**, injury or illness (mental or physical), **unfit to carry on and conduct his or her practice** and it is **in the interests of clients or the public that the certificate should not be issued**, or should be cancelled as the case may be”. (emphasis is mine)

- [26] It is not disputed that Appellant being charged several times under Illicit Drugs Control Act 2004 and Appellant's admission that he had "used "Ice" on numerous occasions" . It is in the public interest to cancel such admitted user though he had denied the was addicted to the use of such drugs.
- [27] Appellant was charged with numerous criminal offences relating to illicit drugs and was remanded several occasions. It is in the interest of public to cancel Appellant's practice certificate.
- [28] Reasons for cancellation is clearly stated in the 2 .4. 2019 Letter of first Respondent.
- [29] Frist Respondent acted within his powers under section 41 of Legal Practitioner Act 2009 in issuing the 2 .4. 2019 Letter and cancelling the Appellant's Practicing Certificate given the circumstances at the material time and the Appellant is colossally misguided to state otherwise.

Investigations on the conduct of the Appellant

- [30] Section 100(1) of the Legal Practitioners Act 2009 state;

"The Registrar may investigate the conduct of a legal practitioner or a law firm or any employee or agent of any practitioner or any law firm, if the Registrar has reason to believe that the conduct may amount to professional misconduct or unsatisfactory professional conduct, even though no complaint has been made about the conduct..."

- [31] In terms of of section 100(1) of Legal Practitioners Act 2009 , the first Respondent is empowered to investigate the conduct of a legal practitioner, an investigation was carried out by the office of the first Respondent following the Appellant's admission of consumption of illicit drugs to the officers of first Respondent.

- [32] Section 48(1) and (2) of Legal Practitioners Act 2009 sates :

"(1) Every practicing certificate shall be deemed to expire on the last day of February in each year.

(2) A practicing certificate issued other than pursuant to an application for a renewal, shall take effect from the day the certificate is issued by the Registrar. A practicing certificate issued pursuant to an application for renewal shall take effect from the first day of March in each year"

- [33] Accordingly, Appellants Practicing Certificate was cancelled on 2.04.2019 and upon its expiration no application made before this action was filed. So this application is superfluous.

Appeal Ground V

[34] This ground was already dealt with and the first Respondent had power to cancel practicing certificate of Appellant in terms of provisions under Legal Practitioners Act 2009 .

Appeal Ground VI

[35] Appellant's Practicing Certificate had expired in 2020, the Appellant should have applied for a renewal of the same , this was not done before institution of this action. So no order can be made to issue an expired certificate in February 2020.

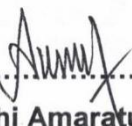
CONCLUSION

[36] Accordingly, all the appeal grounds are without merit and Appellant's Originating Motion is struck off. No order for costs.

FINAL ORDER;

- a. Originating Motion filed on 31.1.2022 is struck off.
- b. No costs.




.....
Deepthi Amaratunga
Judge

At Suva this 01st day of December, 2025.

Solicitors

The Attorney-General's chambers