

IN THE SUPREME COURT OF MAURITIUS
(before the Honourable Judge in Chambers)

In the matter of :-

Mr. Seetannah LUTCHMEENARAIDOO, also called Vishnu LUTCHMEENARAIDOO, (GCSK), Honourable Minister of Foreign Affairs, Regional Integration and International Trade, residing at Shand Street, Beau Bassin

APPLICANT

Versus

1. The Independent Commission Against Corruption (ICAC), having its office at ICAC Building, Le Reduit, service to be effected upon its Director General of same address,
2. The Director of Investigation, Independent Commission Against Corruption (ICAC), of ICAC Building, Le Reduit,
3. Mr. Sudarshan BHADAIN, also called Roshni BAHDAIN, Minister of Financial Services, Good Governance and Institutional Reforms, SICOM Tower, Cybercity Ebene,

RESPONDENTS

I, Seetannah LUTCHMEENARAIDOO, also called Vishnu LUTCHMEENARAIDOO, Honourable Minister of Foreign Affairs, Regional Integration and International Trade, residing at Shand Street, Beau Bassin, holder of National Identity Card Number L240544310428A, MAKE MY SOLEMN AFFIRMATION AS A HINDU AND SAY AS FOLLOWS :-

1. I am the Applicant in the above matter.
2. I am:-
 - (a) A Member of Parliament, having been elected in Constituency No.7, Piton-Riviere Du Rempart, during the General Elections held in December 2014; and
 - (b) the Honourable Minister of Foreign Affairs, Regional Integration and International Trade.
3. Prior before holding the post of Minister of Foreign Affairs, Regional Integration and International Trade, I held the post of Ministry of Finance and Economic Development.

4. The Respondent No.1 is a body corporate established under an act of the National Assembly and it is headed by Mr. Kaushik Goburdhun, who is closely related to the Respondent No.3.
5. The Respondent No.2 is in charge of all investigations initiated by the Respondent No.1.
6. The Respondent No.3 is presently the Honourable Minister of Financial Services, Good Governance and Institutional Reforms.
7. I am a person of utmost integrity and probity.
8. I am a seasoned politician.
9. Ever since September 2015, I have reasons to believe that the Respondent No.3, who is a Minister '*tres en vue et tres en verve*' of the present government has initiated a smear campaign to tarnish and to sully my reputation as a citizen of Mauritius, a Member of Parliament, as the then Minister of Finance and Economic Development and at present as the Minister of Foreign Affairs Regional Integration and International Trade.
10. The Respondent No.3 has been on a spree to malign my reputation by, inter alia, leaking to the press and to the public at large the following false and malicious information , viz :-
 - (i) that I have used my position as the then Minister of Finance to obtain a loan of EUROS1.1Million from the State of Bank of Mauritius and that the said loan was approved without following the procedure;
 - (ii) that I have been paid kickbacks to the tune of Rs.45Million in the joint venture project of YIHAI and State Investment Corporation Limited for Domaine Les Pailles;
11. The Respondent No.3 is a Honourable Minister, who has been managing his Ministry like the KGB with his arms spread everywhere in most of the ministries, has aspired to become the next Minister of Finance by ousting me by any means from the present government.
12. The Respondent No.3 is conniving ('comploter') to oust me and finish me as a politician and a Minister.

13. I aver that the Respondent No.3 is bent and minded to evict me from the present government in order to have a comprehensive control over '*l'appareil de l'etat*'.
14. The campaign of the Respondent No.3 has gained momentum to such an extent that the Respondent No.1 has initiated an enquiry into my loan of EUROS1.1Million and into the deal of the joint venture of State Investment Corporation Limited and YIHAI.
15. In so far as the loan of EURO1.1Millions is concerned, in order to show the bad faith of the Respondent No.3 to evict me from the Government , I hereby bring the following the facts, things and matters :-
- (i) I made a request for a loan EUROS1.1Million in the month of July 2015;
 - (ii) The said request for a loan was made to the State Bank of Mauritius Ltd;
 - (iii) The said loan was finally approved on 11.9.2015 after the State Bank of Mauritius Ltd was satisfied that I fulfilled all the conditions set by the said Bank;
 - (iv) **For ease of reference , I hereby annex a copy of the letter dated 11.9.2015 wherein my loan of EUROS1.1Million was approved and marked VL1;**
 - (v) It is clear from the said letter that the loan was for EUROS 1.1Million, payable over a period of 2 years with interests at the rate of 1.5 per annum;
 - (vi) The said loan was secured by a fixed charge over my matrimonial property at Beau Bassin; **a copy of the said fixed charge is annexed and marked VL2;**
 - (vii) The interests are payable on a yearly basis;
 - (viii) The capital to be refunded in one lump sum upon maturity of the loan;
 - (ix) On 19.01.2016, the said loan, at my request was reduced from EUROS1.1Million to EUROS400,000.- under the same conditions; **a copy of my letter dated 19.01.2016 to reduce is annexed and marked VL3;**
 - (x) On 20.01.2016, the sum of EUROS 700,000.- was debited from my account and paid to the State Bank of Mauritius Ltd; **a copy of my statement of account showing the reduction of loan is annexed and marked VL4;**
 - (xi) The said loan was brought down at my request to EUROS400,000.- to reduce my exposure;
 - (xii) I have not benefitted from any favour as the rate of interests that I am paying;
 - (xiii) In the month of December 2015, the Respondent No.3 informed the Honourable Prime Minister that I had contracted a loan with providing a security;
 - (xiv) To show my good faith, I did not object to the State Bank of Mauritius Ltd sharing all relevant information to the Honourable Prime Minister about the loan, who after having examined and inspected the said information, was satisfied that the loan was in order.

- 16.** It is clear from the above, that I have not used and could use my position as the then Honourable Minister of Finance to contract a loan of EUROS400,000.- from the State Bank of Mauritius Ltd, the more so that in the past I had already contracted a loan in United States of America Dollars from the State Bank of Mauritius Ltd that I had already
- 17.** It is therefore undoubtedly clear that the Respondent No.3 has provoked and manipulated the said campaign to exit me from the present government and by referring the matter to the Respondent No.1 so that I be humiliated, interrogated, arrested and be forced to resign from the present government.
- 18.** Since I am a man of integrity and probity, I am ready and willing to face an enquiry provided such enquiry is without any political interference from the Respondent No.3 and follows the conditions set out by law.
- 19.** In so far as the alleged kick back in the sum of Rs.45Million that I had allegedly received from the joint venture project State Investments Corporation Limited and LIHAI, this is pure invention on the part of the Respondent No.3 inasmuch as I invite the Respondent No.3 to come up with all documents in support of the alleged information that I had received kick back from the said joint venture.
- 20.** I am confident that there is no document in support of any kick back allegedly received by me.
- 21.** It is evidently clear that the Respondent No.3 is manipulating information to kill me politically so that he could ' assouvir ses besoins personnels sur l'appareil de l'etat'. The Respondent No.3 sees in me ' un ennemi en politique qu'il faut a tout prix abattre'.
- 22.** The Respondent No.3 has prompted the Respondent No.1 to initiate the said enquiry so that I be interrogated and arrested.

23. I aver and I verily believe that :-

- (i) There is no ground for the Respondent No.1 to initiate an enquiry as mentioned above;
- (ii) I fear and apprehend that the said enquiry is being initiated and provoked by the Respondent No.3;
- (iii) Section 46 of the Prevention of Corruption Act has not and is not being followed and complied with to the extent that the Respondent No.2 was not involved in any preliminary investigation;
- (iv) By not following the procedure , the Respondent No.1 is depriving me of my right of a fair and equitable enquiry;
- (v) The Respondent No.1 is bound , as per the law, to strictly comply with the law , to look into the alleged complaints made against me as per Section 46 of the Prevention of Corruption Act.

24. On Saturday the 2nd day of April 2016 at around 16.00 hours I received from the Respondent No.1 a letter requesting me to attend the office of the Respondent No.1 for an enquiry. It is noteworthy to point out that the said letter covering me to the Respondent No.1 found its way in the press on Sunday 3.4.2016. It is therefore clear that the Respondents deliberately managing the public opinion with a view to harm my reputation and to deprive me of a fair hearing. **A copy of the letter of the Respondent No.1 is annexed and marked VL5. Copies of press cuttings showing that the public is made aware on Sunday 3.4.2016 that I am being convened to the office of the Respondent No.1 today are annexed and marked VL6 and VL6(i)**

25. It is clear that the Respondents Nos. 1 and 2, with the help of the Respondent No.3, have embarked in a spree of tarnishing my reputation by all means.

26. I aver that the Respondents Nos. 1 and 2 are not affording me a fair and equitable chance/opportunity in that all the facts, things and matters relating to the present enquiry in that being leaked to the press so that the Respondents Nos. 1 and 2 are put before a 'fait accompli'.

27. The present enquiry is being initiated at the behest of the Respondent No.3 who is politically motivated by his personal gain and aspiration to run the affairs of the country.

28. I aver that my rights ought be protected so that I face an enquiry which is not biased and unfair. I am ready and willing to face any enquiry into the said allegations provided my constitutional rights are inspected.
29. I fear and I apprehend that I can be arrested based on an enquiry which is not fair, just and equitable and which is not in compliance with the laws.
30. I have been requested to attend the office of the Respondent No.1 this afternoon and I fear that I will be deprived of my rights.
31. Whilst I volunteer to attend any enquiry, I pray that such enquiry be just and fair.
32. I fear that , in view of the direct involvement of the Respondent No.3 in the said allegations, I fear that I will not be treated fairly.
33. I aver that the acts and doings of the Respondents Nos. 1 and 2 cannot be adequately compensated by damages.
34. I aver that the balance of convenience is in my favour.
35. I am seeking the protection of the Honourable Judge in Chambers so that I be faced with a fair, just and equitable enquiry.
36. I aver that the matter is so urgent that it requires the intervention of the Honourable Judge inn Chambers before notice of same is given to the Respondents.
37. For the reasons set out above, I therefore pray that the Honourable Judge in Chambers:-
 - (i) Be pleased to issue an interim order in the nature of an injunction restraining and prohibiting the Respondents Nos. 1 and 2 from proceeding with an enquiry into my loan of EUROS400,000.-

- (ii) A summons be issued calling upon the Respondents to appear before the Honourable Judge in Chambers on a day to be fixed to show cause why the interim order should not be made interlocutory order , pend the application for judicial review;
- (iii) In the event that the interim order is declined, I pray that a summons be issued calling upon the Respondents to appear before the Honourable Judge in Chambers on a day to be fixed to show cause why an interlocutory order in the nature of an injunction should not be issued restraining and prohibiting the Respondents Nos. 1 and 2 from proceeding with to an enquiry into my loan of EUROS400,000.-, pending the application for judicial review.

WITH COSTS.

38. I pray accordingly.

Solemnly affirmed by the abovenamed)
Deponent, at Chambers, Court House,
Supreme Court of Mauritius, Port-Louis,
This 4th day of April 2016)

Drawn up by me

BEFORE ME

Mr. N. Appa Jala SA
Attorney

SUPREME COURT

I certify that this affidavit forms part of an application to be lodged before the Honourable Judge in Chambers.

Mr. N. Appa Jala SA
Attorney