

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

**Judicial Review**  
**Case No. 17/3385 SC/JUDR**

**BETWEEN: Vanuatu National Council of Women**  
*Claimant*

**AND: Attorney General**  
*First Defendant*

**AND: Jenny Ligo**  
*Second Defendant*

**AND: The Government of the Republic of Vanuatu**  
*Third Defendant*

**Before:** *Justice Dudley Aru*

**Counsel:** *Eric Molbaleh for Claimant*  
*Adeline Bani for Defendants*

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## **JUDGMENT**

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### Introduction

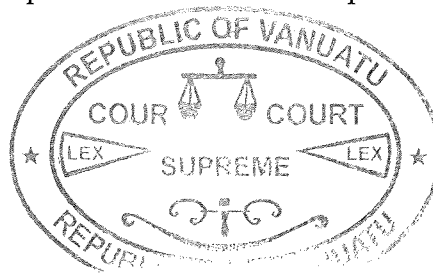
1. This is a judicial review claim brought by the Vanuatu National Council of Women (VNCW). It seeks to challenge the appointment of Mrs Jenny Ligo as a member of the Vanuatu National Cultural Council (VNCC) representing the National Council of Women (NCW).

### Background

2. On 4 August 2017 the VNCW in its 14<sup>th</sup> National Executive Committee meeting resolved to nominate Mrs Wendy Garae for appointment to the VNCC as the women's representative. The nomination was then forwarded to the Minister of Justice who is authorised under the VNCC Act [CAP 186] as the appointing authority to appoint members of the Council. On 14 August 2017 the Minister of Justice appointed Mrs Jenny Ligo as the NCW representative. This was done on the understanding that the Act refers to the NCW which does not exist as yet and not the VNCW which is a charitable organisation.

### Pleadings

3. The claimant alleges that the VNCW is the sole representative of women and it did not nominate Mrs Jenny Ligo for the position as the women's representative. A number of



orders are sought including a declaration that the appointment was invalid and should be quashed and Mrs Wendy Garae be appointed in line with the nomination. Other orders sought are that Mrs Jenny Ligo's appoint as chairman of the VNCC be declared null and void as well as the meetings and resolutions of the VNCC under her chairmanship.

4. The defendants rely on s3 (1) a (iii) of the Act to say that the Act refers to a national council of women not the VNCW as alleged and since the NCW is not in existence it was open to the Minister to appoint Mrs Ligo as the women's representative.

#### Discussion

5. The relevant provision of the Act for consideration is section 3 which states as follows:-

**"3. Composition of the Council**

(1) *The Council shall consist of the following members –*

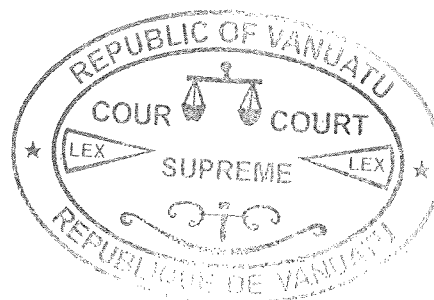
(a) *six members appointed by the Minister of whom –*

- (i) *one shall be a representative of the Ministry responsible for Cultural Affairs nominated by the Minister of Cultural Affairs;*
- (ii) *one shall be a representative of the National Council of Chiefs nominated by the National Council of Chiefs;*
- (iii) *one shall be a representative of the National Council of Women nominated by the National Council of Women;*
- (iv) *one shall be a representative of the Vanuatu Cultural Centre;*
- (v) *two shall be persons whom the Minister considers have relevant experience in matters relating to museums, public libraries or archives; and*

(b) *the director."*

*(emphasis added)*

6. For the purposes of this exercise, subsection (1) a (iii) requires that first there must be a nomination from the NCW. Based on the nomination the Minister then makes the appointment. There is no evidence before me that Mrs Jenny Ligo was nominated by either the NCW or the VNCW. The defendants readily admit that the NCW is none existent. In that regard, the defendants have not complied with the requirements of the Act in appointing Mrs Ligo. The claimant's evidence on the other hand is that they nominated Mrs Wendy Garae not Mrs Ligo.



7. The question of whether the VNCW represents women nationally in Vanuatu can be readily understood from the provisions of its Constitution. The preamble says it was formed on 15 May 1980 following a resolution of the national conference of women of the New Hebrides held on 12 to 16 May 1980 AND it is the only umbrella organisation for all women in the Republic of Vanuatu.
8. Article 3 makes it quite clear that all the girls and women who are born and live in Vanuatu are members of the VNCW. I am satisfied that the organisation does represent all women in Vanuatu. In the absence of specific legislation by Parliament, the VNCW represents the interests of all the women in Vanuatu. Mrs Ligo's appointment was not supported by any nomination therefore cannot stand. On the other hand Mrs Wendy Garae was nominated by the VNCW and is in my view a valid nomination for the purposes of s 3 1) a) (iii). It is now a matter for the Minister of Justice to make the appointment of the women's representative in line with the nomination. Mrs Ligo ceases to be a member of the VNCC. As the chairman is appointed from amongst the members (s4 (1)), she ceases to be the chairman as well.
9. The claimant has not shown any evidence that would warrant a declaration that the meetings and resolutions of the VNCC under the chairmanship of Mrs Ligo be declared null and void as well. The cost implications to the VNCC would be huge should such an order be made. I am not satisfied with the claimant's submissions on that point and therefore refuse the order sought.

#### Conclusion

10. The claim is allowed and the following orders are issued:-

- a) The appointment of Mrs Jenny Ligo as a member and chairman of the VNCC is hereby declared null and void and is hereby quashed.
- b) The Minister responsible is directed to appoint a member of the VNCC under s 3 1) a) (iii) of the Act in line with the nomination received from the VNCW within 21 days.
- c) The claimant is entitled to costs to be agreed or taxed by the Master failing agreement.

**DATED at Port Vila this 22<sup>nd</sup> day of January, 2019.**

**BY THE COURT**

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**Dudley Aru**  
**Judge**

