

Liberia Assemblies of God Inc. by & thru its General Superintendent, Rev. William F. Davies of the City of Monrovia, Liberia APPELLANT/PETITIONER VERSUS
Rev. Jimmy B. Kuoh, Rev. Francis B.F. Tamba, Rev. Robert G. Mesdeh, Rev. Abenda Tamba, et-al. APPELLEES/RESPONDENTS

APPEAL

HEARD: October 19, 2006 DECIDED: December 21, 2006

MR. JUSTICE KORKPOR, SR. DELIVERED THE OPINION OF THE COURT

This case is on appeal before us from the ruling made by His Honor James W. Zotaa, ad hoc Justice presiding in Chambers denying a petition for a writ of prohibition. The petition for prohibition was filed by the Liberia Assemblies of God, Inc. represented by its General Superintendent-elect, Rev. William T. Davies, against a rival faction in the Church headed by Rev. Jimmy B. Kuoh, Rev. Francis B.F. Tamba, Rev. G. Mesdeh and Rev. Abenda Tamba, et al. The petition prayed court to have the respondents restrained and stopped from being inducted into office as officers of the Assemblies of God Church in Liberia.

The records show that from January 17 - 23, 2005, the members of the General Assemblies of God Church in Liberia met in Gbarnga, Bong County at a bi-annual convention where officers of the Church were elected. Rev. William T. Davies was elected General Superintendent at the meeting along with other officers. About a week after his election and before he and others could be inducted into office, a group of fellow Church members who said they were General Executive members of the Church wrote a letter to Rev. Davies informing him that they have concluded an investigation of election fraud against him and discovered that there was enough evidence that he campaigned for the position of General Superintendent in violation of the rules and policies of the Church. They therefore "resolved" that he should step down as General Superintendent-elect, and allow the Assistant General Superintendent-elect to take over as Acting General Superintendent for one year during which time election would be conducted for the position of General Superintendent.

Rev. Davies replied the letter denying the charge of election fraud and further denied that he had campaigned for the post of General Superintendent. He challenged the authority of the General Executive members to ask him to step down and informed

the General Executive members that he still maintained his position as General Superintendent-elect of the Assemblies of God Church in Liberia.

When the respondents attempted to be inducted into office to replace Rev. Davies and others, the petitioner filed a petition for prohibition against them. The alternative writ of prohibition was ordered issued by Mr. Justice Ishmael P. Campbell, then presiding in Chambers, who ordered a halt to the induction ceremony. There was information that the respondents went ahead with the induction, thereby prompting the Chambers Justice to cite them in contempt. The records show however, that the respondents begged for mercy and they were purged of contempt. As stated earlier, ad hoc Chambers Justice Zotaa heard and denied the petition and the matter is now before this Court en banc on appeal for final review.

The only question for our determination is whether or not under the facts and circumstances of this case prohibition will lie?

Prohibition is a special proceeding to obtain a writ ordering the respondent to refrain from further pursuing a judicial action or proceeding specified therein. 1 LCL Revised, Civil Procedure Law, Section 16.21(3).

The writ is almost always directed to inferior courts or tribunals possessing judicial or quasi-judicial powers from exceeding their jurisdiction in matters over which they have jurisdiction or usurping matters not within their jurisdiction. However in some limited cases over the years in our jurisdiction, the writ has been directed to administrative agencies acting in judicial or quasi judicial capacities where those administrative agencies attempted to exercise powers or functions not vested in them by law. The Management of Catholic Relief Services v. Natt et al., 39 LLR 415, 424-5 (1999); Kaba & McCromsy v. Township of Gardnersville et al., 39 LLR 549, 557-8 (1999).

Judging from the foregoing statutory definition of prohibition and the restrictive perimeter our case laws have allowed the writ to operate in, we cannot see how the writ will lie to restrain the respondents herein who are not pursuing a judicial action or proceeding.

On the other hand, we see that under the CONSTITUTION AND BYLAWS of the Liberia Assemblies of God Church, the General Executive members whose act the appellant/petitioner has complained of is a duly established organ of the Church vested with the authority to take the administrative decision such as the one taken

against the petitioner. So, the powers and functions of the General Executive members are vested in them by law and cannot therefore be restrained by the use of prohibition.

Moreover, this Court has held in several cases that *"prohibition will lie only in cases of manifest necessity and will not be granted where the petitioner has other adequate and available remedies."* Fazzah v. National Economy Committee, 8 LLR 85 (1963); Harris v. Smith, 26 LLR 275 (1977)

The records in this case show that when the allegation that the petitioner campaigned for the position of General Superintendent was made, he submitted himself to investigation conducted by the General Executive members who found that indeed, he did campaign.

Certainly, had the decision been made in his favour, the appellant/petitioner would not have challenged the authority of the General Executive members, and he would not have filed this petition for prohibition. It is our opinion that he cannot now challenge their authority.

Under the Constitution of the Assemblies of God Church in Liberia, the highest decision making body of the Church in Liberia is the General Assembly. We hold that the petitioner should have appealed from the decision of the General Executive to the General Assembly, thereby exhausting the remedy available to him at the level of the administrative agency. And if he was still not satisfied with the decision of the General Assembly then in that case, his next course of action would have been to seek judicial review of the decision of that administrative body.

Section 2.8 of the Administrative Procedure Act, Vol. III Rev. Code provides:

"A person who has exhausted all administrative remedies available within the agency and who is aggrieved by a final determination in a contested matter is entitled to judicial review under this chapter. For contested matters in which the right to review provided by this section affords an adequate remedy, no other means of review redress or relief shall be available.."

Clearly, the petitioner had other remedies available for redress which he did not take advantage of. Hence, prohibition will not lie. The alternative writ of prohibition issued is therefore quashed and dismissed and the preemptory writ sought is hereby denied. The Clerk of this Court is hereby ordered to inform the parties accordingly. Cost against the appellant/petitioner. AND IT IS HEREBY SO ORDERED.

Petition denied.