

**IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION
Misc. Action No. 79 of 2014**

*Pursuant to Section 28 of the Political Parties (Registration, Conduct, Funding and Disclosures)
Decree 2013 – Decree No. 4 of 2013*

BETWEEN:

THE REGISTRAR OF POLITICAL PARTIES
of Level 1, Suvavou House, Victoria Parade, Suva.
Applicant

AND:

SOQOSOQO DUAVATA NI LEWENIVANUA
being registered as a Political Party under the Electoral (Registration of Political Parties)
Regulation 1991.
Respondent

Appearance: Mr D Nair, Attorney General's Chambers for the Applicant

Date of Judgment: 2 September 2014

JUDGMENT

1. The Applicant filed a Notice of Motion on 1 July 2014 and sought the following Orders:

*[a] The Respondent be Wound Up by this Honorable Court under the provision of the
Political Parties (Registration, Conduct, Funding and Disclosures) Decree 2013
(Decree No. 4 of 2013);*

[b] The Office of the Official Receiver be appointed as Receiver;

*[c] A list of assets and liabilities of the Respondent be submitted within 21 days from the
date the Order is sealed;*

*[d] The Respondent is prohibited from disposing any properties/assets which are
registered under its name;*

*[e] The Registrar of Titles is prohibited from registering the transfer of any assets
belonging to the Respondent, unless endorsed by the Applicant; and*

[f] Any other Order that the Court may deem just and equitable in such circumstances.

2. The said Notice of Motion was made pursuant to Section 28 of the Political Parties (*Registration, Funding and Disclosures*) Decree 2013 and the Inherent Jurisdiction of this court.

3. The Applicant, the Registrar of Political Parties sworn the Affidavit in Support on 30 June 2013 and stated inter-alia:

3.1 That he was appointed in terms of the Political Parties (*Registration, Conduct, Funding and Disclosures*) Decree No. 4 of 2013.

3.2 The Respondent made an application for Registration of a Political Party to the Supervisor of Elections under the Electoral (*Registration of Political Parties*) Regulations 1991 (*Annexure "MS1"*) accompanying with a Constitution of the Respondent (*Annexure "MS2"*).

3.3 A copy of the list of members was submitted, a copy of same annexed marked as "*MS3*".

3.4 The Notice for Registration for the Respondent's political party was gazette on 14/06/2001 which was annexed to the Affidavit marked "*MS4*".

3.5 The commencement of the Decree came into force on 18 January 2013 and as per requirement under the provisions of the said Decree No.4 of 2013 the Respondent had failed to apply to be registered as a existing political party.

3.6 The Applicant stated that in accordance with the powers vested with him, the registration of the Respondent's Political party was revoked.

4. The Applicant had filed the Affidavit of Service dated 16 July 2014 sworn by Sefanaia Sukanaivalu and Neel Singh Process Server and Executive Officer (*Litigation*) respectively. No response was filed by the Respondent to date.

Conclusion

5. It is provided in Section 4 of Political Parties (*Registration, Conduct, Funding and Disclosures*) Decree 2013 (*Decree No.4 of 2013*) existing political parties to register:

"4(1) An existing political party shall continue to operate as a political party for a period of 28 days from the date of commencement of this Decree.

(2) Where an existing political party seeks to continue to operate as a political party after the expiry of the period mentioned in sub-section (1), then it must apply to register as a political party in accordance with the provisions of this Decree within 28 days from the date of the commencement of this Decree".

Section 4(4) states:

"4-(4) If an existing political party does not apply to register in accordance with the

provisions of this Decree within 28 days from the date of the commencement of this Decree, then it shall be deemed to be deregistered upon expiry of 28 days from the date of the commencement of this Decree and the Registrar shall wind up any such existing political party in accordance with this Decree and any outstanding net assets of that existing political party shall vest in the state".

6. The Applicant had deposed in paragraph 9 of the Affidavit that with the powers vested on him pursuant to Section 28 of the Decree No. 4 of 2013, the registration of the Respondent political party was revoked and deregistered.

7. The Applicant had made this application under Section 28(1) which states:

"28-(1) The Registrar shall, upon the deregistration of a political party or its declaration as a prohibited organization under any law, make an application to the High Court for the winding up and dissolution of that political party, and the disposition of the property, assets, rights and liabilities of the political party.

Section 28-(2) provides:

"28-(2) The High Court shall make orders as it may deem just and equitable in the circumstances of the case".

8. In this matter the Applicant had deposed the registration of the Respondent political party is revoked which resulted the deregistration. As such I conclude that the applicant is entitled to seek orders in paragraph 1 of this Judgment as stated in the Notice of Motion. There was no opposition made by the Respondent to date.

Accordingly, I make the following **Orders**:

(a) The Respondent is wound up and dissolved;

(b) Office of the Official Receiver is appointed for the purpose of disposition of the property, assets, rights and liabilities of the Respondent;

(c) The Respondent is ordered to submit a list of assets and liabilities of the Respondent within 21 days from the date of serving this Judgment;

(d) The Respondent is ordered not to dispose any properties/assets which are in the name of Respondent;

(e) Registrar of Title is ordered not to register any transfer of assets belonging to the Respondent unless this court orders otherwise;

(f) No order for costs.

Delivered at Suva this 2nd Day of September 2014.

C. KOTIGALAGE
JUDGE