

SWAZILAND HIGH COURT

AMBROSE MALAMBE

Plaintiff

Vs

CHAIRMAN OF THE GOVERNMENT SCHOLARSHIP SELECTION

BOARD

1st Respondent

ATTORNEY GENERAL

2nd Respondent

Civ. Case No. 87/2002

Coram SAPIRE, CJ

For Plaintiff Adv. E. Thwala

For Respondent Ms. T. Nkwanyana

JUDGMENT

(11/02/2002 revised)

This is an application made by one Ambrose Malambe. He seeks relief against 1st Respondent who is the Chairman of the Swaziland Government Scholarship Selection Board. The relief which he seeks is an order compelling the 1st Respondent in his capacity as Chairman of the Swaziland Government Scholarship Selection Board to convene a meeting to consider an application which the applicant has made for a scholarship which would enable him financially to attend a course at the Rand Afrikaans University in South Africa. The application is based on what Mr. Thwala, who appears for the applicant, calls a right of every Swazi Citizen to be considered for a scholarship of this nature. When I enquired as to where this right arose Mr. Thwala was unable to refer me to any common law or statutory provision which gave such

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right to the citizens of Swaziland. Indeed there are training schemes organised by the Government and indeed that if approved in certain circumstances a scholarship may be awarded but at all times the question of scholarship is not a right but it may be a privilege if conferred.

The first difficulty facing the applicant is that of the locus standi of the 1st Respondent. It is impossible to ascertain from these papers that a Swaziland Government Scholarship Selection Board exists and if it does exist how it was founded and what its functions and duties are. None of these has been alleged and all that has been advanced is a mere say so of the applicant's counsel that the applicant has this right and has a legitimate expectation.

The application is entirely devoid of any averment from which these rights can be deduced. There is no allegation upon which a legitimate expectation can be seen to be based.

On the papers as they stand the Board is not a person according to law, it has no statutory or common

law existence and accordingly cannot be compelled to meet and to consider anything. It is true as applicant's counsel has said that the question of scholarship and the awarding of the same appears to be shrouded in the lack of statutory or common law provisions.

The question also is whether the applicant is a person who can apply for a scholarship. The respondent has indicated that he is an existing civil servant, he is a teacher by profession. He is entitled to apply for a scholarship to take a course, which will take him out of his current profession and fit him for some other occupation. In this case he wishes to pursue a BA Law Degree and there is nothing to say that such will advance his career as a teacher. There is no evidence as to what the criteria for the award of scholarship is other than what appears in the respondent's affidavit and from there it does not appear that the applicant is entitled to the relief it claims or that he is a proper candidate for the award of a scholarship which he claims.

The application is accordingly dismissed with costs.

SAPIRE, CJ