

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT GARKI, ABUJA - FCT**

**CLERK: CHARITY ONUZULIKE  
COURT NO. 9**

**SUIT NO: FCT/HC/CV/3271/2024  
M/13994/2024  
DATE: 6/12/2024**

**BETWEEN:**

**1. MOSES N. AKAM**

(The Elected Ward Chairman of Peoples Democratic Party (PDP) of Ezira Ward on Orumba South LGA of Anambra State also suing for himself and representing All the Elected Wards and Local Government Areas Executive Members of all the Wards in and Fourteen (14) Local Government Area of Anambra State to wit: Aguata LGA, Anambra East LGA, Anambra West LGA, Ayamelum LGA, Dunukofia LGA, Ekwusigo LGA, Idemili South LGA, Ihiala LGA, Nnewi South LGA, Onitsha South LGA, Orumba North LGA, Orumba South LGA & Oyi LGA of PDP Anambra State Chapter.

**2. IKENNA EVANS NKPARU**

(The Elected Ward Chairman of Peoples Democratic Party (PDP) in Osumenyi Ward 1 of Nnewi South Local Government Area (LGA) of Anambra State also suing for himself and representing all the Elected Wards and Local Government Areas Executive Members of all the Wards in and the Fourteen (14) Local Government Area of Anambra State to wit: Aguata LGA, Anambra East LGA, Anambra West LGA, Ayamelum LGA, Dunukofia LGA, Ekwusigo LGA, Idemili South LGA, Ihiala LGA, Nnewi South LGA, Onitsha North LGA, Onitsha South LGA, Orumba North LGA, Orumba South LGA & Oyi LGA of PDP Anambra State Chapter

**CLAIMANTS**

**AND**

**1. PEOPLES DEMOCRATIC PARTY (PDP)**

(For themselves & Representing the National Chairman of Peoples Democratic Party (PDP), Representing the National Working Committee (NWC) and National Executive Committee (NEC) and the Committee Panel Members who appointed Caretaker Chairman of Peoples Democratic Party (PDP) of Ezira Ward in Orumba South LGA of Anambra State also representing all the

**DEFENDANTS**

Appointed Wards and Local Government Areas Executives members of all the Wards in and Fourteen (14) Local Government Area of Anambra State to wit: Aguata LGA, Anambra East LGA, Anambra West LGA, Ayamelum LGA, Dunukofia LGA, Ekwusigo LGA, Idemili South LGA, Ihiala LGA, Nnewi South LGA, Onitsha North LGA, Onitsha South LGA, Orumba North LGA, Orumba South LGA & Oyi LGA of PDP Anambra State Chapter.

**2. THE APPOINTED CARETAKER COMMITTEE**

(Chairman of Peoples Democratic Party (PDP) of Ezira Ward in Orumba South LGA of Anambra State also representing all the Appointed Wards and Local Government Areas Executives members of all the Wards in and Fourteen (14) Local Government Area of Anambra State to wit: Aguata LGA, Anambra East LGA, Anambra Idemili South LGA, Ihiala LGA, Nnewi South LGA, Onitsha North LGA, Onitsha South LGA, Orumba North LGA, Orumba South LGA & Oyi LGA of PDP Anambra State Chapter.

**3. NATIONAL ORGANIZING SECRETARY PEOPLES DEMOCRATIC PARTY (PDP)**

**DEFENDANTS**

**RULING**

**(DELIVERED BY HON. JUSTICE S. B. BELGORE)**

The Claimants filed motion on notice number M/1785/2024 seeking the following Orders:

- 1. AN ORDER OF THIS HONOURABLE COURT** setting aside the State Congress conducted on the 23<sup>rd</sup> of October, 2024, for the election of the State Executives Members of the Peoples Democratic Party (PDP) with delegates list that is outside the names of the 1<sup>st</sup> & 2<sup>nd</sup> Plaintiffs who are the elected Local Government and the Ward Executives in Orumba South LGA of Anambra State also representing all the Appointed Wards and Local Government Areas Executives members of all the Wards in and Fourteen (14) Local Government Area of Anambra State to wit: Aguata LGA, Anambra East LGA, Anambra West LGA, Ayamelum LGA, Dunukofia LGA, Ekwusigo LGA, Idemili South LGA, Ihiala LGA, Nnewi South LGA, Onitsha North LGA, Onitsha South LGA, Orumba North LGA, Orumba South LGA & Oyi LGA of PDP Anambra State

Chapter pending the hearing and determination of the substantive originating summons filed by the Claimants/Applicants.

2. **AN ORDER FOR** restraining the 1<sup>st</sup> & 3<sup>rd</sup> Defendants from recognising or taking into effect to any congress, meeting and conference for election of Chairman of Peoples Democratic Party (PDP) of Ezira Ward in Orumba South LGA of Anambra State also representing all the Appointed Wards and Local Government Areas Executives members of all the Wards in and Fourteen (14) Local Government Area of Anambra State to wit: Aguata LGA, Anambra East LGA, Anambra West LGA, Ayamelum LGA, Dunukofia LGA, Ekwusigo LGA, Idemili South LGA, Ihiala LGA, Nnewi South LGA, Onitsha North LGA, Onitsha South LGA, Orumba North LGA, Orumba South LGA & Oyi LGA of PDP Anambra State Chapter pending the hearing and determination of the substantive originating summons filed by the Claimants/Applicants.
3. **AN ORDER AN INTERLOCUTORY ORDER** of this Honourable Court maintaining the status quo ante bellum by granting an order allowing the Claimants/Applicants to perform their functions of the offices for which they were elected as PDP wards and Local Government Executives members of PDP Anambra State Chapter in the fourteen (14) Local Government which is the subject of the suit pending the hearing and determination of the substantive originating summons filed by the Claimants/Applicants.
4. **AN ORDER FOR INTERLOCUTORY INJUNCTION** restraining the 1<sup>st</sup> & 3<sup>rd</sup> Defendants from giving effect to Caretaker Committee appointed as Chairman of Peoples Democratic Party (PDP) of Ezira Ward in Orumba South LGA of Anambra State also representing all the Appointed Wards and Local Government Areas Executives members of all the Wards in and Fourteen (14) Local Government Area of Anambra State

to wit: Aguata LGA, Anambra East LGA, Anambra West LGA, Ayamelum LGA, Dunukofia LGA, Ekwusigo LGA, Idemili South LGA, Ihiala LGA, Nnewi South LGA, Onitsha North LGA, Onitsha South LGA, Orumba North LGA, Orumba South LGA & Oyi LGA of PDP Anambra State Chapter pending the hearing and determination of the substantive originating summons filed by the Claimants/Applicants.

5. **AN ORDER FOR INTERLOCUTORY INJUNCTION** restraining the 1<sup>st</sup> & 3<sup>rd</sup> Defendants from interfering or abridging the tenure of the office of MOSES N. AKAM the Elected Ward Chairman of Peoples Democratic Party (PDP) of Ezira Ward on Orumba South LGA of Anambra State also suing for himself and representing all the Elected Wards and Local Government Areas Executives members of all the Wards in and Fourteen (14) Local Government Area of Anambra State to wit: Aguata LGA, Anambra East LGA, Anambra West LGA, Ayamelum LGA, Dunukofia LGA, Ekwusigo LGA, Idemili South LGA, Ihiala LGA, Nnewi South LGA, Onitsha North LGA, Onitsha South LGA, Orumba North LGA, Orumba South LGA & Oyi LGA of PDP Anambra State Chapter who are the Plaintiffs in the decision of **Hon. Belgore J. and Hon. Mu'azu J. in Suit No: FCT/HC/CV/83/2022** who declared the Claimants as the duly elected Wards and Local Government Areas Executive Committees' Members already submitted to PDP Headquarters and the Headquarters of the Independent National Electoral Commission (INEC) delivered on 10<sup>th</sup> day of May, 2023, pending the hearing and determination of the substantive originating summons filed by the Claimants/Applicants.
6. **AND FOR SUCH FURTHER OR OTHER ORDER(S)** which this Honourable Court may deem fit to make in the circumstance of this case.

**THE GROUNDS UPON WHICH THE APPLICATION IS PREDICATED:**

- (i) That Plaintiffs had via Originating Summons taken, commenced this suit against the Defendants herein, claiming certain declaratory and injunctive reliefs.
- (ii) That the Plaintiffs suit bothers on substitution or replacement of the Plaintiffs who are occupying the constitutional office as party executives of the PDP. The Plaintiffs were elected as party executives and their tenure was constitutionally fixed for four (4) years and while their tenure is still valid and subsisting, the Defendants appointed caretaker committee for the replacement of the Plaintiffs.
- (iii) That if the Defendants are not restraining to enable the parties appear before this Honourable Court for expeditious determination of the substantive suit, the defendant will encroach into the constitutional rights of the Plaintiffs while their tenure is still valid and subsisting.
- (iv) That it is only when an Order of Interlocutory Injunction is granted that the Plaintiffs can conveniently prosecute this case without the right of the Plaintiffs to perform their statutory functions as Party Executives being infringed upon.
- (v) That I know as a fact that it is the civic responsibility of both the Defendants and the Plaintiffs to respect and uphold the provisions of the 1999 Constitution as amended and the constitution of the PDP as amended in 2017 as to the procedure for removing a members of party executive from office and not to do anything that is contrary to the provisions of both the 1999 constitution of the Federal Republic of Nigeria and the constitution of PDP before the substantive determination of this case.
- (vi) That the utterance and action of the Defendants are ultra vires and in breach and violation the 1999 Constitution as

altered, PDP Constitution and the PDP Guidelines for the conduct of Ward, LGA, State, Zonal Congresses and the National Convention for the purpose of Electing Executive Committee at all Levels.

- (vii) That the Defendants are acting arbitrarily and disobeying the Supreme Law of Nigeria and the PDP Constitution and Guidelines.
- (viii) That the Civil rights and obligations of the Plaintiffs are negatively affected and impacted by the Defendants refusing to allow them to perform the functions of their offices for which they were elected.
- (ix) That it will meet the ends of justice to keep matters in status quo ante bellum and allow the Plaintiffs to continue to perform the functions of their offices pending the final determination of the Motion on Notice for Interlocutory Injunction.
- (x) That this matter is a political matter and requires accelerated hearing as time is of the utmost essence in political matters more so when the Anambra State PDP Congress election will soon be fixed to elect State Executive/Committee members and the Primary Elections preceding for the forthcoming Anambra State Governorship election.
- (xi) That it will meet the ends of justice to order accelerated hearing and abridgment of time within which the parties shall file their defences and reply to defences in this suit due to the urgency of the matter.
- (xii) That unless stopped by the orders sought by the Claimants in this suit, the Defendants will continue to violate the constitution of the PDP, the Plaintiffs' rights as members of the party and will succeed in unconstitutionally

removing the Plaintiffs as a Member of the 1<sup>st</sup> Defendant Executive, thereby plunging the party into an intractable chaos before the substantive determination of this case.

(xiii) It is in the interest of justice to grant the reliefs sought in this case.

The facts in support of the application are as contained in the affidavit in support of the Motion on Notice deposed to by one Kareem Henry, a litigation assistant in the law office of Egwuaba Reuben & Co.

There are ten (13) grounds for this application and 4 paragraphs affidavit in support of same with Exhibit A1 – A9 attached. There is also a written address. The Applicants also filed a better and further affidavits dated and filed on 30/10/2024. Nine (9) Exhibits are also attached.

Upon service of the Motion on the Defendants, they filed a counter-affidavits of 9-paragraphs on 25/10/2024. Attached thereto is the judgments of Court of Appeal, Awka Division in Appeal No. CA/AWK/162/2024. They also filed a written address.

On 5/11/2024, the application was argued in Court. Mr. Ruben Egwuaba moved the application summarily. He referred to the affidavits evidence put forward the exhibits attached and the written addresses filed. He relied on all of them and adopted the addresses as his argument and urged me to grant the application.

On the other hand, Mr. Adedamola Falokun for the Defendants/Respondents towed the same line. He referred to the contents of their counter-affidavits, the written address, relied and adopted the written address as his argument. He urged me to dismiss the application.

I have consider all the arguments for and against the grant of this application. The arguments of Counsel are on record and need not be repeated except where appropriate and relevant.

The Claimants/Applicants raise one issue for determination to wit:

***“Whether the Applicant in the circumstance is entitled to the grant of the Interlocutory Injunction as prayed”?***

Respondent’s Counsel also framed one identical issue for determination to wit:

***“Whether having regard to the facts and circumstances of this case, the reliefs sought by the Plaintiffs in this application are grantable”?***

For a start, I agree that only one issue call for determination in this application to wit: ***“Whether the Applicant in the circumstance is entitled to the grant of the reliefs sought in this application”.***

It is my humble view that the Claimants/Applicants have by their supporting affidavit shown sufficient reasons for the grant of an interlocutory injunction. In **OLADEJI VS. ANAKWE (2014) 9 WRK 168 @ 181, KALGO, JCA** held thus:

***“The purpose of an injunction remedy is very clear. It is well established that the essence of the grant of an injunction is to protect the existing legal rights of a person from unlawful invasion by another. See AKAPO V. HAKEEM-HABEEB & ORS. (1992) 7 SCN (PT. 1) 119”***

The Court in considering an application for injunction must exercise its discretion to grant or refuse same judicially and judiciously, and this, the court would do by being guided by well-established principles for the grant of interim injunction.

The principles for the grant of interlocutory injunction which courts take into consideration have been stated and given judicial favour in several decided authorities and which principles include:

- a. The applicant must show that he has a legal right in the matter.***
- b. The Applicant must show that the balance of convenience is on his side and in favour of granting the application***
- c. That damages will not be an adequate compensation in the circumstances of the particular case.***
- d. That the Applicant has made an undertaking as to damages in the event that the injunction ought not to be granted.***

In this regard, the Applicants' Counsel referred the Court to the following cases: **ORJI VS. ZARIA INDUSTRIES (1992) 2 NWLR (PT. 216) 124. PEREPIMODE VS. MIEKORO (1992) 2 NWLR (PT. 224) 483, AYORINDE VS. A. G. OYO STATE (1996) 2 SCNJ 212.**

There are triable issues raised in the Claimants' Originating Summons, affidavit and documentary evidence in support which are the construction and interpretation of Articles 46(1) and 47 (1) of the Constitution of Peoples Democratic Party (PDP) (as amended in 2017) – Exhibit CA3 and 2020 PDP Congresses Guidelines Exhibit CA4 and Section 223(1)(a) and (b) of the 1999 Constitution as amended as they relate to the breaches and violation of those provisions by the Defendants especially all the Defendants in not allowing Claimants to perform the functions of the offices for which the Claimants were elected.

By the extant provisions of Section 223(1) (a) and 2(a) of the Constitution of the Federal Republic of Nigeria 1999 as altered (hereinafter referred to as “the Constitution”) which states thus:

**223(1)(a) “The Constitution and rules of a Political Party shall (a) provide for the periodical election on a Democratic Basis of the principal officers and members of the Executive Committee or other Governing body of the Political Party.”**

If the Defendants are not compelled to allow the Claimants to perform the functions of their offices for which the Claimants were elected, the Defendants will continue to commit, a further breaches and violation of the provisions of **Section 223(1) (a) and 223(2) (a) of the 1999 Constitution as altered, Articles 46(1) and 47(1) of the PDP Constitution and PDP 2020 Guidelines** attached and marked **Exhibit CA3 and CA4 respectively**.

I referred to the *locus classicus* case on the grant of injunctions as decided by the Supreme Court of Nigeria in **OBEYA MEMORIAL HOSPITAL LTD VS. A.G. FEDERATION (2004) ALL FWLR CRI 232) 1158 and 1609** where the Supreme Court stated the irreducible minimum of granting injunction whether interim or interlocutory that the Applicant need not make out a strong *prima facie* case on the merit of the Originating Summons for Interim Injunction and Interim mandatory Injunction, it being sufficient that the Applicant has shown that there are triable issues in the Applicant's Originating Summons.

It is noted that the tenure of the elected Wards, Local Governments and State Executive Committees members of PDP Anambra State Chapter is for four years which commenced respectively on 19/11/2022 for the Wards, 26/02/2022 for the Local Governments which are yet to expire which the Supreme Court has held that a time fixed by Constitution of Nigeria is like Rock of Gibraltar and Mount Zion which cannot be moved or extended which constitutes a constitutional question or issue to be resolved by the Court and therefore a threshold triable issue that cannot be glossed over requiring the grant of the interim reliefs sought in order to keep matter in *status quo ante bellum* to protect the res which is the vested right of the Applicants to continue to perform the functions of the offices for which they were elected and as contained in Exhibit CASA to CASN and CA6A to CA6N and CA7 respectively attached to the Affidavit in support of the Originating Summons which form part of the record of this Honourable Court to prevent further breaches and violations of the provisions of the

Section 223(1) (a) and (2) (b) of the 1999 Constitution and Articles 46(1) 47(1) of the PDP Constitution and the PDP 2020 Guidelines.

It is my view that the Applicants have a legal right to be protected which is their vested right in the elections they won as Wards and Local Government Area Executive Committee members of PDP as in the said Exhibits CASA to CASN and CA6A and CA7.

Once a human person wins an elective position he has acquired a personal vested right in that position irrespective of the opinion of his political party, see the cases of **ROTIMI AMAECHI VS. INEC (2008) ISC (Pt. I) 36** and **ODEDO VS. INEC (2009) ALL FWLR (PT. 449) 448**. See also OBEYA'S case supra. So the Applicants have a vested constitutional right to be protected by the Interlocutory Reliefs sought.

**MOSES N. AKAM** the Elected Ward Chairman of Peoples Democratic Party (PDP) of Ezira Ward on Orumba South LGA of Anambra State also suing for himself and representing all the Elected Wards and Local Government Areas Executives members of all the Wards in and Fourteen (14) Local Government Area of Anambra State to wit: Aguata LGA, Anambra East LGA, Anambra West LGA, Ayamelum LGA, Dunukofia LGA, Ekwusigo LGA, Idemili South LGA, Ihiala LGA, Nnewi South LGA, Onitsha North LGA, Onitsha South LGA, Orumba North LGA, Orumba South LGA & Oyi LGA of PDP Anambra State Chapter who are the Claimants in the decision of **Hon. Belgore J. and Hon. Mu'azu J. in Suit No: FCT/HC/CV/83/2022** who declared the Claimants as the duly elected Wards and Local Government Areas Executive Committees' Members already submitted to PDP Headquarters and the Headquarters of the Independent National Electoral Commission (INEC) delivered on 10<sup>th</sup> day of May, 2023, is a legal rights to be protected by this Honourable Court.

In **ONYESOH VS. NNEBEDUM & ORS (1992) 3 NWLR (PT. 229) 315**, the Court held as follows:

***“It is not the law that the Applicant must show a prospect of obtaining a permanent injunction at the end of the trial. It is sufficient for the Applicant to show that there is a serious question between the parties to be tried at the hearing”.***

Finally on this, I hold that the Applicant has a legal right that urgently requires the protection of this Court.

## **BALANCE OF CONVENIENCE**

The determination of where the balance of convenience lies is a question of fact, not law. The Court is supposed to deduce the answers from the facts placed before it. See the case of **AGBOGU VS. OKOYE (2008) ALL FWLR (414) 1542.**

It is my humble view that the Applicant has placed sufficient materials before this Court to show that the balance of convenience is in favour of the grant of the injunction and ensuring that the substitution of the Claimants is put on hold pending the determination of the substantive suit.

It must be noted that the Court has the vires to order that the *status quo* be maintained pending the determination of the dispute on the merit. The Supreme Court of Nigeria in confirming and affirming the Court of Appeal decision in the case of **GOVERNOR OF LAGOS STATE VS. OJUKWU (1986) 1 NWLR (PT. 18) 621** held that an interim or interlocutory injunction is an equitable remedy granted by the Court before the substantive question raised in the case is finally determined. Its object is to keep the matters in status quo while the suit is pending.

The Supreme Court in considering OJUKWU’s case went on to determine what was the status quo and it stated that the status quo is the peaceful state of affairs which existed before the controversy or dispute arose. It is not the state of affairs effected or created by the wrong doer or that sparked off the controversy or dispute. The Supreme Court then held that the status quo in

OJUKWU's case was the peaceful and quiet possession of No. 29 Queen's Drive, Ikoyi Lagos State enjoyed before he was forcefully evicted by the Lagos State Government by the eviction of Ojukwu that constituted the status quo.

It is my strict view that the status quo in this case is the state of affairs as prevailed before the issuance of the purported letter of expulsion from the membership of the 1<sup>st</sup> Respondent, Peoples Democratic Party.

It is also my view seriously that the balance of convenience is in favour of the Applicants and the Respondents have nothing to lose by the grant of interlocutory injunction.

It is my view that the Applicants' vested Constitutional right to the said elective positions PDP Executive Committee deserve to be protected by way of Interlocutory Injunction by the Order of the Court to maintain status quo ante bellum by allowing the Claimants to perform the functions of the offices for which they were elected.

The Applicants have in paragraph 10 of their supporting Affidavit made an undertaking to pay damages if this application ought not to have been granted.

It must be remembered that the interlocutory orders sought are harmless and the right of fair hearing of the Defendants is preserved and the purpose of granting these interlocutory reliefs is to prevent the Defendants from perpetrating further or any illegalities, breaches and violations of the 1999 Constitution and PDP Constitution and Guidelines. And to prevent the Defendants from foisting a situation of *fait accompli* on the Honourable Court and the Claimant. See the Supreme Court's Decisions in OBEYA'S case *Supra*; **OJUKWU VS. GOV. LAGOS STATE (1986) J NWELR (1989) 2 NWLR (Pt. 102) 122** and **7-UP BOTTLING COMPANY LTD VS. ABIOLA AND SONS NIGERIA (1995) B. N.W.L.R. (PT. 383) 257 @**

286 – 287 (parag H-D) where the Supreme Court in a unanimous decision per Igu JSC partly stated that:

*“On that questions whether/the refusal to concede the Defendant audience during the hearing of the Ex-parte application offended the constitutional provision of right to fair hearing enshrined in Section 33(1) of the 1979 Constitution (in pari material with Section 36(1) of the 1999 Constitution as altered).”*

*See (Parag. B-D amd 286 – 287) (Parag. H-B) Ratio 11 of the said reports.*

On maintenance of status quo Ante Bellum which is that this Honourable Court orders the Defendants to allow the Claimants to be performing the functions of the office for which they were elected, I place reliance on the Court of Appeal’s decision in the case of **OBAFEMI ADEWALE VS. THE EXECUTIVE GOVERNMENT OF EKITI STATE AND ANOR (2007) (Pt. 1019) 634 @ 558 – 659, Parag. G – C** in which the Court of Appeals cited with approval the above Supreme Court’s decision including **KOTOYE VS. CBN (1989) 1 NWLR (Pt. 98) 419**.

Furthermore, I hold that no amount of monetary damages will be adequate to compensate the Applicant in the event that Applicant’s right to membership is affected considering the nature of the Claimants’ case. In **ORJI VS. ZARIA INDUSTRIES LTD (SUPRA)**; the Supreme Court at pages 142-143 Paragraphs G-A referred with approval to its decision in **OBEYA MEMORIAL HOSPITAL & ANOR VS. A.G. FEDERATION & ANOR (1987) 3 NWLR (60) 325 AT 343, Obaseki, JSC** had this to say: *“The object of interlocutory injunction is to protect the plaintiff against injury by violation of his right by which he could not be adequately compensated in damages recoverable in the actions if the uncertainty were resolved in his favour at the trial”*

The payment of damages would not be enough to assuage the loss of the Applicants who would lose their Constitutional rights in their elected position, political clout and capital which constitute their political stature in their Wards, Local Government Areas, State and at the National level which no amount of damages will be adequate.

Now, time is of the essence and the Applicants elective position is time sensitive and irretrievable, once it lapses as it is fixed by the Constitution like the Rock of Gibraltar and if the application is not granted it will completely efflux, irretrievable and will foist upon this Honourable Court and the Applicant a situation of fait accompli and a situation of complete helplessness such that there will be no return to status quo Ante Bellum.

Finally, and this is of utmost importance and it weighs heavily in my mind, in the consideration of this extant application. What am I saying? This application is to be granted since the Court of Appeal Awka Division said the appeal against my earlier decision came late, it means my order should be respected and obeyed. That is the substance of this application.

So, this application has MERIT and it is therefore granted.

Signed  
**S. B. Belgore**  
(Judge) 6/12/2024