

GJ11



IN THE SUPERIOR COURT OF JUDICATURE  
IN THE HIGH COURT OF JUSTICE  
GENERAL JURISDICTION DIVISION  
ACCRA - A.D. 2024

21/8/24  
12:00 pm  
SUIT NO: GJ/0941/2024 Registrar  
HIGH COURT  
ACCRA

BETWEEN  
  
REPUBLIC  
  
AND

- |  |                                |
|--|--------------------------------|
| 1. THE ATTORNEY-GENERAL  | ... 1 <sup>ST</sup> RESPONDENT |
| Office of the Attorney-General & Ministry of Justice<br>Ministries, Accra. |                                |
| 2. THE POLICE COUNCIL  | ... 2 <sup>ND</sup> RESPONDENT |
| 3. COP MR. CHRISTIAN TETEH YOHUNO  | ... 3 <sup>RD</sup> RESPONDENT |
| <u>EX- PARTE: EMMANUEL FELIX MANTEY</u>                                    | ... <u>APPLICANT</u>           |

NOTICE OF PRELIMINARY LEGAL OBJECTION PURSUANT TO ARTICLE 2  
(1) AND 130 (1) OF THE 1992 CONSTITUTION

PLEASE TAKE NOTICE that the Attorney-General, (the 1<sup>st</sup> Respondent herein) and Counsel for and on behalf of the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents shall raise a preliminary legal objection to the "Application for Judicial Review in the Nature of Prohibition ad *Quo Warranto* pursuant to Article 141 of the 1992 Constitution; Section 6 of the Courts Act, 1993 (Act 459); Order 55 of the High Court Civil Procedure Rules, 2004 (C.I. 47)", on grounds that the Application was made in breach of Articles 2(1) and 130 (1) of the 1992 Constitution, and also the jurisdiction of the High Court was not properly invoked since the Application was made pursuant to the wrong statutory provisions.

Notice is hereby given to you, *viz*:

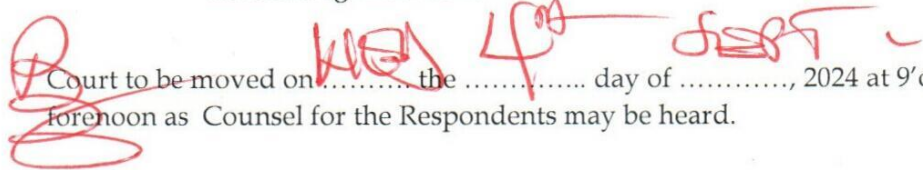
1. The Applicant's action was instituted in the wrong forum and in contravention of Articles 2(1) and 130 (1) of the 1992 Constitution:
  - a. The appointment of the 3<sup>rd</sup> Respondent as Deputy Inspector-General of Police was made by His Excellency the President of Ghana in accordance with the advice of the Police Council as required under Article 202 (3) of the Constitution 1992.

Sev. copy

- b. The resolution of the reliefs sought in this suit will require the interpretation of the entire Article 202 of the 1992 Constitution in order to ascertain whether His Excellency the President of Ghana acted within the scope of the powers conferred on him under Article 202 (3) or acted ultra vires.
- c. The Applicant's deposition at paragraphs 15, 16, 17, 18 and 19 of his Affidavit in support require constitutional interpretation as they seek to point to Article 202 (2) of the 1992 Constitution.
- d. It is only the Supreme Court which has the exclusive original jurisdiction in all matters relating to the enforcement and interpretation of the 1992 Constitution.
- e. There is a real likelihood of the parties in this suit placing rival meanings on the true meaning and effect of the provisions of Article 202 of the 1992. Therefore the case has to be referred to the Supreme Court for interpretation.

2. The jurisdiction of the High Court was wrongly invoked by the Applicant:

- i. The Respondents and the President are not lower courts or lower adjudicating authorities, therefore, they cannot be amenable to the supervisory jurisdiction of the High Court under Article 141 of the 1992 Constitution and Section 16 of the Courts Act, 1993 (Act 459).
- ii. The President was performing his administrative functions and not exercising his adjudicatory powers when he appointed the 3<sup>rd</sup> Respondent as the Deputy Inspector-General of Police, therefore, Article 141 of the 1992 Constitution and Section 16 of Act 459 are not the appropriate statutory provisions to be invoked against him.
- iii. Similarly, the 2<sup>nd</sup> Respondent was performing its administrative functions and not exercising adjudicatory powers when it advised the President of Ghana to appoint the 3<sup>rd</sup> Respondent as Deputy Inspector-General of Police, therefore, Article 141 of the 1992 Constitution and Section 16 of Act 459 are not the appropriate statutory provisions to be invoked against them.

 Court to be moved on ..... the ..... day of ....., 2024 at 9 o'clock in the forenoon as Counsel for the Respondents may be heard.

DATED AT THE OFFICE OF THE ATTORNEY-GENERAL & MINISTRY OF JUSTICE, ACCRA THIS 19<sup>TH</sup> DAY OF AUGUST, 2024.



UMMU ZAKARI  
PRINCIPAL STATE ATTORNEY  
FOR: THE ATTORNEY-GENERAL  
SOLICITOR FOR THE RESPONDENTS

THE REGISTRAR  
HIGH COURT  
GENERAL JURISDICTION DIVISION  
ACCRA

AND A COPY OF SERVICE TO THE APPLICANT OR HIS SOLICITOR, LOM NUKU AHLIJAH, ESQ., INTEGRI SOLICITORS & ADVOCATES; TEL: +233540383962.