



**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
BEFORE HON. JUSTICE S. B BELGORE
20THNOVEMBER 2024**

SUIT NO: CV/ 2488/2024

BETWEEN

CAROLINE LADIDI ANZE-BISHOPCLAIMANT

AND

- 1. INCORPORATED TRUSTEES OF THE
NIGERIAN BAR ASSOCIATION.**
- 2. OLUSEUN ABIMBOLA, SAN**
CHAIRMAN, ELECTORAL COMMITTEE OF THE
NIGERIAN BAR ASSOCIATION.
- 3. HUWAILA MUHAMMAD IBRAHIM**
SECRETARY, ELECTORAL COMMITTEE OF THE
NIGERIAN BAR ASSOCIATION.
- 4. USMAN OGWU SULE, SAN**
CHAIRMAN, NATIONAL OFFICERS ELECTION APPEAL
COMMITTEE OF THE NIGERIAN BAR ASSOCIATION.
- 5. STELLA OMOIKHEFE OWU**
SECRETARY, NATIONAL OFFICERS ELECTION APPEAL
COMMITTEE OF THE NIGERIAN BAR ASSOCIATION.
- 6. MUSA TIJJANI ESQ.**
AUTHOR OF THE PETITION AGAINST THE CLAIMANT

JUDGMENT

For convenience purposes I shall be delivering a consolidated ruling in respect of the two preliminary objections before the honourable court.

By a preliminary objection dated 8th of July 2024 with motion number FCT/HC/GAR/M/1454/24 the 4th defendant/Applicant sought for the following reliefs:

1. **AN ORDER** of this Honourable Court striking out and/or dismissing this suit for being incompetent and for lack of jurisdiction.
2. **AN ORDER** striking out the name of the 4th Defendant/Applicant from this suit.
3. **AND FOR SUCH FURTHER ORDER** (s) as the Honourable court may deem fit to make in the circumstances of this case.

the grounds for the Preliminary Objection are as follows:

1. This Court lacks the jurisdiction to entertain this action.
2. The suit of the Claimant does not disclose any reasonable cause of action against the 4th Defendant/Applicant.
3. The Originating Summons taken out by the Claimant in this suit was not sealed by the Registrar of the Court as required by Order 2 Rule 3 (4) of the High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules 2018.
4. The Originating Process was not affixed with an NBA Seal as required by Order 2 Rule 9 of the High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules 2018.
5. The Originating Process was not properly signed by a Counsel or the Claimant.
6. The suit being one for enforcement of fundamental rights has not been brought under the Fundamental Right Procedure Rules.

In support of the application is a 6 paragraph affidavit deposed to by Augustine Odoji. Suleiman A. Haruna Esq. of counsel to the applicant also filed a written address wherein he canvassed two issues for determination to wit:

1. Whether this honourable court has jurisdiction to entertain this suit as presently constituted
2. Whether the claimant has disclosed a reasonable cause of Action against the 4th defendant/Applicant.

The 4th defendants counsel relied on all the paragraphs of the affidavit and adopted the written address on the 30th of September 2024.

The 5th defendant also filed a preliminary objection dated 12th July 2024 with motion number GAR/1453/24 seeking the following orders:

1. AN ORDER of this Honourable Court dismissing this suit in its entirety for being incompetent and want of jurisdiction.
2. AN ORDER striking out the name of the 5th Defendant/Applicant from this suit.
3. AND FOR SUCH FURTHER ORDER(s) as the Honourable court may deem fit to make in the circumstances of this case.

the grounds for the Preliminary Objection are as follows:

1. That this Court, with the greatest respect, lacks the jurisdiction to entertain this action as presently constituted.
2. That the Claimant's action does not disclose any reasonable cause of action against the Defendants and particularly the 5th Defendant / Applicant.
3. That the Originating Process was not properly signed by an identifiable and disclosed Legal Practitioner.

4. That the instant case which is essentially one purportedly for the enforcement of fundamental rights of the Claimant was not brought under the Fundamental Right Procedure Rules as required by law.

The 4th defendants counsel placed reliance on all the paragraphs of the affidavit and adopted his written address on the 30th of September 2024.

In response to the application the claimant's counsel filed a composite reply on points of law to the 4th and 5th defendants preliminary objections dated 15th of July 2024. Uche Amulu Esq. adopted the said reply on points of law on the 30th of September 2024.

I have carefully considered both preliminary objections and have perused the affidavits as well as the issues raised in the respective address of parties. I have equally considered the composite reply on points of law filed by the claimant.

The issues for determination are as follows:

1. Whether the court has the jurisdiction to entertain this suit as presently constituted.
2. Whether the suit as presently constituted reveals a cause of action against the 4th and 5th defendants.
3. Whether the suit ought to have been brought for the enforcement of fundamental human rights.

"In the case of *Agbule v. W.R.P. Co. Ltd.* [2013] 6 NWLR (Pt. 1350) 318, 354, 359, the Supreme Court warned that jurisdiction is a question of law. It is a threshold issue, very fundamental and the live wire of a suit. Where a Court does not have jurisdiction over a matter before it and it proceeds to hear and determine the matter, the whole proceedings no matter how well decided, would amount to a nullity. The product of such a proceeding, in other words, is a nullity. See also *Madukolu v. Nkemdilim* (1962) 2 SCNLR 341, *Trustees, P.A.W. v. Trustees A.A.C.C.* (2002) 15 NWLR (Pt. 790) 424,

A.P.P. v. Ogunsola (2002) 5 NWLR (Pt. 761) 484 and Lawal v. Oke (2001) 7 NWLR (Pt. 711) 88.

In the case of Estate of Late Chief HIS Idisi v. Ecodril (Nig.) Ltd. (Pt. 1527) 355 at 377-378, the Supreme Court reiterated that jurisdiction is of paramount importance in the process of adjudication. As such, where there is a deficit in regard thereof, everything done or every step taken in the proceedings amounts to nothing. Put differently, jurisdiction is the life wire of any proceeding in Court and everything done in the absence of jurisdiction is simply, a nullity. See **MR. MANSON GEORGE & ORS v. CHIEF EBENEZER OLALI OZAKA & ORS (2022) LPELR-58718(CA) (PP. 35-38 PARAS. E)**

I have carefully perused the originating summons as this the document to be considered when an application such as this made. The applicant has averred that the originating summons has no endorsement by the register of the court and same also has no seal of counsel. Page 5 of the originating summons clears contains the stamp and signature of the registrar of court. The claimant's counsel has not affixed a seal to the process as rightly observed however he has attached his evidence of haven paid practicing fees.

Per JOMBO-OFO ,J.C.A in **MESHACK V. STATE (2019) LPELR-47114(CA) (PP. 16 PARAS. A** held inter alia as follows:

"Regarding the question of use of receipt as evidence of payment for the NBA stamp/seal, it is my considered view that production of such evidence is as good as payment for the said NBA stamp/seal. My learned brother Ogakwu, JCA., spoke my mind when he held as follows in the lead ruling in Re: AlhajaSufurat Olufunke Yakubu & Anor. (2018) LPELR-43678(CA):

.... having paid for the stamp and seal, all that remained was the domestic affairs of the Nigerian Bar Association Secretariat and where like in this situation, the Nigerian Bar Association Secretariat is tardy, such tardiness cannot be visited on the appellant as all required to be done on the part of the appellant's counsel has been done.")

The applicants have also argued that there is no cause of action against the 4th and 5th defendants and as such their names should be struck out as defendants in this proceedings by the court. Records of the court as per the originating summons shows the claimant has put forth questions to which she seeks answers to which bothers on the actions of the 4th and 5th defendants amongst others. I hold that the answers to those questions will have effect on the 4th and 5th defendants hence I hold that they are proper parties to this suit.

The applicants contend that the suit ought to be one brought under the fundamental rights enforcement procedure. I have had a wholistic look at the originating summons and have come to the conclusion that the main reliefs sought by the claimant is the interpretation of the Nigerian Bar Association constitution and whether same is in violation of the 1999 constitution of the Federal Republic of Nigeria.

Per OSEJI J.C.A In **OMONYAHUY & ORS V. IGP & ORS (2015) LPELR-25581(CA) (PP. 63-64 PARAS. A)** held thus" ...in order to sustain an action for the enforcement of Fundamental Right, the main or principal claim in an applicant's process must be hinged on breach of any of the Fundamental Right as guaranteed by the 1999 Constitution. It must not be ancillary claim else such action will be deemed as being outside the scope of the Fundamental Right proceedings and therefore incompetent. See WAEC VS AKINKUNMI (2008) 9 NWLR (PT. 1091) 151; TUKUR VS GOVERNMENT OF TARABA STATE (1997) 6 NWLR (PT. 510) 549. In FRN VS ABACHA (2007)

LPELR (8177) CA this Court held inter alia, that where an application is made under the Fundamental Right (Enforcement Procedure) Rules, a condition precedent to the exercise of the Court's jurisdiction is that the enforcement of Fundamental Right or the securing of enforcement thereof should be the main claim and not the ancillary claim. Where the main or principal claim is not the enforcement of a Fundamental Right, the jurisdiction of the Court cannot be properly exercised under the Fundamental Rights (Enforcement Procedure) Rules. The bottom-line therefore is that only actions founded on a breach of Fundamental Right guaranteed under the 1999 Constitution that can be enforced under the Fundamental Rights (Enforcement Procedure) Rules. See ABBA VS JAMB (Supra), EGBUONU VS BRTC (1997) 12 NWLR (Pt. 531) 29. See also UNIVERSTIY OF ILORIN VS OLUWADARE (2006) 14 NWLR (PT. 1000) 751 where the Supreme Court held that, where the main or principal claim is not the enforcement or securing the enforcement of a Fundamental Right, the jurisdiction of the Court cannot be properly exercised as the action will be incompetent."

The issues raised by each applicant though germane appear to be misconceived and unnecessary if the originating summons was properly studied. This said I hold that this application is misconceived and same is dismissed accordingly.

Haven dispensed with the preliminary objection I shall now go into the merits of the instant case.

By an originating summons dated 20th of May 2024 the applicant instituted this suit for the determination of the following question:

- a) Having regard to the provisions section 6(1) of the 1999 Constitution of the Federal Republic of Nigeria, as amended, Articles 3(11) of the Constitution of the Nigerian Bar Association (as amended in 2021)

and Items 1, 2, 3, 4, 5, 6, 7 and 8 of Part II, Second Schedule thereof, WAS the Electoral Committee of the Nigerian Bar Association led by the 2nd and 3rd Defendants NOT IN ERROR TO DISQUALIFY the Claimant and WAS the National Officers Election Appeal Committee of the Nigerian Bar Association NOT IN ERROR TO AFFIRM HER DISQUALIFICATION from contesting for the office of General Secretary of the Nigerian Bar Association in the forth-coming Bar elections based on the issue of Article 9(3)(b) of the said Constitution of the Nigerian Bar Association (as amended in 2021) while the same issue is a subject of a lis in Suit No: FHC/ABJ/CS/462/2024 pending at the Federal High Court of Nigeria, Abuja Division, which the 2nd Defendant is a party to?

- b) Having regard to the provisions of Articles 3(11), 4(1)(a & b) of the Constitution of the Nigerian Bar Association (as amended in 2021) and Items 1, 2, 3, 4, 5, 6, 7 and 8 of Part II, Second Schedule thereof, DOES Article 9(3)(b) of the said Constitution of the Nigerian Bar Association (as amended in 2021) NOT VIOLATE the provisions of section 42 of the 1999 Constitution of the Federal Republic of Nigeria, as amended?
- c) Having regard to the provisions section 36(1) of the 1999 Constitution of the Federal Republic of Nigeria, as amended, Articles 3(11) of the Constitution of the Nigerian Bar Association and Items 1, 2, 3, 4, 5, 6, 7 and 8 of Part II, Second Schedule thereof, IS the decision of the National Officers Election Appeal Committee of the 1st Defendant affirming the decision of the Electoral Committee of the Nigerian Bar Association disqualifying the Claimant NOT LIABLE to be set aside by this Honourable Court for violating constitutional provisions regarding the Claimant's right to fair hearing?

- d) ARE Articles 21(4) and paragraph 3 Part IX of the Second Schedule of the Constitution of the Nigerian Bar Association (as Amended in 2021) NOT LIABLE to be SET ASIDE by this Honourable Court for offending sections 6 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)?
- e) WAS the Claimant NOT UNLAWFULLY DISQUALIFIED by the defendants by virtue of a petition authored by Musa Tijani Esq., who is not an aspirant for any elective position in the forthcoming 15th Defendant's general elections?

AND in the event that the above questions are resolved in favour of the Claimant, the Plaintiff seeks the following reliefs against the Defendants:

- i. AN ORDER of this Honourable Court DECLARING AS UNCONSTITUTIONAL, NULL AND VOID and OF NO EFFECT WHATSOEVER, and SETTING ASIDE the decision of the Electoral Committee of the 1st Defendant led by the 2nd and 3rd Defendants disqualifying the Claimant from contesting for the office of General Secretary of the Nigerian Bar Association in the forth-coming Bar elections and that of the National Officers Election Appeal Committee affirming her disqualification based on the issue of Article 9(3)(b) of the said Constitution of the Nigerian Bar Association (as amended in 2021) while the same issue is subject of a lis in Suit No: FHC/ABJ/CS/462/2024 pending at the Federal High Court of Nigeria, Abuja Division, which the 2nd Defendant is a party to.
- ii. AN ORDER of this Honourable Court DECLARING AS UNCONSTITUTIONAL, NULL, VOID and OF NO EFFECT WHATSOEVER Article 9(3)(b) of the Constitution of the Nigerian Bar Association (as amended in 2021) and same should accordingly be SET ASIDE and

EXPUNGED for offending the provisions of section 42 of the 1999 Constitution of the Federal Republic of Nigeria, as amended.

- iii. AN ORDER of this Honourable Court DECLARING AS UNCONSTITUTIONAL, NULL AND VOID and OF NO EFFECT WHATSOEVER, and SETTING ASIDE the decisions of the National Officers Election Appeal Committee of the 1st Defendant affirming the decision of the Electoral Committee of the Nigerian Bar Association disqualifying the Claimant from contesting for the office of General Secretary of the 1st Defendant in the forth-coming Bar elections for violating the Claimant's constitutional right to fair hearing.
- iv. A DECLARATION that Musa Tijjani Esq. HAS NO LOCUS STANDI, to present a petition against the candidacy of the Claimant, him not being an Aspirant in the forth-coming general election of the Nigeria Bar Association, and afortiori, not contesting for the post of General Secretary of the Nigeria Bar Association.
- v. A DECLARATION of this Honourable Court that the Claimant IS EMINENTLY QUALIFIED to vie for and contest for the office of General Secretary of the Nigerian Bar Association in the forthcoming Bar elections by virtue of Articles 3(11); 4(1) and (a & b) Constitution of the Nigerian Bar Association (as amended in 2021), sections 2, 8(2) and 24 of the Legal Practitioners Act, the interpretation of the letter dated 30th of August 2022 and section 42(1) of the Constitution of the Federal Republic of Nigeria, 1999, as amended.
- vi. AN ORDER of this Honourable Court directing the Electoral Committee of the 1st Defendant TO IMMEDIATELY RESTORE THE NAME OF THE CLAIMANT to the ballot that the Claimant may contest

for the office of General Secretary of the Nigerian Bar Association in the forth-coming Bar general elections.

- vii. AN ORDER of this Honourable Court, restraining the Defendants, whether by themselves, agents, privies, committees, or by whatever name called, from further taking steps, against the candidacy of the Claimant, in the forthcoming general election of the Nigerian Bar Association, as it pertains to the facts and circumstances of this matter.
- viii. AN ORDER of this Honourable Court DECLARING Articles 21(4) and paragraph 3 Part IX of the Second Schedule of the Constitution of the Nigerian Bar Association (as Amended in 2021) as UNCONSTITUTIONAL, NULL AND VOID and OF NO EFFECT WHATSOEVER, and same should accordingly be SET ASIDE and EXPUNGED for offending sections 6 of the 1999 Constitution of the Federal Republic of Nigeria (as amended).
- ix. 7, 000, 000.00 against the Defendants in punitive and exemplary damages.
- x. N2, 000, 000.00 as cost of prosecuting this suit.
- xi. And for such other order (s) as the Honourable Court may deem fit to make in the circumstance.

In support of the application is a 54 paragraph affidavit deposed to by Mrs Caroline Ladidi Anze-Bishop with 11 annexures and an affidavit of 18 paragraphs deposed to by Nkup Gabriel Tsenyen Esq.

Uche Amulu of counsel to the applicant filed a written address in compliance with the rule of the FCT High Court wherein he raised 5 issues for determination to wit:

1. **“Having regard to the provisions of Section 6(1) of the 1999 Constitution of the Federal Republic of Nigeria, as amended;**

Articles 3(11) of the Constitution of the Nigerian Bar Association (as amended in 2021) and Items 1, 2, 3, 4, 5, 6, 7 and 8 of Part II, Second Schedule thereof, WAS the Electoral Committee of the Nigerian Bar Association led by the 2nd and 3a Defendants NOT IN ERROR TO DISQUALIFY the Claimant and WAS the National Officers Election Appeal Committee of the Nigerian Bar Association NOT IN ERROR TO AFFIRM HER DISQUALIFICATION from contesting for the office of General Secretary of the Nigerian Bar Association in the forthcoming Bar elections based on the issue of Article 9(3)(b) of the said Constitution of the Nigerian Bar Association (as amended in 2021) while the same issue is a subject of a lis in Suit No: FHC/ABJ/CS/462/2024 pending at the Federal High Court of Nigeria, Abuja Division, which the 2 Defendant is a party to?

- 2. Having regard to the provisions of Articles 3(11), 4(1)(a & b) of the Constitution of the Nigerian Bar Association (as amended in 2021) and Items 1, 2, 3, 4, 5, 6, 7 and 8 of Part II, Second Schedule thereof, DOES Article 9(3)(b) of the said Constitution of the Nigerian Bar Association (as amended in 2021) NOT VIOLATE the provisions of section 42 of the 1999 Constitution of the Federal Republic of Nigeria, as amended?**
- 3. Having regard to the provisions section 36(1) of the 1999 Constitution of the Federal Republic of Nigeria, as amended, Articles 3(11) of the Constitution of the Nigerian Bar Association and Items 1, 2, 3, 4, 5, 6, 7 and 8 of Part II, Second Schedule thereof, is the decision of the National Officers Election Appeal Committee of the 15 Defendant affirming the decision of the**

Electoral Committee of the Nigerian Bar Association disqualifying the Claimant NOT LIABLE to be set aside by this Honourable Court for violating constitutional provisions regarding the Claimant's right to fair hearing?

- 4. ARE Articles 21(4) and paragraph 3 Part IX of the Second Schedule of the Constitution of the Nigerian Bar Association (as Amended in 2021) NOT LIABLE to be set aside by this Honourable Court for offending sections 6 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)?**
- 5. WAS the Claimant NOT UNAWFULLY DISQUALIFIED by the defendants by virtue of a petition authored by Musa TijjaniEsq., who is not an Aspirant for any elective position in the forthcoming 1st Defendant's general elections?"**

The respondents in turn filed their respective counter affidavits in response to the originating summons. The 1st respondent filed a 28 paragraph counter affidavit deposed to by Ayodeji Oni Esq. wherein an annexure marked **Exhibit A** which is *'The notice of the hearing and determination of complaints from candidates disqualified from participating in the 2024 NBA National officers elections'* was attached. Yakubu Philemon SAN of counsel to the 1st respondent filed a written address in support of the counter affidavit in which he canvassed a sole issue for determination to wit:

"Whether the claimant has made out a case and is entitled to the reliefs sought herein"

On his part the 2nd and 3rd respondent filed a counter affidavit of 29 paragraphs with 4 annexures. Marked **Exhibit ENCBA 1** (*petition against the candidature of Caroline LadidiAnze-Bishop for non compliance with the provision of section 9(3) (B) of the NBA Constitution; Application for information regarding Caroline LadidiAnze-Bishop pursuant to section 1 (1)*)

section 2 (1) (2) and sections 4 of the freedom of information Act 2011 and Re: Application for information regarding Caroline LadidiAnze-Bishop pursuant to section 1 (1) section 2 (1) (2) and sections 4 of the freedom of information Act 2011) and Exhibit ENCBA 2(Notice of the hearing and determination of complaints from candidates disqualified from participating in the 2024 NBA national officers elections)Also in support is a written address duly adopted by Abdullahi Yahaya SAN. Learned counsel raised the following issues:

- 1. “Whether in disqualifying the Claimant from contesting the election to the office of the General Secretary of the 1st Defendant based on the provisions of Section 9(3)(b) of the 1st Defendant's Constitution, and in affirming the said disqualification, were the Electoral Committee of the NBA (ENBA) and the National Officers Election Appeal Committee of the NBA (Appeal Committee) respectively in breach of the principle of lis pendens or sub judice.**
- 2. Whether the provisions of Section 9(3)(b) of the 1st Defendant's Constitution are inconsistent with any provisions of Section 42 of the Constitution of the Federal Republic of Nigeria, 1999.**
- 3. Whether theNational Officers Election Appeal Committee of theNBA (Appeal Committee) in affirming the decision of the ECNBA, was in breach of the Claimant's right to a fair hearing.**
- 4. Whether Sections 21(4) of the 1st Defendant's Constitution and Paragraph 3 of Part IX of the 2nd Schedule of the 1st Defendant's Constitution are liable to be set aside on grounds that they are inconsistent with the Section 6 of the Constitution of the Federal Republic of Nigeria, 1999.**

5. **Whether the disqualification of the Claimant on the basis of the petition written by Musa Tijanni, Esq. who is not an aspirant for any elective office in the forthcoming 2024 National Officers Elections of the 1st Defendant is unlawful.**
6. **Whether by virtue of the Sections 3(11), 4(1) (a) and (b) of the 1st Defendant's Constitution, Sections 2, 8(2) and 24 of the Legal practitioners Act, the letter dated 30 August 2022, and Section 42(1) of the Constitution of the Federal Republic of Nigeria, 1999, the Claimant was qualified to contest the election to the office of the General Secretary of the 1st Defendant in the forthcoming 2024 National Officers Elections of the 1st Defendant.**
7. **Whether the Claimant is entitled to any of the reliefs sought in this suit.”**

The 4th defendant filed a counter affidavit of 8 paragraphs supported by a written address duly adopted by Suleiman Adujo Haruna Esq. Counsel canvassed a sole issue for determination to wit:

“Whether or not the Claimant has made out a case to be entitled to the reliefs sought before this Honourable Court by virtue of Article 9(3)(b) of the Constitution of the Nigerian Bar Association, having admitted that she is an employee of the Nigeria Security and Civil Defence Corps (NSCDC) and thus is a public servant.”

The 5th defendant on her part filed a 9 paragraph counter affidavit in opposition to the originating summons and a written address which was duly adopted by Kalat Nathaniel Jatau Esq. counsel canvassed same sole issue raised by the 4th defendant for determination.

The 6th defendant equally filed a counter affidavit of 56 paragraphs with two annexures marked exhibit MJ1 (receipt for the payment of practicing fee) and MJ2 (petition against the candidature of Caroline LadidiAnze-Bishop for non compliance with the provision of section 9 (3) (b) of the NBA Constitution). The respondent's counsel also filed a written address which was adopted by D.D Killi Esq.

Learned counsel formulated 6 issues for determination to wit:

- 1. Is the Claimant entitled to any relief against the 6th Defendant when her complaint in this suit is against the decisions of the Electoral Committee of the Nigerian Bar Association and the National Officers Election Appeal Committee of the Nigerian Bar Association?**
- 2. Having regard to the provisions of section 6(1) of the 1999 Constitution of the Federal Republic of Nigeria, as amended; Articles 3(11) of the Constitution of the Nigerian Bar Association (as amended in 2021) and Items 1,2,3,4,5,6,7 and 8 of Part II, Second Schedule thereof, was the Electoral Committee of the Nigerian Bar Association led by the 2nd and 3rd Defendants not in error to disqualify the Claimant and was the National Officers Election Appeal Committee of the Nigerian Bar Association not in error to affirm her disqualification from contesting for the office of General Secretary of the Nigerian Bar Association in the forthcoming Bar elections based on the issue of Article 9(3) (b) of the said Constitution of the Nigerian Bar Association (as amended in 2021) while the same issue is a subject of a lis in Suit No: FHC/ABJ/CS/462/2024 pending at the Federal High Court of**

Nigeria, Abuja Division, which the 2nd Defendant is a party to? - Claimant's Issue One.

- 3. Having regard to the provisions of Articles 3(11), 4(1)(a) & (b) of the Constitution of the Nigerian Bar Association (as amended in 2021) and Items 1,2,3,4,5,6,7 and 8 of Part II, Second Schedule thereof, does Article 9(3) (b) of the said Constitution of the Nigerian Bar Association (as amended in 2021) not violate the provisions of section 42 of the 1999 Constitution of the Federal Republic of Nigeria, as amended? - Claimant's Issue Two.**
- 4. Having regard to the provisions of section 6 and 36(1) of the 1999 Constitution of the Federal Republic of Nigeria, as amended, Articles 3(11) of the Constitution of the Nigerian Bar Association (as amended in 2021) and Items 1,2,3,4,5,6,7 and 8 of Part II, Second Schedule thereof, is the decision of the National Officers Election Appeal Committee of the 1st Defendant affirming the decision of the Electoral Committee of the Nigerian Bar Association disqualifying the Claimant not liable to be set aside by this Honourable Court for violating constitutional provisions regarding the Claimant's right to fair hearing? - Claimant's Issue Three.**
- 5. Are Articles 21(4) and paragraph 3 Part IX of the Second Schedule of the Nigerian Bar Association (as amended in 2021) not liable to be set aside by this Honourable Court for offending sections 6 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)? - Claimant's Issue Four.**
- 6. Was the Claimant not unlawfully disqualified by the Defendants by virtue of a petition authored by Musa Tijjani,**

Esq who is not an aspirant for any elective position in the forthcoming 1st Defendant's general elections? - Claimant's Issue Five.

The applicant filed a composite further affidavit deposed to by the claimant in support of the origination summons.

All arguments and submissions of learned counsel are on record.

I have had a sober reflection on all issues raised by the respective counsel in their written addresses, I have perused the averments contained in the supporting affidavits and counter affidavits and further affidavit in support of the application and one issue is germane for determination to wit:

“Whether the claimant has made out a case to justify a grant of the reliefs sought in this application?”

The crux of this suit is article 3 (11) of the Constitution of the Nigerian Bar Association (as amended in 2021) and items 1, 2, 3, 4, 5, 6, 7 and 8 of part II, second schedule being in violation of the 1999 constitution and consequently the actions of the Electoral committee of the Nigerian Bar Association led by the 2nd and 3rd defendants liable to be set aside for violating the constitutional right of the claimant to fair hearing.

“In any democratic setting which upholds the rule of law, the provisions of the Constitution which is the grundnorm always override those of any other law or rules. I go further to say that it is trite law that where the provisions of any law or rules of Court are inconsistent with those of the Constitution those provisions, to the extent of inconsistency with the provisions of the Constitution are null and void.” **Per ADEREMI ,J.C.A in LORD CHIEF UDENSI IFEGWU v. FEDERAL REPUBLIC OF NIGERIA & ANOR(2001) LPELR-10443(CA)(Pp. 14-15 paras. F)**

"It is settled beyond any form of contention that the 1999 Constitution of the Federal Republic of Nigeria (as amended) is supreme and its provisions supersede any other law or authority in Nigeria. Supremacy of the constitution implies that the Constitution is the highest authority in the Nigerian legal system and is the grundnorm that stands apart and above any other norm. The Constitution has been referred to as the very foundation which bears the weight of the whole structure of our legal system or fountain head from which all the extant laws in our legal system flows.

The grundnorm itself provides for its supremacy in what is commonly referred to as the supremacy clause, ensconced in Section 1(1)-(3) thus: "(1) This Constitution is supreme and its provisions shall have binding force on the authorities and persons throughout the Federal Republic of Nigeria.

(2) The Federal Republic of Nigeria shall not be governed, nor shall any persons or group of persons take control of the Government of Nigeria or any part thereof except in accordance with the provisions of this Constitution.

(3) If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency, be void."

The Supreme Court in the celebrated case of *AG Abia State v AG Federation* (2006) 16 NWLR (pt 1005) 265 at p 381, described the Constitution as "the fons et origo, the alpha and Omega, the grund norm from which every other laws derive their validity"

See: *AG Ondo State v. AG Federation* (2002) 9 NWLR (Pt. 772) 222." See also *CHIEF SAATSAHA THADDEUS YENGE v. ATTORNEY GENERAL OF*

THE FEDERATION (2023) LPELR-61122(CA)Per TUKUR ,J.C.A (Pp. 7-8 paras. A)

Now a summary of the case of the applicants is that Caroline LadidiAnze-Bishop a lawyer called to the bar on the 8th day of November 2005 served as a National treasurer in the Nigeria Bar Association in the immediate past administration. The claimant sought to run for the position of General Secretary of the Nigerian bar Association in the 2024 Bar elections. Thus, she obtained, completed and submitted her nomination form to the Electoral Committee of the Nigerian Bar Association but was disqualified by the Electoral Committee under the chairmanship of Oluseun Abimbola SAN (2nd defendant) with Huwaila Muhammed Ibrahim (3rd defendant) as the secretary. The claimant was disqualified by the Committee upon the consideration of a petition written by Musa TijjaniEsq (6th defendant) stating that she is in the employment of Nigeria Security and Civil Defence Corps and therefore not a private legal practitioner. The claimant appealed the decision of the electoral committee but same was upheld by the National Officers Election Appeal Committee of the Nigeria Bar Association under the chairmanship of Usman OgwuSule SAN whilst Stella OmoikhefeOwu (4th defendant) is the secretary.

The claimant averred that she was the National treasurer to the Nigerian bar Association, she obtained filled out and submitted the form for the position of the General Secretary of the Nigerian Bar Association in the 2024 Bar elections. On the 23rd of April 2024 she received an email from the electoral committee of the Nigerian Bar Association for a sitting slated for 25th April 2024 to respond to a petition by one Samuel Ogala. The petitioner challenged her candidature on the grounds that she was not in private legal practice as she was in employment of the Nigeria

Security and Civil Defence Corps contrary to section 9 (3) (b) of the Nigerian Bar Association Constitution as amended in 2021. On the 24th of April she received another message from the Electoral Committee of the Nigeria Bar Association to respond to another petition written by Musa Tijjani Esq. also challenging her candidature as General Secretary of the Nigerian Bar Association. She noticed that though the petitions were from different lawyers and law firms they were identical word for word. At the Electoral Committee of the Nigeria Bar Association session to hear the petition and response the 1st petitioner was absent and had withdrawn his petition but the 2nd petitioner was present. Her observations were that Musa Tijjani Esq was in the room 40 minutes before she was called in and she was never informed that Samuel Ogala Esq had withdrawn his petition. The electoral committee in a decision dated 3rd Ma, 2024 held that she was not qualified for the position of general Secretary of the Nigerian Bar Association on the grounds that she did not fall within the criteria required by section 9 (3) (b) of the Nigerian Bar Association Constitution as amended in 2021. This decision was reached despite her justification that she has a green seal and was granted a leave of absence by her employer vide a letter dated 30th of August 2022 in order to pursue private legal practice in order to serve the bar better and to pursue her academic development. The claimant appealed the decision of the electoral committee but same was upheld by the National Officers Election Appeal Committee of the Nigeria Bar Association under the chairmanship of Usman OgwuSule SAN whilst Stella OmoikhefeOwu (4th defendant) is the secretary.

The 1st defendant on the other hand averred that the claimant was lawfully disqualified from contesting for the position of General Secretary of the Nigerian bar association because she is not in private

legal practice but an employee of the Nigeria Security and Civil Defence Corps. She obtained a green seal meant for private legal practitioners using her influence as a National officer of the Nigerian Bar Association being the treasurer at the time.

The 2nd and 3rd defendants averred that the claimant is not qualified to contest for the office of the General secretary because she did not meet the requirements in the clear and unambiguous provision of section 9 (3) (b) of the Nigerian bar association constitution 2015 as amended in 2021. The 2nd and 3rd defendants denied meeting privately with Musa Tijjani before the claimant was invited to the room for hearing of the petition. On the 25th of April 2024 when the session was held the commission was not aware that Samuel Ogala the 1st petitioner had withdrawn his petition otherwise same would have been communicated to the claimant. The 4th, 5th and 6th defendants averments were similar to the averments of the 1st, 2nd and 3rd defendant's.

From the averments of the claimant, she has been part of the Nigerian Bar association as the treasurer of the said Association. However haven been disqualified when she sought to run for the position of the general secretary she has instituted the instant suit for a closer look to be had of the constitution of the Nigerian Bar Association as same may be in contravention of the 1999 constitution of the federal republic of Nigeria as amended.

The crux of this suit is that the Electoral Committee of the Nigeria Bar Association and the National Officers Election Appeal Committee headed by the 2nd and 3rd Defendants and the 4th and 5th Defendants respectively were in error to have acted upon an issue which is a subject of a pending suit before a court of competent jurisdiction, that Articles 9(3)(b), 21(4) and paragraph 3 Part IX of the Second Schedule of the

Constitution of the Nigerian Bar Association (as Amended in 2021) upon which the decisions of both the Electoral Committee of the Nigerian Bar Association and National Officers Election Appeal Committee of the 1st Defendant was based flouts the provisions of the 1999 Constitution of the Federal Republic of Nigeria (as amended), that the National Officers Election Appeal Committee failed to afford the Claimant fair hearing before reaching their decision affirming the disqualification of the Claimant by the Electoral Committee of the Nigerian Bar Association, that Article 21(4) and paragraph 3 Part IX of the Second Schedule of the Constitution of the Nigerian Bar Association (as Amended in 2021) giving finality to the decisions of the Dispute Resolution Committee and National Officers Election Appeal Committee of the 1st Defendant violate section 6 and 36(6)(2)(b) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) by attempting to usurp the powers of the Court created by law and that the Electoral Committee of the Nigerian Bar Association and that the National Officers Election Appeal Committee of the 1st Defendant were in error to place premium on the Petition of the 6th Defendant who lacks the locus to challenge her candidature and rely on same to disqualify the Claimant.

I have perused Exhibit 7 (a copy of the origination motion filed at the Federal High Court) attached to the affidavit in support of the originating summons. The claimant in this suit is not a party to the suit and as far as the election conducted is concerned the claimant in that suit neither is the claimant in that suit a party to the instant suit. It is worthy of emphasis to state that in the absence of any court order declaring the article 9 (3) (b); article 21 (4) and paragraph 3 part IX of the second schedule of the constitution of the Nigerian bar association

unconstitutional the defendants were not in error to have proceeded with the its affairs as governed by its constitution. I so hold.

Claimant contends that that Articles 9(3)(b) of the Constitution of the Nigerian Bar Association (as Amended in 2021) is in violation of Section 42 of the 1999 Constitution of the Federal Republic of Nigeria.

The latter provision states thus:

“Section 42

(1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person-

(a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or

(b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions.

(2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

(3) of the 1999 Constitution of the Federal Republic of Nigeria as amended provides thus:

“Nothing in subsection (1) of this section shall invalidate any law by reason only that the law imposes restrictions with respect to the

appointment of any person to any office under the State or as a member of the armed forces of the Federation or member of the Nigeria Police Force or to an office in the service of a body corporate established directly by any law in force in Nigeria.”

Articles 9(3)(b) of the Constitution of the Nigerian Bar Association (as Amended in 2021) on the other hand provides thus:

“Qualifications to hold office

A member of the association shall be qualified to hold a national office if he/she:...

(b) with respect to the office of the president, 1st vice president and general secretary, is in private legal practice”

I must also state at this stage that on the issue of article 9 (3) (b) of the constitution of the Nigeria Bar Association violating the provisions of Section 42 of the 1999 Constitution of the Federal Republic of Nigeria as amended is misconceived. It is pertinent to always read the law as a whole and give it a wholistic view in order to understand and properly apply such law. This section is straightforward particularly section 42 (3) that i will be a waste of the scarce judicial time to interpret or break down for proper understanding. In view of the section 42 (3) earlier reproduced I hold that the said provision article 9 (3) (b) of the constitution of the Nigeria Bar Association does not in any way violatethe provisions of section 42 of the 1999 Constitution of the Federal Republic of Nigeria.

I have carefully perused the **Second schedule Part IX of the Nigerian Bar Association constitution** which states thus:

“APPEALS BY DISQUALIFIED CANDIDATES

1. Any candidate who is disqualified by the ECNBA in respect of his nomination or candidature, may within seven days of the

communication of the decision, appeal to the Election Appeal Committee.

2. The Election Appeal Committee, shall upon receipt of an appeal lodged by a candidate in the manner stated above, hear the appeal and make a decision thereon within fourteen (14) days thereof. Such hearing may be based on documents only, or by physical hearing or hearing via electronic medium.

3. The decision of the Election Appeal Committee on any appeal lodged by a candidate shall be final and binding on the parties.”

The above provisions clearly provides that the appeal maybe determined by the documents before the committee only. Nowhere does it state that the appellant must be invited physically in order for a decision to be reached. The fact that the appeal committee considered the documents before concerning the disqualification of the claimant them without calling the claimant physically does not amount to the defendant being denied fair hearing. As a matter of fact the consideration of whatever document was before the committee is fair hearing. Any member familiar with this provision would ensure all documents needed to foster the decision of the appeal committee in his/her favour will be submitted. Moreover the procedure adopted by the appeal committee is in line with the provision of the constitution of the Nigerian Bar Association as reproduced above. This said I hold that the claimant was not denied fair hearing by the National Officers Election Appeal Committee of the Nigerian Bar Association in any way. This also answers the claimant’s question whether she was unlawfully disqualified? It appears to me that the disqualification of the claimant by the electoral committee is misconstrued to be caused by the petition of the 6th defendant. The

disqualification of the claimant from the provision of the constitution is because she is not in private practice as required by article 9 (3) (b). I have seen the green seal of the claimant which is only used by a private legal practitioner. I have also carefully looked at Exhibit 5 (though not a certified true copy) attached to the affidavit in support of the originating summons which is a letter from Nigeria Security and Civil Defence Corps which acknowledges you are a staff of the latter but was granted a leave of absence for 4 years to serve the Nigerian Bar Association and practice law as a private legal practitioner among other things. Clearly this letter did not terminate your employment with Nigeria Security and Civil Defence Corps or changes your status as a public servant in the employment and payroll of the Nigeria Security and Civil Defence Corps. It goes without saying that Exhibit 5 grants the claimant the liberty to engage in other activities outside her primary assignment but does not terminate the employment of the claimant or change her status as a public servant. Only a letter of termination of employment or resignation can do that. This said I hold that the claimant is a public servant and not an independent lawyer in private practice as contemplated in article 9 (3) (b) the constitution of the Nigeria Bar Association hence her disqualification from contesting for the position of the General secretary is valid and lawful. If I may add contrary to the contention of the claimant that the 6th defendant not being an aspirant he has no locus to petition the claimant the petitioner ought not to be an aspirant as long as he is a member of the association in question he has the locus standi.

In answering the issue whether article 21 (4) and paragraph 3 part IX of the second schedule of the constitution of the Nigeria Bar Association liable to be set aside for offending section 6 of the 1999 constitution of

the Federal republic of Nigeria as amended we shall take a look at both provisions.

Section 6 of the 1999 constitution of the Federal Republic of Nigeria as amended on the other hand states thus:

“Section 6

(1) The judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established for the Federation.

(2) The judicial powers of a State shall be vested in the courts to which this section relates, being courts established, subject as provided by this Constitution, for a State.

(3) The courts to which this section relates, established by this Constitution for the Federation and for the States, specified in subsection (5) (a) to (i) of this section, shall be the only superior courts of record in Nigeria; and save as otherwise prescribed by the National Assembly or by the House of Assembly of a State, each court shall have all the powers of a superior court of record.

(4) Nothing in the foregoing provisions of this section shall be construed as precluding:-

(a) the National Assembly or any House of Assembly from establishing courts, other than those to which this section relates, with subordinate jurisdiction to that of a High Court;

(b) the National Assembly or any House of Assembly, which does not require it, from abolishing any court which it has power to establish or which it has brought into being.

(5) This section relates to-

(a) the Supreme Court of Nigeria;

(b) the Court of Appeal;

- (c) the Federal High Court;*
 - (cc) the National Industrial Court;*
 - (d) the High Court of the Federal Capital Territory, Abuja;*
 - (e) a High Court of a State;*
 - (f) the Sharia Court of Appeal of the Federal Capital Territory, Abuja;*
 - (g) a Sharia Court of Appeal of a State;*
 - (h) the Customary Court of Appeal of the Federal Capital Territory, Abuja;*
 - (i) a Customary Court of Appeal of a State;*
 - (j) such other courts as may be authorised by law to exercise jurisdiction on matters with respect to which the National Assembly may make laws; and*
 - (k) such other courts as may be authorised by law to exercise jurisdiction at first instance or on appeal on matters with respect to which a House of Assembly may make laws.*
- (6) The judicial powers vested in accordance with the foregoing provisions of this section -*
- (a) shall extend, notwithstanding anything to the contrary in this Constitution, to all inherent powers and sanctions of a court of law;*
 - (b) shall extend, to all matters between persons, or between government or authority and to any persons in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person;*
 - (c) shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and*

Directive Principles of State Policy set out in Chapter II of this Constitution;

(d) shall not, as from the date when this section comes into force, extend to any action or proceedings relating to any existing law made on or after 15th January, 1966 for determining any issue or question as to the competence of any authority or person to make any such law.”

Article 21 (4) of the constitution of the Nigeria Bar Association states that “*the decisions of the dispute resolution committee shall be final and binding on all the parties*”

I have had a sober reflection on the provisions of section 6 of the 1999 constitution of the federal republic of Nigeria and have found no where in the section listing the superior courts as the only dispute resolution body to the exclusion of all others. In a plethora of decided cases our courts have long settled that the internal management or the principle of consent is applicable to associations (such as a trade union, educational institution, or professional body) where members who have consented to be bound by the rules of the organization are obligated to adhere to its procedures for resolving disputes or management of internal affairs.

If I must stating the obvious, that by our laws, particularly the 1999 Constitution of the Federal Republic of Nigeria (as amended), the right to form an association and forming of organisations and bodies to pursue any common lawful interest, is entrenched and where such organisations or bodies are formed the persons coming together can take whatever name(s) and leadership they desire, within the confines of the rules and regulations they give to themselves, otherwise called - their internal Constitutions.

That is the purport of Section 40 of the Constitution of the Federal Republic of Nigeria, which states:

"Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interest; provided that the provisions of this Section shall not derogate from the powers conferred by this Constitution on the Independent National Electoral Commission, with respect to political parties to which that commission does not accord recognition."

I believe all the socio-cultural and ethnic/tribal associations and voluntary organisations derive their existence, relevance and vibes from this law.

See the case of *Mbanefo Vs Molokwu* (2008) LPELR - 3696 CA, where this Court held in furtherance of the Section 40 of the 1999 Constitution of Federal Republic of Nigeria that the Court would not ordinarily interfere with decision of voluntary associations. It held:

The Nigeria Bar Association is an association to which the claimant belonged and has held executive position in the past. I need not say that this association is entitled under its Constitution to decide for itself what it wants and to organize itself and its members and a Court cannot tell such a voluntary association how it must be organized. If any member of such an association does not like its rule regarding the election of its executive members into office it is open to such a member to stay away from the elections entirely and focus on their legal practice whether private or otherwise.

It must be said loud and clear, the party or association or even a club, to which any person belongs is supreme so far as its affairs go. See

Macdongal Vs. Gardiner (1875) 1 Ch.D. 13 at 25 per Millish, L.J." Per TSAMIYA, JCA (P.29, paras. B-E)

From the above it is crystal clear that the position of the law is that members of an organization are bound by the rules and regulations of that organization. See; LADOKE AKINTOLA UNIVERSITY OF TECHNOLOGY v. OGUNWALE (2006) 4 NWLR (Pt. 971) 569"

The courts generally adopt the principle that when individuals voluntarily join an organization, they are implicitly agreeing to be governed by its internal laws and policies, as long as such rules do not contravene statutory laws or public policy.

This concept is an application of the doctrine of internal management or the principle of consent, where members who have consented to be bound by the rules of the organization (such as a trade union, educational institution, or professional body) are obligated to adhere to its procedures for resolving disputes or managing internal affairs.

Another key case on this principle is "EGBUONU v. BORNU RADIO TELEVISION CORPORATION (1997) 12 NWLR (Pt. 531) 29", where the court held that a person who becomes a member of a voluntary organization is bound by its constitution and cannot challenge actions taken in line with that constitution unless they are illegal or violate statutory provisions.

The Nigerian Bar Association is a body that comprises of lawyers duly called to bar in Nigeria. The cases earlier cited reflect the binding nature of an organization's rules on its members, reinforcing the idea that once a person subscribes to an organization's rules by becoming a member, they must follow those rules. This is no different with the Nigerian Bar Association. In view of this I hold that the dispute resolution mechanism of the Nigerian Bar association and the finality of its decisions is not

contrary to the 1999 constitution of the federal republic of Nigeria as amended.

In view of all I have said I hereby hold that this suit fails and same is dismissed accordingly.

SIGNED

HON. JUSTICE S. B BELGORE

(JUDGE) 20/11/2024

LEGAL REPRESENTATION

- 1. UCHE AMULU ESQ FOR THE CLAIMANT**
- 2. YAKUBU PHILEMON SAN FOR THE 1ST DEFENDANT**
- 3. ABDULLAHI YAHAYA SAN FOR THE 2ND AND 3RD DEFENDANT**
- 4. U. O. SULE SAN FOR THE 4TH DEFENDANT**
- 5. SULAIMAN HARUNA FOR THE 5TH DEFENDANT**
- 6. D. D. KILLI FOR THE 6TH DEFENDANT**