

The **Ministry of Labor** represented by the Minister of Labor and Deputies, the **Ministry of Agriculture** and Deputies and the **FAWUL Ad-Hoc Elections Commission** represented by Its Chairman, Sister Mary Laurene Brown of the City of Monrovia, Liberia VERSUS Her Honor **Comfort S. Natt**, Judge of the National Labor Court For Montserrado County and the **General Agricultural and Allied Workers Union of Liberia** by and thru its President, Secretary and All those operating within the Scope of their authority, all of the City of Monrovia, Liberia

RESPONDENTS

AMENDED PETITION FOR A WRIT OF CERTIORARI. PETITION
GRANTED

HEARD: DECEMBER 4, 2007 DECIDED: DECEMBER 21, 2007

MR. JUSTICE JA'NEH DELIVERED THE OPINION OF THE COURT

The Petitioners in this industrial dispute have fled to this Court of last resort on a remedial process seeking the issuance of a Writ of Certiorari.

As gleaned from the records transmitted to us, the Petitioners, Hon. Minister of Labor, Samuel Kofi Woods, and Deputies, the Minister of Agriculture and Deputies and the Federation of Allied Workers' Union of Liberia (FAWUL)-Ad-Hoc Elections Commission represented by its Chairperson, Sister Mary Laurene Brown, filed a Petition before Her Honor, Gladys Kiawoin Johnson, then presiding in Chambers, on August 1, 2007, praying for the Writ of Certiorari. The Petition was amended and subsequently filed on September 13, 2007.

Given the nature and character of this case, it is useful to provide a synopsis of the circumstances that have precipitated a review of this case by the Highest Court of the Land, the Honorable Supreme Court of the Republic of Liberia.

It is culled from the records that around February A.D. 2006, there were industrial disharmony and unrests at the Firestone Plantations Company, Margibi County. These unrests resulted into strike actions by the Firestone Plantations Workers.

The Government of Liberia intervened in keeping with its primary duty to restore industrial peace and harmony at the plantations and to preserve national peace and stability. Along these lines, consultative meetings were initiated with the striking

workers. The Margibi Legislative Caucus, in particular, along with some members of the National Legislature, also collaborated in these efforts.

Coming out of these consultative meetings was a list of demands by the striking workers addressed to the Liberian Government. Amongst the demands were the following:

"That Management makes a commitment to Government that all those involved in the present resolution of this crisis will not be threatened or dismissed from job as was previously done in the past."

"That because of [what the workers termed as] GAAWUL's dubious role in the Genesis of this crisis, the workers hereby request that the Liberia Federation of Labor Union be actively involved in all on going negotiations to once and for all settle the matter. "

"Because of the dubious role that the present FAWUL 's Leadership has played in the past in previous negotiation of the crisis, the workers request that they step aside until the process can be resolved."

"That the Ministry of Labor conducts a speedy investigation into the numerous unfair labor practices, indecent and inhumane working and living conditions that presently exist on the Plantation."

"That Management strictly adheres to the tripartite arrangement and refrain from interference into all Union matters as was previously done in the past."

When the Liberian Government received the aforementioned demands, the President, Madam Ellen Johnson-Sirleaf, appointed a Special Presidential Task Force comprising the Ministers of Labor, Agriculture, Finance, Internal Affairs and Justice; while the Margibi Legislative Caucus and the Senate and House Standing Committees on Labor served as Observers.

As members of the Task Force, Co-Petitioners, Ministers of Labor and Agriculture were instructed by the President to take appropriate actions in the premises. The President also emphasized the need for the Task Force to act properly and timely to ensure return of industrial peace and harmony.

Review of the case file further reveals that the Special Presidential Task Force convened its first meeting on March 21, 2006 at the Ministry of Labor, Monrovia,

Liberia. This was followed by a number of exhaustive meetings held with all parties including the Firestone Plantations Workers, General Agricultural and Allied Workers' Union of Liberia (GAAWUL) and the Management of Firestone Plantations Company.

On May 4, A.D. 2006, the Presidential Task Force concluded its report, captioned "The Firestone Crisis Summary of Conclusions and Recommendations." Amongst the recommendations were the following:

"That the present Task Force headed by the Minister of Labor continues to monitor the implementation of the plan. However, the Ministries of Education, Health and Social Welfare and the Environmental Protection Agency must be included in order to ensure technical leverage on issues that might arise from the educational, health and environmental sectors. The workers' union should also be included on the task force."

"That these fiscal and monetary interventions affected all export earners in territories controlled by the de-facto NPRAG. An attempt to legitimize same has the propensity to engender a national crisis. Firestone Plantations Company therefore did not suffer alone and this is not a unique act of oppression. In this case, the highest national interest is paramount. Given the nature of the present situation, Government must appeal for the understanding of workers in the highest national interest and ensure that Firestone improves the conditions on the plantation through the socio-economic development plan."

"That the previous agreement concluded by the National Transitional Government of Liberia was signed by the workers' representatives. They benefited and are estopped from making additional claims after benefiting from similar demands."

"That interference in the workers leadership crisis must be discouraged. However, Government must ensure a better framework for accountability and transparency in the workers union and the management of its finances. This must be done in compliance with the Labor Practices Laws of Liberia." That in light of /what was viewed by the striking workers as the "dubious role and suspicion of their union representation, that the need to discuss the possibility of a free and fair election will be necessary. "These elections must be conducted within framework of the Labor Practices Laws of Liberia."

On May 6, A. D. 2006, another Position Statement by the aggrieved workers was presented to the Liberian Government raising the same concerns. One salient point demanded by the workers in all of these was the call for an "immediate dissolution of the entire leadership of FAWUL and the 100% of both FAWUL and GAAWUL dues [to] be kept in escrow." Most importantly was also the workers demand that ".....an independent election free from government and management interferences be held immediately. To realize this, the worker' called for "an election commission [to] be constituted and head the affairs of the Union with immediate effect."

With these renewed demands from the workers, Co-Petitioner, Minister of Labor on May 9, A.D. 2006 convened a meeting with Firestone Plantations Workers to brief them on the Task Force Report and its recommendations. The workers were briefed on the outcome of the President intervention which, amongst others, was summarized as follows:

"Firestone 's \$88M 10 years socio-economic Development plan to be reduced to and the major impact should be made in the first three years. "A 90 day ultimatum has been given Firestone to transform Division 440 into living quarter."

"FAWUL Leadership will be audited, followed by a close review of the Union s Constitution to determine the feasibility of early elections; a freeze is placed on FAWUL's account until the audit is completed. The Ministry of Labor, FAWUL GAAWUL to work out modalities for audit."

In the face of what appeared to be increasing disharmony amongst the Plantation's workers the President transmitted a copy of the May 6, 2007 Position Statement to Co-Petitioner, Minister of Labor in a covering letter dated January 8, A.D. 2007, requesting him to deal same appropriately and timely.

Further perusal of the disorganized records certified to us from the Labor Court indicates that pursuant of the President's mandate, series of invitations were sent out by Co-Petitioner, Inc Minister of Labor. These were followed by discussions with all the relevant parties, including Co-Respondent GAAWUL little progress appeared to have been realized, evidenced by the letter, from Assistant Minister Designate/Special Assistant Stephen G. Scott, which reads in part:

...You may recall that over the past seven (7) months, the Ministry of Labor has engage in intensive discussions with the General Agricultural and Allied Workers tin;,, Liberia (GAAWUL) on activities of its Local Chapter GAAWUL # 1 (FAWUL) located at the Firestone Plantations Company.

These discussions have centered on issues of representation, accountability and transparency, among others.

As a result of these consultations, the Minister of Labor, Hon. Samuel Kofi Woods, II, has directed the Division of Trade Union Affairs to institute the following measures with immediate effect:

1. Freezing of accounts of FAWUL
2. Conduct independent audit
3. Suspension of ongoing Collective Bargaining Agreements (CBAs) negotiations
4. Establish interim leadership
5. Set date for elections, etc.

These are temporary measures intended to ensure that industrial peace and harmony continue to prevail at the Firestone Plantations Company. The fullest cooperation of the Union is solicited in this direction."

Similar letter contents were also communicated to the President, Liberia Bank for Development and Investment (LBDI), Hon. Levi Piah, Superintendent, Margibi County, and Mr. Aloysius Kie, President General, Liberia Federation of Labor Unions of Liberia (LFLU). Similar letter contents were also sent to Mr. Charles E. Stuart, President/General Manager, Firestone Plantations Company, advising said Management to "place all dues of the union in escrow."

The Ministry of Labor, also requested the Auditor General, Republic of Liberia to "conduct an audit of the suspended leadership of FAWUL and subsequently report to the Ministry of . Labor for appropriate actions."

Apparently discontented by Co-Petitioner, Ministry of Labor's actions to suspend it and freeze its accounts, amongst others, Co-Respondents, the General Agriculture and Allied Workers Union of Liberia (GAAWUL) and Firestone Agriculture Workers Union of Liberia (FAWUL) filed a Petition for Prohibition before Her Honor Gladys K. Johnson, then Presiding in Chambers.

The Petitioners accused the Minister of Labor of ordering the freezing of their accounts; conducting an independent audit; suspension of the ongoing Collective Bargaining Agreement (CBA) with the management of Firestone Plantations Company, illegal establishment of an interim leadership team and the illegal

setting-up of date for elections of Unions' officials. Petitioner GAAWUL complained that the Minister had taken these actions without the findings of Liberia Federation of Labor Unions' investigation of said complaint against GAAWUL. Such arbitrary and wrongful action, Petitioner GAAWUL believed was a basis for which prohibition would lie not only to restrain the said Minister, but also to undo every illegal action taken by him.

From February 2007 when this crisis began there were numerous back and forth movements between the Petitioners and the Respondent GAAWUL with minimum progress made towards filed a Petition for Writ of Prohibition against Co-Petitioner Ministry of Labor, before her Honor, Gladys K. Johnson, then presiding in Chambers who ordered the Co-Petitioner, Minister of Labor cited for a conference. In her desire to encourage amicable settlement of the industrial dispute, Justice Johnson admonished the parties to seek the benefits of dialogue.

Following this Chambers conference, it would appear that some efforts were exerted in this regard, as evidenced by a letter to Mr. Paul V. Nyain, Secretary General, GAAWUL, dated February 27, 2007, over the signature of Co-Petitioner, Samuel Kofi Woods, II, Minister of Labor. Part thereof reads:

"Following a conference convened on February 13, 2007 under the authority of the Justice Presiding in the Chambers of the Supreme Court of Liberia, Her Honor Justice Gladys K. Johnson, the position of the Ministry of Labor was maintained. However, the parties were advised to undertake more dialogue on those issues in order to arrive at an amicable resolution.

Consequently, a meeting was convened by the Minister of Labor at his office in the Ministry of Labor on February 15, 2007, which was attended by all the parties and the issues involved were addressed.

As a result of the meeting of February 15, 2007, another meeting was scheduled for February 16, 2007 between the Minister of Labor and Counsellor Roger K. Martin, Sr. The following recommendations were reached:

I. That the communications of February 1 and 2 are hereby modified to include the following:

1. GAAWUL 3 Members
2. LFLU 2 Members

II. That during the course of two weeks, GAAWUL is required to submit to the Ministry of Labor the Balance Sheet which was missing from the audit report along with its official response to the said audit.

III. That if the said Balance Sheet reveals that the suspended President, Secretary are not involved in any wrong doing, GAAWUL will take the necessary actions in compliance with its constitution.

IV. That the Ministry of Labor shall monitor the full implementation of the interim process in compliance with the Labor Law Practices of Liberia.

V. That the accounts of FA WUL remain frozen and that GAAWUL assumes the responsibility of financially managing the affairs of the interim team during the two weeks period.

VI. That the issue of representation to the CBA negotiation be reviewed by the five man interim team within two weeks.

VII. That within two weeks, an Elections Commission be established in conformity with the Labor Practices Laws of Liberia.

VIII. That GAAWUL be required to review and amend any portion of its constitution which is in contravention of the Labor Practices Laws of Liberia.

IX. That GAAWUL, being the umbrella union of FA WUL, and not been suspended, be allowed to receive from FPCO Management all dues entitled to it.

X. *That all funds of FAWUL collected during the interim period be held in escrow pending a review of the "Balance Sheet" and a submission of official comments to the Ministry of Labor.*

XI. *That GAAWUL ensures that all threatening statements made by FAWUL and GAAWUL during the period of discussions be withdrawn in writing so as to maintain the cordial relationship that has existed and continues to exist between the Ministry of Labor, FAWUL and GAAWUL, thereby consolidating industrial peace and harmony at FPCo."*

As outlined above, one of the major issues raised in the referenced communication, was the setting up of an interim leadership committee apparently agreed upon by all the parties, with the participation by GAAWUL in said initiative.

This is also demonstrated by a letter dated March 12, 2007 to Co-Petitioner, the Ministry of Labor over the signature of the Deputy Secretary General for Administration, General Agricultural and Allied Workers' Union of Liberia, Alfred B. Summerville. This letter essentially reads as follows:

"Dear Mr. Acting Minister:

We have the pleasure most respectfully to inform you that the below listed persons have been appointed by GAAWUL to serve on the Interim Committee at GAAWUL Local #1 (FAWUL) at the Firestone Plantations Company for the period of two weeks commencing Monday, March 19, 2007:

Adolphus W. Wesseh

David E. Koheneh

Nathaniel Gbaiyelic

With best regards,"

Also in a communication dated March 13, A.D. 2007, Sisters Ida B. S. Collins and Edith K. Ankrah, Treasurer General and Director of Public Affairs, respectively of the Liberia Federation of Labor Union, (LFLU), were nominated to serve on the Interim Leadership Committee of FAWUL.

As can be seen, clearly, not only did Co-Respondent, GAAWUL accept the Co-Petitioners' plan of action, but it fully acquiesced and participated by nominating its representatives to the Firestone Plantations' interim leadership committee. GAAWUL also demonstrated concrete support for Co-Petitioners' interim leadership initiative by contributing the amount of US\$500.00 seeking to underwrite the cost relating to the operations of the said interim leadership committee, evidenced by a letter dated March 30, 2007.

We hereunder quote verbatim said letter in consideration of its relevance, as follows:

"Interim Management

Team FAWUL/GAAWUL Local #1

Firestone Plantations Company

Harbel, Margibi County, Liberia

Dear Committee Members: This serves to acknowledge receipt of your operational budget submitted to us for appropriate action.

We are pleased to attach the approved budget for the two (2) weeks operations.

Due to some major financial problems facing GAAWUL, we are making an advance payment of US\$500.00. Please note that the balance will be paid in the shortest possible time.

Best regards.

Yours truly,

Alfred B. Summerville

DEPUTY SECRETARY GENERAL/ADM.

Cc: Ministry of Labor

" Legal Counsel"

The records in this case further show that the interim management team of FAWUL/GAAWUL Local #1 convened and held consultative meetings with the Management of Firestone Plantations Company, the workers of the Plantations as well as officials of the Ministry of Labor. The said interim management committee subsequently prepared a report covering the period March 28-31, A.D. 2007.

Notwithstanding the numerous initiatives aimed at restoring industrial tranquility, it appeared that relation between Co-Petitioner, the Ministry of Labor and Co-Respondent, GAAWUL deteriorated rapidly and apparently irreconcilably thereafter. It appeared at that state that the Respondent GAAWUL withdrew from the exercise.

On May 29, 2007, Co-Petitioner, the Ministry of Labor, addressed a communication to C Respondent, GAAWUL's Secretary General, Paul V. Nyain, which reads in part:

"..... the Ministry is imposing a fine of US\$500.00 (Five Hundred United States Dollars) on you as a punitive measure in keeping with Regulation No. 5 of the Labor Practices Laws of Liberia. This fine must be paid into Government revenue within 24 hours (Twenty-four Hours) up to 12:00 pm May 30 th, 2007. Flag receipt of this payment must be submitted to the Ministry of Labor within said time frame.

While the Ministry takes this measure, you are advised to do all that is required by you in keeping with Law. .."

The aforementioned communication was followed by Co-Petitioner, Ministry of Labor filing a nine-count Petition to enforce payment of the administrative fine imposed on GAAWUL before Her Honor Comfort S. Natt, Judge, National Labor Court for Montserrado County. Said fine was paid by Respondent GAAWUL, following intervention of the Labor Court.

Judging from the records, the apparent stand-off between Co-Petitioner, Ministry of Labor and the Respondent, GAAWUL continued unabated. This is demonstrated by a Petition for a Writ of Injunction filed on July 3, A.D. 2007 by the Petitioner, Ministry of Labor against the Respondent, GAAWUL at the National Labor Court. The petition was precipitated by the reported failure of the Respondent, GAAWUL to file its annual financial report to the Petitioner in keeping with Law. The Petitioner prayed the Court to enjoin the Respondent, GAAWUL from functioning as a Trade Union Labor Organization until it complied with the Labor Practices Law of Liberia.

The Writ of Injunction as prayed for by the Petitioner, Ministry of Labor, was duly issued out of the National Labor Court against the Respondent on July 3, A.D. 2007. Up to and including the filing and subsequent hearing of these Certiorari Proceedings on December 4, 2007, before this Honorable Court, there was no showing from the records transmitted to us, that the July 3, 2007 Injunctive Order issued out of the National Labor Court against Co-Respondent GAAWUL was ever vacated.

Our perusal of the case file further shows that the Writ of Injunction duly issued on July 3, 2007, restraining and prohibiting GAAWUL from functioning as trade union organization, was not served until July 9, 2007, according to the Bailiff's Returns.

Surprisingly, GAAWUL enjoined Respondent on July 5, 2007 filed before the same National Labor Court a Petition for Declaratory Judgment simultaneously with a Petition for Preliminary Injunction against the Petitioners in these certiorari proceedings. It is interesting to note also that Respondent GAAWUL, who had earlier been enjoined by the Labor Court, also prayed the same Labor Court to restrain and prohibit the Petitioners, the Minister of Agriculture, the Minister of Labor and the Ad Hoc Elections Commission, represented by Sister Mary Laurene Browne, from conducting their contemplated elections for Officers of FAWUL.

Under a situation difficult to explain under the Law, the National Labor Court granted MOVANT's/GAAWUL's motion and issued an Injunctive Order against the herein Petitioners. As consideration of the July 3, 2007 Injunctive Order is critical to

the final determination of these proceedings, which was not served until July 9, 2007, if the Bailiff's returns is anything to go by, we shall return to this point later on in this opinion.

On July 10, 2007, Respondent GAAWUL filed a Bill of Information substantially alleging that although the Court ordered the Writ of Injunction issued and same was issued and served on the parties, that is to say, the Writ served on members of the Ad-Hoc Elections Commission, the Ministry of Agriculture and the Ministry of Labor, in complete disregard to this Court's order, "threw the Injunctive order in the trash bucket and conducted the election," contrary to our law, Practice and Procedure. The Informant, GAAWUL, vehemently maintained that the conduct of the Respondents Ministries, etc. to go ahead with the elections in the face of the injunctive order, according to GAAWUL was "not only contemptuous to the Labor Court, but same rendered the entire elections null and void as a matter of law."

The Respondents, Minister of Labor, Minister of Agriculture and members of the Ad-Hoc Elections Commissions, filed their Returns contending essentially that no notice or writ of Preliminary Injunction emanating from the Labor Court was served on them as required by law; hence they were not brought under the jurisdiction of the Court.

The Bill of Information and the Returns thereto were heard on July 13, A.D. 2007 and Her Honor Comfort S. Natt, on July 20, 2007 ruled:

".....The Minister of Labor, the Minister of Agriculture and Members of the Ad-Hoc Elections Committee namely: Its Chairman, Sister Mary Laurene Browne, Rev. Tolbert T. Jallah, and Counsellor Yamie Q. Gbeisay, are hereby attached in contempt of this Honorable Court. WHEREFORE, and in view of the foregoing, it is the considered Ruling of this Court, that:

a) The Bill of Information be, and same is hereby granted.

b) The Minister of Labor, Attorney Samuel Kofi Woods, the Minister of Agriculture, Hon. Dr. J. Chris Toe and Members of the Ad-Hoc Elections Committee, as mentioned supra, are hereby attached in contempt of this Honorable Court and are therefore fined the sum of Two Hundred (US\$200.00) United States Dollars each, to be aid within twenty-four (24) hours into the Government Revenue and Flag Receipts be exhibited to this Court. That their failure to pay the within mentioned fine, the Clerk of this Court is hereby ordered to issue a Writ of Arrest with a

Commitment and have same placed in the hands of the Sheriff of this Court for the arrest and incarceration of the within named individuals at the Monrovia Central Prison until the fine is paid.

That the elections conducted on the 7th day of July, A.D. 2007, for officers of the Firestone Agriculture Workers' Union, having been conducted in gross violation of the orders of this Honorable Court, are hereby declared null and void ab initio for all intents and purpose. AND IT IS HEREBY SO ORDERED."

It was to this Ruling, Petitioners in these proceedings filed a Petition for a Writ of Certiorari before Her Honor Gladys K. Johnson then presiding in Chambers who ordered a stay of all proceedings in the matter on July 23, 2007. The Petition was subsequently withdrawn and amended. On August 2, 2007, on the order of the then Chamber Justice Johnson, the Alternative Writ of Certiorari was issued by Madam Martha G. Bryant, Clerk, Supreme Court of Liberia.

Mr. Justice Kabineh M. Ja'neh, Justice Johnson's successor in Chambers determined that the Petition involved interpretation of provisions of Conventions of the International Labor Organization (ILO), as interpretation of international instrument is by Law properly venued before the Supreme Court en Banc, the Chambers Justice ordered the case forwarded to the Supreme Court en banc.

At the hearing of the Writ in these proceedings by the Supreme Court Bench, a number of salient issues were raised and strongly argued by Counsels on both sides.

To the mind of this Court, the questions which, when determined will put finality to this long standing industrial saga are the following:

1. DID GAAWUL, IN THE FACE OF JULY 3, 2007 INJUNCTIVE ORDER, HAVE ANY LEGAL STANDING AND CAPACITY TO EXERCISE THE FUNCTIONS OF A TRADE UNION ORGANIZATION THUS MOVING THE COURT TO ENJOIN, RESTRAIN AND PROHIBIT THE RESPONDENTS, AS IT SOUGHT TO DO IN THESE PROCEEDINGS?
2. WHETHER PETITIONER, MINISTRY OF LABOR PROPERLY EXERCISED ITS AUTHORITY TO (A) SUSPEND GAAWUL AND RESTRAIN IT FROM FUNCTIONING AS A LABOR UNION; AND (B) SET UP THE AD-HOC ELECTIONS COMMISSION FOR THE CONDUCT OF FAWUL'S ELECTION ON JULY 7, 2007?

3. WHETHER THE JUDGE'S RULING ON THE BILL OF INFORMATION IN THE FACE OF THREE PENDING APPLICATIONS BEFORE IT (I.E. THE PETITION FOR DECLARATORY JUDGMENT, PETITION FOR A WRIT OF INJUNCTION AND A MOTION FOR PRELIMINARY INJUNCTION) WAS INTERLOCUTORY FOR WHICH CERTIORARI WOULD LIE?

These issues will be discussed in the order presented. As to "Whether GAAWUL, in the face of July 3, 2007 Injunctive Order, had any legal standing and capacity to exercise the functions of a trade union organization and thereby move the Court to enjoin, restrain and prohibit the Respondents - as it sought to do in these proceedings?" is largely a legal question. This Court has said that the question whether a party has standing to participate in a judicial proceeding is not simply a procedural technicality, but rather involves the remedial rights affecting the whole of the proceeding. Standing to sue, by definition, is the party's right to make a legal claim or seek judicial enforcement of a duty or right. So Spake Mr. Justice Korkpor for this Court in the case: IN RE: MORRIS M. DUKULY VS. THE NATIONAL ELECTIONS COMMISSION. SPECIAL SESSION, September 2005 (September 21, 2005).

Our statute has provided five grounds for dismissing claims for relief asserted against a party in a complaint.

The grounds are:-

1. That the Court has not jurisdiction of the subject matter of the action;
2. That the Court has not jurisdiction of the person;
3. That the Court has not jurisdiction of a thing involved in the action;
4. That there is another action pending between the same parties for the same cause in a court in the Republic of Liberia.
5. That the party asserting the claim has not legal capacity to sue. [Emphasis Ours]. See. Title 1, 1LCLR Section 11.2(1) (a,b,c,d,e).

This Court has also held as a general rule that "...it is necessary in order to confer jurisdiction on a Court to render a judgment, that the subject matter be presented for its consideration in some mode sanctioned by law. And so it has been ruled that

unless a complaint or other pleading is filed, the judgment of a court of record is void and subject to collateral attack, even though it may be a court which has jurisdiction over the subject matter..." LIBERIAN AGRICULTURAL COMPANY (LAC) V. GUREGURE, 35LLR 423, 452 (1988).

Also, in the case: MASSAOUOI V. MASSAOUOI, 35LLR 508, 511 (1988), this Court also held "The rendition of a judgment without jurisdiction is a usurpation of power and makes the judgment itself *coram non judice* and *ipso facto* void."

Reverting to the case file, we find it troubling that on July 3, A.D. 2007, the Petitioners in these proceedings filed a petition before the National Labor Court praying for the issuance of a Writ of Injunction against the Respondent, GAAWUL.

The Writ of Injunction as prayed for by the Petitioner was duly issued out of the National Labor Court on July 3, A. D. 2007. The Writ dictated as follows:

"YOU ARE HEREBY COMMANDED TO NOTIFY THE ABOVE NAMED RESPONDENTS TO APPEAR BEFORE THE NATIONAL LABOR COURT FOR MONT'SERRADO COUNTY, SITTING IN ITS JULY TERM, A.D. 2007, AT THE HOUR OF 10:00 O'CLOCK IN THE MORNING TO FILE THEIR RESISTANCE, TO THE ABOVE NAMED PETITION. THAT UPON THEIR FAILURE TO FILE SAID RESISTANCE, A WRIT OF INJUNCTION WILL BE ISSUED AGAINST THEM. YOU ARE FURTHER COMMANDED TO PROHIBIT, RESTRAIN AND ENJOIN THE RESPONDENTS FROM ANY FURTHER ACTIVITIES OR FUNCTIONS AS GAAWUL UNTIL THE RESPONDENTS CERTIFY CHAPTER 40 SECTION 4101 AND REGULATION #5 BY FILING WITH THE PERITIONERS THEIR AUDIT REPORTS AND ANNUAL REPORTS..."

GIVEN UNDER MY HAND AND SEAL OF THIS HONORABLE COURT, THIS 3 RD DAY OF JULY, A.D. 2007. SIGNED: G. ABEDNEGO N. SIMPSON, SR. CLERK, NATIONAL LABOR COURT, MONT. CO . REPUBLIC OF LIBERIA

In keeping with practice and procedure in this jurisdiction, the sole purpose and object of a Preliminary Injunction is to preserve the status quo until the merits can be heard. TOGBA Vs. SMITH 24 LLR 458, 460 (1976). This Court has also held that it constitutes abuse of discretion where a Court proceeds to dissolve an Injunction on the initiative of the Court without a hearing. Ibid. 459.

It strikes this Court therefore to see that while the Writ of Injunction had been duly issued by the " National Labor Court on July 3, A. D. 2007, against GAAWUL, and in the exact words of the Writ to "PROHIBIT, RESTRAIN AND ENJOIN THE RESPONDENTS FROM ANY FURTHER ACTIVITIES OR FUNCTIONS AS GAAWUL UNTIL THE RESPONDENTS CERTIFY CHAPTER 40 SECTION 4101 AND REGULATION #5 BY FILING WITH THE PERITIONERS THEIR AUDIT REPORTS AND ANNUAL REPORTS ..."; yet the Court itself disregarded its own order without any explanations.

Any reasonable person will be unimpressed to discover that the Labor Court also issued a said cross preliminary restraining order in favor of the enjoined GAAWUL and proceeded forthwith to ensure that the party in whose favor the early Injunctive order had been issued, was ordered enjoined and subsequently attached in contempt of Court.

The logical question is that how can an institution which the Court has ordered to cease to exist proceed to the very Court to seek judicial order and by that, function as a Juridical Person?

Further, this Court was equally unimpressed to find out that notwithstanding the issuance of the Injunctive Order on July 3, 2007 against the Respondent GAAWUL, said Writ was not served until July 9, 2007, if the Bailiff's Returns is anything to go by.

This is the exact language of the Ministerial Officer's Returns:

SHERIFF RETURNS

"On the 9 th day of July, A.D. 2007, I Bailiff Christiana Dweh duly served a Notice of Injunction on the General Agricultural and Allied Workers' Union of Liberia (GAAWUL). Note: I served this Notice of Injunction three different times but could not find any of the Officers, such as the President, Secretary General and other authorized representatives. It was on the fourth time, I was able to serve it on them. The Secretary General for the General Agricultural and Allied Workers' Union signed and received copy. Hence, I am making my official returns to the office of the Clerk, National Labor Court, Montserrado County."

Signed: C. Dweh/BAILIFF, NATIONAL LABOUR COURT

Approved: Major Helena Williams/SHERIFF, NATIONAL LABOUR COURT,

MONTSERRADO COUNTY.

To the mind of this Court, the Returns of the Bailiff quoted verbatim above, provoke yet another question. Why was the Injunctive Writ not served on Respondent GAAWUL up until July 9, A. D. 2007?

According to the Bailiff of the National Labor Court, she "could not" find any of the officers of GAAWUL, including the President, Secretary General and any other authorized representative. According to the Bailiff, also she diligently but unsuccessfully looked out on three different and separate occasions to serve the Writ of Injunction on the Officers of Respondent GAAWUL. Interestingly, however, Respondent GAAWUL which the Bailiff said she could not find for service of the Injunction suddenly appeared personally or through its Counsel at the National Labor Court on July 5, A. D. 2007, two days after the issuance of the Injunctive Writ. Did GAAWUL by that appearance have constructive notice at that stage as the Writ was said not to have been served? Be as it may, on July 5, 2007, GAAWUL appeared at the very National Labor Court and filed two papers against the Petitioner, Ministry of Labor: (i) Petition for Declaratory Judgment and (ii) Motion for Preliminary Injunction. But the question that begs an answer obviously will be: Why then was the Injunctive Writ not served on GAAWUL on July 5, 2007 when it appeared at the National Labor Court?

Even more disturbing to the mind of this Court is that the entire proceedings at the National Labor Court are void of any reason for non service of the Injunctive Writ on GAAWUL on July 5, A. D. 2007. Clearly, under such circumstance, ministerial officers of the National Labor Court did not exercise due diligence in the timely service of the Injunction on the Respondent GAAWUL.

To the mind of this Court, this amounts to a reprehensible attitude on the part of the said ministerial officer. Also, the apparent reluctance by the Labor Court Judge to take corrective actions, or reprimand the Bailiff for what clearly appears to be a dereliction of duty, to say the least lends ample support for the Petitioner, Ministry of Labor's proposition that the Labor Court was proceeding short of the disinterested character of a Judge.

This Court has always found it necessary to emphasize that those who are charged with the duty of dispensing justice must do so in a spirit of cold neutrality, and the Court must always rule with a mind void of partiality. So spake Mr. Justice Mitchell

when he delivered the majority opinion of this Court in 1961. RAYNESFREDERICK, Vs. GEORGE, et. al 14 LLR 593, 596 (1961).

"Courts must be free from reproach or suspicion of unfairness, as the judiciary should enjoy an elevated rank in the estimation of mankind." SAAR V. REPUBLIC, 29 LLR, 35, 53 (1981). WARE V. R.L., 5 LLR, 50, 54 (1935).

But even assuming that the Writ of Injunction was not served on the Respondent GAAWUL up until July 5, A. D. 2007, at which time it appeared in the National Labor Court, the Court ought to have, and was indeed placed under an in-excusable duty to exercise due diligence in the service of said Writ, especially in light of the gravity and sensitivity associated with the current industrial dispute.

Moreover, the Labor Court ought to have known that service of Injunctive Orders are treated differently in this jurisdiction and that "non-service", the apparent excuse of the Labor Court could not legally justify said Court's subsequent issuance of what amount to cross injunctive order on the Ministry of Labor, dated July 5, 2007.

In the case *"Murdock Versus United States Trading Company"* this Court held that "to render a person amendable to an injunction it is neither necessary that he be a party to the suit or served with a copy of it, so long as he appears to have had actual or constructive notice....." 3 LLR, 288, 298-9 (1932). [Emphasis Supplied]. This Court has also maintained that obedience to a restraining Writ commences from the time a party charged with contempt had knowledge of the fact that an order is made for the issuance thereof. *In re C. Abayomi Cassell, Attorney General of Liberia*, 10 LLR, 17, 28, (1948).

In the opinion of this Court should have taken judicial notice of its own records in order to have proceeded properly and legally in the disposition of matters before it, as provided under Section 7.64 Sub-section 3, Title 1 of the Liberian Code of Laws Revised.

Section 7.64 Sub-section 3 reads: *"Upon the granting of a temporary restraining order, the court shall set the hearing for the preliminary injunction at the earliest possible time. Such hearing shall take precedence over all matters except older matters of the same character. The party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction..."* [Emphasis Supplied].

It is therefore our holding, that the Judge of the National Labor Court proceeded improperly to issue a restraining order on the application of a Trade Union Organization which at that time had been enjoined and restrained "FROM ANY FURTHER ACTIVITIES OR FUNCTIONS AS GAAWUL UNTIL THE RESPONDENTS CERTIFY CHAPTER 40 SECTION 4101 AND REGULATION #5 BY FILING WITH THE PETITIONERS THEIR AUDIT REPORTS AND ANNUAL REPORTS..."

In other words, as of July 3, 2007, the Respondent had been restrained and enjoined from functioning as GAAWUL and as a Trade Union Organization, until she satisfied the conditions of chapter 40 Subsection 4101 and Regulation #5 which require the Respondent to file an audited financial and annual reports. Without a clear showing that chapter 40 Subsection 4101 and Regulation #5 had been fully complied with and that the July 3, 2007 Injunctive Order had also been vacated and set aside, GAAWUL had no legal standing to have applied for an injunctive order in its name as GAAWUL and functioning as GAAWUL. To have proceeded in the manner and form as the National Labor Court did in these proceedings clearly constitutes reversible error.

It is therefore our opinion that Her Honor, the Trial Judge below, was not guided by the law controlling and her Ruling entered on Movant's Motion to issue a Preliminary Injunctive Order dated July 5, 2007 against the herein Petitioners. Said Ruling is hereby reversed. AND WE SO HOLD.

Addressing the next issue "Whether Petitioner, the Ministry of Labor properly exercised its authority to (a) suspend GAAWUL and restrain it from functioning as a labor union; and (b) set up the Ad-Hoc Elections Commission for the conduct of FAWUL's election on July 7, 2007?", we again take a close review of the records certified before us.

In their twenty-count Amended Petitioner, Co-Petitioner Ministry of Labor has strenuously argued that it has operated consistent with its functions to effectively administer the Labor Practices Law and to coordinate, regulate and control the activities of Labor Organizations of Liberia. Co-Petitioner has cited and relied on Chapter 40, Section 4101 of the Labor Practices Laws of Liberia.

The law cited provides as follows:

"Every labor organization shall also file with the Ministry of Labor annually a report signed by its President and Secretary, or its principal officers corresponding thereto, containing the following information:

(a) The name, address and title of each of its officers, its representatives or delegates to other bodies composed of representatives or delegates of labor organizations;

(b) Any changes in its rules governing its organization and operation as originally filed with the Ministry and not previously reported;

(c) All the information in such detail as may be necessary accurately to disclose its financial condition and its operations for its preceding fiscal year including: (i) Assets and liabilities at the beginning of the fiscal year; (ii) The salary, allowances and any other direct or indirect payments (including reimbursed expenses) to each officer and each principal employee; (iii) Each employee who is also receiving salary, compensation or reimbursement, directly or indirectly, from any other labor organization or any organization consisting of delegates or representatives of labor organizations; (iv) Receipts of any kind, and sources thereof; (v) Direct and indirect loans made to any officer, employee or member during the fiscal year, together with a statement of the purpose, security, if any, and terms thereof; (vi) Direct and indirect loans to any business enterprises, together with a statement, security and terms thereof; (vii) All other disbursements or loans or any gifts thereof

1. Copies of the rules and the report filed with the Ministry shall be made available by the labor organization for inspection by its members; and every labor organization shall permit any of its members for just cause to examine any books, membership list, records and accounts necessary to verify such report.

2. Such right of inspection shall be enforceable by a member in a proceeding in the Labor or Circuit Court for the judicial district in which such labor organization maintains its principal office. The Court in such proceeding may, in its discretion, in addition to any judgment awarded to the plaintiff; allow a reasonable attorney's fee to be paid by the defendant, and costs of the proceeding.

3. Each labor organization shall file the initial report required by this section within one hundred and twenty days after the end of the fiscal year or portion thereof in which part VI becomes effective, and thereafter within ninety days after the end of each year."

Petitioner has therefore contended that contrary to the provision of the law, or with intent to circumvent the law, the Respondent prepared and submitted a defective and incomplete report which Petitioner rejected; that GAAWUL was subsequently cited to a conference with the aims of amicably resolving the matter and educating Respondent as to how to prepare an accurate report.

Petitioner therefore says that despite this good will gesture shown Respondent so as to correct its error, Respondent/GAAWUL refused to honor the citation and instead wrote an excuse stating that its financial custodian was out of the country, which, in the judgment of the Co-Petitioner, was a clear indication that Respondent had no intention of submitting its annual report.

Further to the above and following Respondent's failure to comply and file its report as required by law, or submit itself to an investigation into this matter, Co-Petitioner, on May 29, 2007 made a ruling and imposed a fine of US\$500.00 on Respondent in keeping with Regulation #5, captioned: Regulation Concerning the Filing of Rules and Annual Report of Labor Organizations.

Section 3 of Regulation #5 referred above provides that every person who fails to comply with the requirements of this Regulation shall be subject to a fine not exceeding US\$500.00.

The Petitioners have also argued that the election on the plantations was principally intended to restore industrial peace and harmony as the unrest had become serious threats to peace and stability, consistent with the Labor Law.

Resisting the Petitioner's argument, Respondent GAAWUL has strenuously argued that the Petitioners had indeed defied the order of the Court and carried out the July 7, 2007 elections, for which Petitioners should be held in contempt of Court and the result of the elections of July 7, 2007 be declared null and void by the Court.

It is also the strong contention of Respondent GAAWUL that the only legal institution to conduct elections for officers of the Firestone Agriculture Workers' Union of Liberia (FAWUL) is GAAWUL; that the Ministry of Labor's role is simply supervisory intended solely to ensure that the conduct of the election conforms to the Labor Law of Liberia and International Labor Organization (ILO) Conventions. The elections of July 7, 2007 has been vehemently attacked as being in contravention of I L O (International Labor Organization) Convention #87, adopted on June 17, 1948.

Article #87 of said Convention reads:

"Workers' and employers' organizations shall have the right to draw up their constitution and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programs.

The public authorities shall refrain from any interference which would restrain his right or impede the lawful existence thereof"

The Ministry of Labor, consistent with laws herein cited, in the exercise of its statutory supervisory authority, may upon findings consistent with due process of law, impose a fine, suspend its recognition of a labor organization as well as take such other actions as may enhance the administration of the labor practices laws and standards in Liberia. Under the Administrative Procedure Act, a party aggrieved by the Ministry's action(s) may avail themselves to judicial review in every such circumstance.

In the instant case, this Court says that the Ministry of Labor properly exercised its authority in instituting administrative actions including imposition of administrative fine on the Respondent GAAWUL in the tone of United States Five Hundred Dollars in accordance with Regulation #5 on filing by Labor Organizations of their Annual Reports. In fact, according to the records, GAAWUL also paid said administrative fine in June A. D. 2007, for their failure to submit independently audited financial and verifiable annual reports to the Ministry of Labor.

Moreover, Courts of law must take judicial notice of those things which are common knowledge to the majority of mankind. TOGBA Vs. SMITH 24 LLR 458, 460-461 (1976). This Court takes judicial notice of the current situation at the Firestone Plantation Company. This court also takes judicial notice that Firestone Plantations Company is the largest private employer of Liberian labor, second in labor employment only to the Liberian Government. Consonant with this principle, this Court notes that almost four thousand rubber tapers are employed by the Firestone Plantations Company and that since the beginning of this industrial crisis at the Plantations, detailed in this opinion, there have been repeated disruptions of economic activities on the said plantations.

In apparent anticipation of situation as it obtains at the Firestone Plantations Company, the Labor Law provides settlement of labor disputes in essential industries to include those enterprises that are essential to national health, safety, security or

economy. Whenever there is labor disputes in those industries such as to "threaten substantial interruption thereof, effecting public interest, Government intervention will be justified. See Chapter 43, Section 4403.

To the mind of this Court, Chapter 43 of the Labor Law of Liberia, as couched by our Law Makers, was specifically intended to settle industrial disputes "dangerous to national health, safety, security and the economy of Liberia". Given its size to the Liberian economy, Chapter 43 applies to settlement of the industrial dispute at the Firestone Plantations Company, for all intents and purposes.

Speaking to the "Authority of President when national emergency labor dispute not settled"

Section 4407 under said chapter provides:

"When the President finds that as a result of the labor dispute an interruption of production or distribution of essential goods or services has occurred or its imminently threatened by strike or lockout, which would curtail or prevent the production or distribution of such essential goods or services and would thereby endanger the national health, safety, security or economy and that such labor dispute either (1) has not been settled under the procedures established in this Chapter or (2) is of such a nature that those procedures cannot be applied, the President shall declare that an emergency exists.

During such emergency the President may:

(a) Direct the Minister of Justice to petition any Circuit Court having jurisdiction of the parties to enjoin such strike or lockout, or the continuing thereof, and to make such orders as may be appropriate. Such injunction and order or orders shall be subject to review by the Supreme Court prior to the end of the period of ninety days and of such further On July 20, A.D. 2007, the Judge of the National Labor Court, Her Honor Comfort S. Nan, ruled on the Bill of Information in the following manner:

"...Based upon the laws cited supra, this court says that the Ministries of Labui ana Agriculture and the Ad-Hoc Elections Committee having been enjoined, restrained, and prohibited by this Court from holding elections for officers of the Firestone Agricultural Workers' Union on July 7, 2007, violated the Orders of this Court, which disobedience tends to frustrate the administration of justice and undermine the

authority and dignity of this court. Accordingly, the conduct of the Ministries of Labor and Agriculture and the Ad-Hoc Elections Committee constitutes an affront to this Court and a total disregard of the authority and dignity of this Honorable Court. Therefore, the Minister of Labor, the Minister of Agriculture and Members of the Ad-Hoc Elections Committee namely: Its Chairman, Sister Mary Laurene Browne, Rev. Tolbert 1: Jallah, and Counsellor Yamie Q. Gbeisay, are hereby attached in contempt of this Honorable Court.

WHEREFORE, and in view of the foregoing, it is the considered Ruling of this Court, that:

c) The Bill of Information be, and same is hereby granted.

d) The Minister of Labor, Attorney Samuel Kofi Woods, the Minister of Agriculture, Hon. Dr. J. Chris Toe and Members of the Ad-Hoc Elections Committee, as mentioned supra, are hereby attached in contempt of this Honorable Court and are therefore fined the sum of Two Hundred (US\$200.00) United States Dollars each, to be paid within twenty-four (24) hours into the Government Revenue and Flag Receipts be exhibited to this Court. That their failure to pay the within mentioned fine, the Clerk of this Court is hereby ordered to issue a Writ of Arrest with a Commitment and have same placed in the hands of the Sheriff of this Court for the arrest and incarceration of the within named individuals at the Monrovia Central Prison until the fine is paid. That the elections conducted on the 7 day of July, A.D. 2007, for officers of the Firestone Agriculture Workers' Union, having been conducted in gross violation of the orders of this Honorable Court, are hereby declared null and void ab initio for all intents and purpose. AND IT IS HEREBY SO ORDERED."

It is abundantly clear from this ruling herein above, that the controversy before the Labor Court was far from being over. When the Labor Court Judge entered His July 20, 2007 ruling on NIL Bill of Information, the Petitions for a Writ of Injunction and for Declaratory Judgment as well as a Motion for Preliminary Injunction, were all pending before the National Labor Court undetermined.

On the purpose of the Writ of Certiorari, Section 16.21, Title 1, 1LCLR provides: "Certiorari is a special proceeding to review and correct decisions of officials, boards, or agencies acting in a It is the considered opinion of this Court that the Labor Court's Ruling of July 20, 2007 was not only interlocutory but same was not guided

by the laws controlling. Certiorari will lie to review such erroneous intermediate ruling of the Labor Court.

Having carefully and meticulously paraded and painstakingly examined all the relevant points in the case at bar, as well as the laws applicable thereto, this Court adjudges in the manner as follows:

(a) That the Ruling of the Labor Court of July 20, A. D. 2007, attaching the herein Petitioners in contempt of Court and imposing fines on said Petitioners, same not being supported by law, is hereby set aside and vacated.

(b) That the Labor Court's Ruling also nullifying the result of the elections conducted on July 7, A. D. 2007 at the Firestone Plantations Company, same having been set aside by an improper ruling, is also reversed and the said elections result shall not be disturbed, especially so since there is no showing or contention that the elected officers are not of workers of Firestone.

(c) That the Petitioners' Petition for a Writ of Certiorari is therefore granted and the Peremptory Writ is hereby ordered issued.

THE CLERK of this Court is hereby ordered to send a mandate to the Judge of the National Labor Court to the effect of this judgment. Costs disallowed. AND IT IS SO ORDERED.