

**SUPREME COURT OF SEYCHELLES**

---

**Reportable**

MA 14/2025

(Arising in MC 35/2024)

In the matter between:

**BAR ASSOCIATION OF SEYCHELLES**

*(Represented by Ms Divino Sabino)*

**Applicant**

and

**THE HONOURABLE CHIEF JUSTICE**

**of**

**The Supreme Court**

**1<sup>st</sup> Respondent**

and

**MS ZEINA JABBI**

*(Both Represented by Mr Frank Elizabeth)*

**2<sup>nd</sup> Respondent**

**And**

**THE HONOURABLE ATTORNEY GENERAL**

**3<sup>rd</sup> Respondent**

**Neutral Citation:** *Bar Association of Seychelles vs The Honourable Chief Justice & Ors* (MA 14/2025) (16 July 2025)

**Before:** Adeline J

**Summary:** Leave to appeal against the ruling of the Supreme Court denying the Petitioner leave to proceed with judicial review.

**Heard:** By submissions

**Delivered:** 16 July 2025

---

**FINAL ORDER**

---

The application is dismissed with cost awarded in favour of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.

---

**RULING**

---

**Adeline, J**

[1] By Notice of Motion filed in court on the 27<sup>th</sup> January 2025, the Applicant, the Bar Association of Seychelles, pursuant to Rule 8 of the Supreme Court (Supervisory Jurisdiction over Subordinate Courts, Tribunals and Adjudicating Authorities) Rules, (“the Rules”) applies to this Honourable Court for an order granting it leave to appeal against the order of this court made on the 13<sup>th</sup> January 2025 in MC 35 of 2024.

[2] For ease of references, Rule 8 of the Rules reads as follows;

*“Where the Supreme Court refuses to grant leave to proceed, the Petitioner may appeal to the Court of Appeal within 14 days of the order of refusal with leave of the Supreme Court first had and received”.*

[3] In support of the application, the Applicant relies on an affidavit deposed by one Jean-Marc Lablache of which the following paragraphs below are most pertinent for the determination of this application, notably;

*“5. The Applicant filed a petition for Judicial Review of the Honourable Chief Justice’s order made under the Legal Practitioners Act (“LPA”) on the 24<sup>th</sup> 2024 admitting the 2<sup>nd</sup> Respondent as an Attorney-at-law of the Supreme Court of Seychelles.*

*6. It is the Applicant’s position that the 2<sup>nd</sup> Respondent does not fulfil the criteria set out in law to be admitted as an Attorney-at-law. Noteworthy is that the 2<sup>nd</sup> Respondent did not serve any pupillage as prescribed by the LPA, which requires a pupil to have served 2 years of pupillage under the supervision of a Pupil Master as prescribed, as defined by the LPA.*

*7. The hearing of the matter for leave to proceed was held on the 25<sup>th</sup> November 2024. In the hearing, the issue of sufficient interest and standing was canvassed by the Applicant, who also provided relevant case law on the matter, Bar Association of Seychelles and Nichole Tirant vs President of the Republic and Ors (SCA 7 of [2004] SCCA 2 (10 June 2004).*

8. *The order refusing the Applicant leave to proceed was made on the 13<sup>th</sup> January 2025 (Attached as exhibit JML 1). In the ruling, the court made the findings that the Applicant does not have sufficient interest or standing in the matter.*

9. *It is the Applicant's contention that it has the requisite standing and interest for the Judicial review matter to progress to a hearing on the merits. The indicative grounds of appeal are attached as exhibit JML 2. As can be discerned from the said grounds of appeal, the Applicant's appeal includes grounds challenging the findings of the learned judge with regards to standing and sufficient interest.*

10. *This matter is in the public interest as it will examine the criteria for leave to proceed in judicial review matters involving associations as well as the requirements to be admitted as an attorney-at-law of the Supreme Court".*

[4] In reply to the motion, learned counsel representing the 1<sup>st</sup> and 2<sup>nd</sup> Respondents raised preliminary objections by way of *plea in limine litis*. Learned counsel first legal point of objection, is that the court is *functus officio*. Its 2<sup>nd</sup> point of objection is that *no leave is required to appeal to the Court of Appeal*, and the 3<sup>rd</sup> point of objection is that *the application for leave is an Abuse of Process and a Procedural Irregularity*.

[5] Learned counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents prays for the following reliefs;

*"1. Dismiss the Applicant's Notice of Motion dated 27<sup>th</sup> January 2025 for want of jurisdiction*

*2. Declare that the Supreme Court is functus officio in respect of MS 35 of 2024*

*3. Declare that the Applicant has a right of appeal and requires no leave to do so*

*4. Award costs in favour of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, and*

*5. Grant such other relief as the court deems fit and just in the circumstances".*

- [6] Learned counsel representing both parties in these proceedings did tender written submissions. At the outset, I take issue with paragraph 5 of the submissions of learned counsel for the Applicant that reads as follows;

*“5. The order refusing the Applicant leave to proceed was made on the 13<sup>th</sup> January 2025 (Attached as exhibit JML 1) to the affidavit in support of this application. In this ruling the court made the finding that the Applicant does not have sufficient interest or standing in the matter. No mention was made in the above – mentioned Court of Appeal ruling on the standing of the Applicant”.*

- [7] It is similarly averred, at paragraph 8 of the supporting affidavit to the motion, *“that the order refusing the Applicant leave to proceed was made on the 13<sup>th</sup> January 2025 (Attached as exhibit JML 1) to the affidavit in support of this application. In the ruling the court made the finding that the Applicant does not have sufficient interest or standing in the matter”.*

- [8] Learned counsel for the Applicant written submission at paragraph 5, and the averment at paragraph 8 of the affidavit in support of the application are utterly and partly misleading. The Petitioner’s application for leave to proceed with judicial review failed at the leave stage on the face of the *pleadings* because the Petitioner did not plead *“sufficient interest”* and *“good faith”*. In fact, the final order made by this court in its ruling of the 13<sup>th</sup> January 2025 replicated hereunder reads;

*“The petition for leave to proceed with judicial review fails for the reason that the Petitioner has not pleaded a sufficient interest in the subject matter of the petition and that the petition is being made in good faith as the substantive law under rule 6 of the Supreme Court (Supervisory Jurisdiction over Subordinate Courts, Tribunals and Adjudicating Authorities) Rules required. Accordingly, the petition is therefore dismissed”.*

- [9] Therefore, the application was dismissed not on the basis of the substantive law governing leave to proceed with judicial review, but rather, on procedural law given that the material facts to satisfying the criteria for *sufficient interest* and *good faith* were not pleaded.
- [10] It is pertinent, at this juncture, to address learned counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents’ points of objections discussed in its written submissions. Learned counsel’s argument that

the court is functus officio, that no leave is required to appeal against the decision to the Court of Appeal and that the application is an abuse of process, do not hold water in the light of Rule 8 of the Supreme Court (Supervisory Jurisdiction over Subordinate Courts, Tribunals and Adjudicating Authorities) Rules, the text of which is quoted at paragraph [2] above.

- [11] To determine, whether leave to appeal to the Court of Appeal as regards to this application should or should not be granted, I have had regard to Section 12(2) (b) of the Courts Act which is couched in the following terms;

*“12(2)(b) In any such cases as aforesaid the Supreme Court may, in its discretion, grant leave to appeal if, in its opinion, the question involved in the appeal is one which ought to be the subject matter of an appeal”.*

- [12] In its submissions, learned counsel for the Applicant cites a number of case law authorities based on our jurisprudence, where the court has discussed the guiding principles in determining whether to grant leave to appeal. whilst the cases cited offer good guidance for determining this application, I am of the opinion, that the question involved in the appeal is not one which ought to be the subject matter of an appeal given that the ruling of this court which the Petitioner seeks to appeal against, is that leave to proceed with judicial review was denied because the Petitioner had not pleaded “*sufficient interest*” and “*good faith*”.

- [13] In essence, therefore, the Applicant seeks leave of this court to appeal against a decision based on the merits of the application for leave to proceed with judicial review, when this court did not determine the merit of the application, and such a decision was never made. Thus the finding of the court at the leave stage was not what the Applicant seeks to appeal against.

- [14] In the final analysis, and for the reasons discussed in the preceding paragraphs, this application cannot succeed and is accordingly dismissed with cost awarded in favour of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.



Signed, dated and delivered at Ile du Port 16<sup>th</sup> July 2025.

Adeline J