

**ANDREW HANAPEO GABRIEL NORI -V- REGISTRAR OF HIGH COURT**

High Court of Solomon Islands  
(Muria, CJ.)

Civil Case No. 015 of 2001

Hearing: 1 March 2001

Ruling: 1 March 2001

A. Nori in person Applicant

→ A. Radclyffe (amis curae)

**Reasons for Judgment**

**MURIA CJ:** On 1 March 2001 I quashed the decision of the learned Registrar of the High Court who refused to issue a Practising Certificate to the applicant who is a legal practitioner. The learned Registrar's decision was communicated to the applicant by a letter dated 12 February 2001.

The background to this case can be gleaned from the following scenario. The applicant, Andrew Hanaipeo Gabriel Nori, had been admitted to practise as a Barrister and Solicitor of the High Court of Solomon Islands and had been in private practice since 1982. As required by the *Legal Practitioners (Admission) Rules*, a legal practitioner must possess an annual practising certificate. The application for the issue of such certificate should be made in the month of January each year. For this year, 2001, the applicant applied for a practising certificate in January paying the requisite fee. By a letter dated the 12 February 2001, the Registrar refused to issue a practising certificate to the applicant. The main reason being the "direct involvement [by the applicant] with the MEF and events in June 2000" which in the view of the Registrar, was a breach of the *Legal Practitioners (Professional Conduct) Rules* and further, it was breach of section 4(a)(iv) of the Legal Practitioners Act.

The applicant replied to the Registrar's letter on the same date raising a challenge to the legality of the Registrar's decision and suggested that the Registrar's reconsidered his decision.

On 13 February 2001 the Registrar in response to the applicant's letter of 12 February 2001, maintained his decision of refusal to issue a practising certificate to the applicant, stating that the discretion given to the Registrar under Rule 16(1)(e) of *Legal Practitioners (Admission) Rules* confer power on him to refuse to issue a certificate subject to the power of the Court to intervene. To further reiterate the basis for the refusal to issue a practising certificate to the applicant, the Registrar went on the state:

"I have not catalogued all the incidents that I believe were, still are, prejudicial to the administration of justice but I will say that your direct involvement in an armed insurrection where Police Officers, in particular, broke their oaths of allegiance must, by its very nature, be evidence of conduct which is prejudicial to the administration of justice. If you believe I am wrong then your remedy is to apply to the Court and I will, of course I must, abide by any order or direction that the Court makes".

The underlying reason for refusing to grant the applicant a practising certificate was his association and or involvement with the Malaita Eagle Force (MEF) which was an unlawful society of militants who joined up with a good number of members of police force in what was called a "joint operation." This is common knowledge and the Registrar was only repeating the obvious background to his decision to refuse Mr. Nori a practising certificate. That is the only relevance of that background to these proceedings.

Having mentioned that brief background scenario, I now turn to the issues raised in these proceedings. There are two issues that need only be considered in this case. The first is, whether the Registrar exceeded his power when he refused to issue a practising certificate to the applicant in the present and the second is, whether the applicant had been afforded the rule of natural justice.

The provision on which the Registrar based his decision is Rule 16(1)(e) of the *Legal Practitioners (Admission) Rules, 1996* which provides as follows:

“On receipt of such an application and of the fee prescribed in the Second Schedule when appropriate, the Registrar shall issue a practising certificate unless he has cause to believe the declaration on Form 6 of the First Schedule is not correct in my particular. Where for any reason the Registrar declines to issue a certificate he shall within fourteen days certify to the applicant and the Court his belief and the reason therefore.”

That provision empowers the Registrar to refuse to issue Practising Certificate to a legal practitioner if the legal practitioner fails to comply with the requirements of Rule 16. There is no scope under that rule for the Registrar to refuse to issue a Certificate of Practise for any other reasons. Thus for the Registrar to refuse to issue a practising certificate to the applicant for his involvement with MEF would be outside the scope of his power under Rule 16. Any refusal of a practising certificate to a legal practitioner outside the provision of Rule 16(1) must be regarded as a disciplinary measure which can only be imposed following disciplinary proceedings conducted by the disciplinary committee subject to the overall power of the CJ under the Act and the Rules. Of course if that has happened and the Registrar had notice of such disciplinary actions, he would be entitled to use that as one reason for refusing a certificate. The declaration in Form 6 would reveal it.

The other reason for the finding that the Registrar made an error of law in refusing to issue practising certificate to the applicant is the obvious breach of the rule of natural justice. The applicant was not given the opportunity to respond to the allegation raised by the Registrar regarding his involvement in the MEF. However, this point no longer matters as the Registrar did not have the power in the first place to refuse to issue

practising certificate in the manner done. So I do not need to go into this issue.

For the reasons stated, I find that the Registrar made an error of law when he refused to issue practising certificate to the applicant. I therefore order that the Registrar issue a practising certificate to the applicant provided he complies with Rule 16 of the *Legal Practitioners (Admission) Rules*.

No order for costs.

(Sir John Muria)  
CHIEF JUSTICE

*[Reasons published on 4 July 2001]*