

REPUBLIC OF FIJI

THE CONSTITUTION OF THE SOVEREIGN DEMOCRATIC REPUBLIC OF FIJI

HIGH COURT (CONSTITUTIONAL REDRESS OR RELIEF) RULES, 1990

IN exercise of the powers conferred upon me by section 19(7) and section 113(4) of the Constitution, I have made the following Rules-

Short title

1. These Rules may be cited as the High Court (Constitutional Redress or Relief) Rules, 1990.

Exercise of jurisdiction

2. The jurisdiction and powers conferred on the High Court by or under sections 19 and 113 of the Constitution shall be exercisable by a single Judge.

Application for redress or relief

3. An application to the High Court for redress or relief under section 19(7) or section 113(4) of the Constitution may be made-

(a) by motion supported by affidavit; or

(b) by filing a writ of summons-

(i) claiming a declaration,

(ii) praying for an injunction,

(iii) claiming or praying for such other order as may be appropriate.

Notification of motion

4.-(1) Subject to paragraph (2), a motion under paragraph (a) of rule 3 shall not be made without at least three clear days' previous notice to the parties affected thereby, unless the High Court gives leave to the contrary.

(2) A Judge, if he is satisfied that the delay involved in giving notice as required by paragraph (1) would or might entail irreparable or serious mischief, may make an order *ex parte* on such terms as to costs or otherwise, and subject to such undertaking, if any, as he thinks just; but any party affected by such order may apply to the High Court within seven days of the making of the order to set it aside.

(3) A notice of motion under paragraph (a) of rule 3 shall state-

(a) concisely the nature of the claim; and

(b) the relief or remedy required.

Service on Attorney-General

5. Where an application is made to the High Court for redress or relief under sections 19(7) of the Constitution in accordance with rule 3 and the Attorney-General is not a party to the proceedings, the applicant or plaintiff shall file an extra copy of-

(a) the motion and affidavit in support thereof; or

(b) the writ of summons,

as the case may be, and the Chief Registrar of the High Court shall within three days thereafter forward such copy to the Attorney-General for his information.

Reference by way of case stated

6.-(1) A question referred to the High Court pursuant to section 19(3) of Constitution by a person presiding in any Court shall be by way of case stated.

(2) The case shall be stated within 14 days of the decision of the person presiding in that court to refer the question.

(3) The case shall-

(a) set out the facts which have been proved or admitted and the question which is referred to the High Court for its decision;

(b) be signed by the person referring the question,

(c) be transmitted by the person referring the question to the Chief Registrar.

(4) The person referring the question shall cause copies of the case to be served upon-

(a) the party (if any) at whose request the case was stated;

(b) such other parties to the proceedings as are affected by the question; and

(c) the Attorney-General and the Director of Public Prosecutions, where the Attorney-General or, in a criminal matter, the Director of Public Prosecutions is not a party to the proceedings.

(5) Upon receipt of a case transmitted pursuant to paragraph (3), the Chief Registrar shall forthwith set down the case for hearing and notify the parties and the Attorney-General and, in a criminal matter, the Director of Public Prosecutions of the date fixed for the hearing.

(6) The High Court hearing a case referred to it under this rule may -

(a) amend the case or order it to be returned to the court by which it was stated for amendment; and

(b) draw inferences of fact from the facts stated in the case.

(7) The Attorney-General and, in the case of a criminal matter, the Director of Public Prosecutions, is entitled to appear and be heard in proceedings for the determination of a question referred to the High Court pursuant to section 19(3) of the Constitution.

(8) The Chief Registrar shall notify the Court by which the question was referred of the decision of the High Court upon the question.

Practice and procedure

7. Save as otherwise provided in these Rules the jurisdiction and powers conferred on the High Court in respect of applications made by any person in pursuance of either section 19 (1) or section 113 (4) of the Constitution shall be exercised in accordance with the practice and procedure (including any rules of Court) for the time being in force in relation to civil proceedings in the High Court, with such variations as circumstance require.

Dated at Suva this 29th day of August 1990.

T.U. TUIVAGA
Chief Justice
