

IN THE SUPREME COURT OF MAURITIUS

In the matter of:-



**Patrick Gervais Assirvaden, hereacting in his capacity as President of the The Mauritius Labour Party**, of Guy Rozemont Square, Port Louis and electing its legal domicile in the office of the undersigned attorney-at-law, situate at Suite 518, St James Court, Port Louis.

APPLICANT.

V/S

**The Municipal Council of Vacoas Phoenix**, service to be effected on the Chief Executive Officer, at Town Hall, St Paul Avenue, Vacoas.

RESPONDENT.

In the presence of:

**The Mouvement Socialist Militant (MSM)**, service to be effected on the President, at the Sun Trust Building, situate at Edith Cavell Street, Port Louis,

CO RESPONDENT.

I, **Patrick Gervais Assirvaden**, President of the Mauritius Labour Party and holder of National Identity Card bearing number A1307640116310 residing at Raoul Follereau Street, Beau Bassin,

MAKE OATH AND SAY:

1. I am a member of the Mauritius Labour Party since the year 2003. I am also a member of its Executive Committee and Political Bureau. I am holding the office of President of the Mauritius Labour Party, hereinafter referred to as

the "Labour Party" or the "Party" and as such I am and I have been duly authorized by the Party to represent it and lodge the present application.

2. On the 1<sup>st</sup> day of December 2015, on behalf of the Mauritius Labour Party, I made a formal request, in writing, to Respondent to the effect that, the Party intends to hold a public meeting on the 1<sup>st</sup> May, 2016 at the Sivananda Avenue, opposite market fair in the town of Vacoas, to mark the Labour Day, hence to reserve this site for the party. **(to wit - see annexure "A")**.
3. On the 15<sup>th</sup> December 2015, the Chief Executive of the Respondent, sent a note to the Labour Party, acknowledging receipt of the letter dated 1<sup>st</sup> December, 2015 and informing the party that the matter is receiving due consideration. **(to wit - see annexure "B")**.
4. By letter dated 14<sup>th</sup> January, 2016 (bearing ref no. MVP/Req/16), the respondent informed the party that its request -  
<<.....to hold a public meeting on the 1<sup>st</sup> May 2016 at the Sivananda Avenue Opposite the Vacoas market fair has **not** been favourably considered by the Council as another Political Party/Alliance has been authorised to hold a public meeting threat on the specific date. >> **(to wit – see annexure "C")**.
5. That in fact, the Respondent's Council met on Wednesday the 6<sup>th</sup> of January 2016, at 10.55 a.m and amongst other decisions taken, on the issue of authorization to hold a public meeting at Sivananda Avenue, opposite Vacoas market fair on the 1<sup>st</sup> May 2016, the Council resolved that:-  
<< (i) the request for the MSM (Alliance Lepep), (Co Respojndent in the present application) be acceded to as the said party has been using the Vacoas market place for the holding of a public meeting on Labour Day and on quite some occasions until recently.  
  
(ii) the request from the Mauritius Labour Party cannot be acceded to.>>



6. That from 2005 up to 2011, the Labour Party has systematically in alliance with other political parties held its Labour Day public gatherings at Sivananda Avenue, Vacoas, opposite Vacoas Market Fair.
7. That I further aver that since independence, all requests for holding of public meetings whether for Labour Day or for any meetings during campaigns for Municipal Elections or General Elections, the unwritten convention has been "First come First serve."
8. That from the minutes of proceedings of the Respondent's council held on the 6<sup>th</sup> January, 2016 at 10.55 a.m (bearing ref. no.1 of 2016) **(to wit see annexure "D")**, it is clear that the Labour Party made its request on the 1<sup>st</sup> December 2015, while the MSM party's request (Co Respondent in the present application) dates back only to 4<sup>th</sup> January **2016 (to wit - see items 20 and 30 of the minutes of proceedings. Annexure "D")**, and the grounds for granting the MSM Party's (Co Respondent in the present application) request is therefore frivolous, vexatious, irrational, against the rules of natural justice, procedurally defective and biased.
9. That following information received, it was brought to my knowledge that the request dated 4<sup>th</sup> January 2016 on behalf of the MSM party, (Co Respondent in the present application) to the Respondent, was made by no other than one, Mr. P. K. Ramburn, a Municipal Councillor of the Respondent, **(to wit see annexure "E")** who was present at the sitting of the Council on the 6<sup>th</sup> January 2016, participated in the debate on that issue, and also voted in favour of his own request, without disclosing that he was the one who signed the request.
10. The mere fact that councilor P.K. Ramburn has himself drawn up and signed the request on behalf of the MSM party, participated in the debates and voted in favour of his own request, is a clear case of "Conflict of Interest", abuse of authority, and 'de facto' made the decision of the council, - wrong, unjustifiable, unlawful, unfair, irrational, unreasonable, against the rules of natural justice, biased and procedurally defective.

11. That the Secretary General of the Labour Party has on the 22<sup>nd</sup> January 2016, brought the matter before the **Independent Commission Against Corruption (ICAC)** and a statement was recorded accordingly.
12. That I aver that the decision of the Respondent at its meeting dated 6<sup>th</sup> January, 2016, is in complete disregard of the rules of fairness and natural justice and as a consequence, in breach of applicants legal rights, and most unreasonable under the "Wednesbury Principle," and also flouting the fibre of our democratic set up as per the spirit of our Constitution and is moreover plainly biased against the Applicant.
13. Applicant avers that in the circumstances, it is therefore urgent and necessary that the Honourable Court grants leave to the applicant to apply for a judicial review of the decision reached by the respondent at its meeting of 6<sup>th</sup> January 2016 at 10.55 a.m on the issue of 'holding a public meeting at Sivananda Avenue, opposite Vacoas Market Fair.'
14. That I therefore pray on behalf of the applicant:
- (i) For leave to apply to the above Court for an Order directing Respondent to bring up before the Honourable Court all the records relating to the decision of the 6th January 2016 in respect to the issue of "holding public meeting at the Sivananda Avenue, opposite Vacoas Market Fair."
  - (ii) A declaration to the effect that the Respondent decision to accede to the request of MSM Party (Co Respondent in the present application) be declared null and void with immediate effect as the decision is unfair and unreasonable in the Wednesbury Sense and for the Co Respondent not to publicise, nor to carry out any exercise in connexion with the holding of the public meeting on the Labour Day at Sivananda Avenue, Vacoas;
  - (iii) For such other order(s) as the Honourable Court may deem expedient, necessary and reasonable in the circumstances.



15. That I pray accordingly.

Sworn by the abovenamed Deponent )  
at Chambers, Supreme Court House, Port Louis, )  
this ..... Day of ..... 2016 )

**DRAWN UP BY ME,**

**BEFORE ME,**

**ATTORNEY AT LAW.**

**SUPREME COURT.**

I hereby certify that this affidavit will form part of the proceedings to be lodged before the Supreme Court of Mauritius.

**ATTORNEY AT LAW.**