

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

Judicial Review
Case No. 24/1747 SC/JUDR

BETWEEN: Letlet August
*Respondent to this application,
claimant in the substantive matter*

AND: Josiah Kuatpen
*1st Applicant, 1st defendant in the
substantive matter*

AND:
Attorney General
*2nd Applicant, 2nd defendant in the
substantive matter*

Date of Hearing: *22nd day of July, 2024*

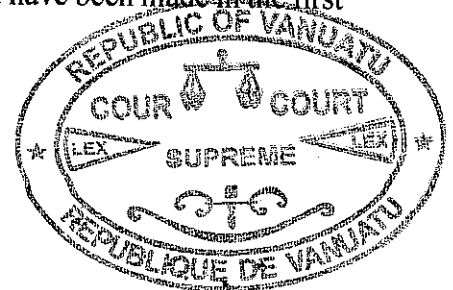
Date of Decision: *29th day of August, 2024*

Before: *Justice E.P Goldsbrough*

In Attendance: *Blake, G. for the Claimant
Loughman, T. for the Defendants*

DECISION

1. The applicants, the first and second defendants in the substantive action, filed, on 28 June 2024, an application to vary interim relief granted on 11 June 2024. It was set down for hearing on 4 July 2024, and after that, a timetable was set for filing written submissions. The last of those submissions was filed as ordered on 25 July 2024. This is the decision on the application.
2. The application to vary is dismissed. It is not an application to vary the interim relief but to effectively set that interim relief aside. An application to vary is not an opportunity for a rehearing. Most, if not all, of the material put forward in sworn statements and submissions from the applicants go to whether the order should have been made in the first

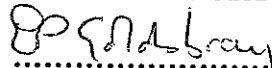


instance. It asserts, as was asserted at the original hearing, that the decision of the 1st defendant cannot be the subject of any challenge. That position remains unchanged.

3. The application to vary is supported by sworn statements filed by the first defendant on 28 June 2024, 11 July 2024, and 19 July 2024. Little of the material in the statements pertains to the application to vary. It is concerned in the main with why the order should not have been made in the first place. The same has to be said of submissions made by counsel for the applicants.
4. The very same view is expressed in a newspaper article published at the instance of the 1st defendant at a time when he had not complied with the interim order. Whilst not determinative of this application, it is unusual for a person in contempt of a court order to publish such a self-justification in the press without explaining how an order of the Supreme Court had restrained his actions.
5. The amended claim for judicial review, filed on 25 July 2024, should be heard without further delay. In the meantime, compliance with the interim relief, particularly on the part of the 1st defendant, is required.
6. The application to vary is dismissed. The 1st and 2nd applicants are to pay the costs of and incidental to the application to the respondent of the application, to be agreed or taxed. On 22 July 2024, when the urgent application for an urgent hearing was withdrawn, a wasted costs order was made in favour of the respondent to the application which was also to be agreed or taxed.

DATED at Port Vila this 29th day of August 2024.

BY THE COURT



E.P Goldsbrough

Judge of the Supreme Court

