

**IN THE FULL COURT OF THE SUPREME COURT OF JUDICATURE OF GUYANA**  
**(CIVIL JURISDICTION)**

**2022-HC-DEM-CIV-FCA- 18**

**BETWEEN:**

- 1. THE ATTORNEY GENERAL OF GUYANA**
- 2. THE COMMISSIONER OF POLICE**
- 3. THE HONOURABLE PRIME MINISTER OF THE COOPERATIVE  
REPUBLIC OF GUYANA**

Appellants

-and-

**THE POLICE SERVICE COMMISSION**

Respondent

Appearances:

Mr. Mohabir Nandlall SC with Mr. Nigel Hawke for the Appellants

Mr. Selwyn A. Pieters , Mr. Dexter Todd and Mr. Dexter Smartt for the Respondent

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**2022: May 25**  
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[1] **JUSTICES PRIYA SEWNARINE BEHARRY** and **CORBIN LINCOLN**: The Appellants filed an application to strike out the claim on the ground that the term of the members appointed to the Police Service Commission [“the PSC”] under Article 210 of the Constitution had expired. The learned trial judge dismissed the application and ordered that Paul Slowe be substituted in place and stead of the PSC as the Applicant. The Appellants have appealed.

[2] **CPR 14.01** states:

**14.01 Striking Out Statement of Case**

(1) In addition to any other power to do so under these Rules, the Court may, on its own initiative or upon application, strike out the whole or part of a Statement of Case if it appears to the Court that,

- (a) the Statement of Case or the part to be struck out,
  - (i) does not disclose any reasonable ground for bringing or defending the claim;
  - (ii) is an abuse of the process of the Court;
  - (iii) is scandalous ,frivolous or vexatious ;or

(iv) is likely to obstruct the just disposal of the proceedings; or  
(b) there has been a repeated or intentional failure of a party to comply with a Rule, Practice Direction or order.

[3] The PSC is a body established under Article 137 of the Constitution. Its composition, the manner of appointment of its members and its functions are set out in Articles 210 to 212 of

the Constitution. The office of the appointed members of the PSC become vacant after 3 years from the date of their appointment.

- [4] The expiration of the 3 year term of the members appointed to the Commission does not affect the body itself - established by Article 137 – save that the PSC will be unable to carry out its functions without appointed members. The PSC remains an existing constitutional body even if the term of its appointed members has expired. There is therefore no issue of the Commission ceasing to be an existing body or having no “capacity” upon the expiration of the term of its appointed members.
- [5] The effect of the term of the appointed members of the Commission becoming vacant is simply that there are currently no members to carry out its functions. This by itself is not a basis to strike out the claim under **CPR** 14.01. Members can be appointed at any time to continue to carry out the functions of the PSC. Upon their appointment those members could determine whether to continue or discontinue the claim. Of course a court would be entitled to take the continued non appointment of members to the Commission as a basis to strike out the claim as an abuse of process as this would delay the prosecution of the action.
- [6] We therefore agree with the learned trial judge’s decision to refuse the application to strike out the claim on the basis of the expiration of the term of the members appointed to the PSC.
- [7] We do not find that the order as framed by the learned judge had the effect of permitting a private citizen to carry out the functions of the PSC - a constitutional body. It is clear from the reasoning of the learned trial judge that he found that Mr. Slowe had an interest in his own right and not that he was continuing the action on behalf of the PSC.
- [8] We fully agree with the learned trial judge’s reasoning as to why Paul Slowe is an interested party and should be added. However, we do not find that it was necessary to substitute Mr. Slowe in place of the PSC which remains an existing constitutional body albeit unable to properly function in the absence of appointed members. Based on the reasoning of the learned trial judge Mr. Slowe should be added as a party in his own right. Apart from the court’s power to hear from any person with a sufficient interest in judicial review proceedings

[CPR 56.04] the court has a general power to add a party at any stage of the proceedings [CPR 19]. The addition of an interested party saves time and costs.

[9] In the circumstance the appeal is dismissed but the order is amended as follows:

*In the circumstances, the NOA filed by the AG is dismissed. No order as to costs since it is a matter of public interest. **It is hereby ordered that Paul Slowe be and is hereby substituted in the place and stead of the Police Service Commission as the Applicant herein is added as an Applicant.** The rubric shall be amended accordingly to reflect today's order of court..."*

[10] There shall be no order as to costs.