

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

Judicial Review
Case No. 23/48 SC/JUDR
(temporary ref. 23/140)

BETWEEN: **Hardison Tabi, David Narai and
Alice Kalo**
Claimants

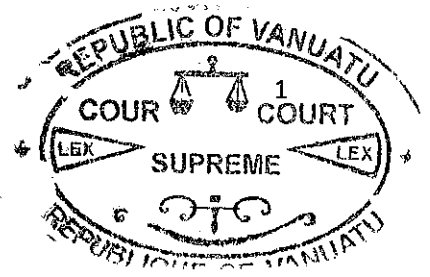
AND: **President of the Republic of
Vanuatu**
First Defendant

AND: **Minister of Education and Training**
Second Defendant

Date: 2 May 2023
Before: Justice V.M. Trief
Counsel: Claimants – Mr H. Tabi
First Defendant – Mr J. Wells
Second Defendant – Mr C. Leo

**DECISION AS TO SECOND DEFENDANT'S APPLICATION FOR STAY OF THE
EFFECT OF THE JUDGMENT**

1. The Claimants Hardison Tabi, David Narai and Alice Kalo filed the Claim for judicial review of the First Defendant President's decision to remove them as members of the Teaching Service Commission ('TSC') and to appoint new members. By the Judgment dated 17 March 2023, the President's decisions were quashed.
2. On 19 April 2023, the Second Defendant the Minister of Education and Training filed Application for Stay of the Effect of the Judgment dated 17 March 2023 (the 'Application'). It was opposed.



3. Having considered the Application and the submissions made, the Application is **declined and dismissed** for the following reasons:
- a) The Application is made on the grounds that the Second Defendant has lodged an appeal and given its nature, it is necessary that the effect of the Judgment be stayed and as set out in the Sworn statement of Bruno Leingkone;
 - b) Mr Leingkone's sworn statement contains a request that the Judgment be stayed and attaches a copy of the Notice and Grounds of Appeal;
 - c) However, a request that the Judgment be stayed is insufficient reason to grant a stay and neither is the purported nature of the appeal;
 - d) In addition, the orders made in the Judgment were not against the Second Defendant and I accept Mr Tabi's submission that therefore the Second Defendant is not entitled to apply for its suspension; and
 - e) Finally, to grant a stay of the Judgment would have the effect of denying the Claimants the fruits of the judgment.
4. The costs of the Application are reserved.

**DATED at Port Vila this 2nd day of May 2023
BY THE COURT**


Justice Viran Molisa Trier

