

IN THE SUPREME COURT OF MAURITIUS

In the matter of:

Akil Bissessur, residing at Avenue des Tulipes, Quatre Bornes

APPLICANT

v/s



1. Sir Anerood Jugnauth, Prime Minister of the Republic of Mauritius, of La Caverne, Vacoas.
2. The Ministry of Finance and Economic Development, Ground Floor, Government House, Port Louis, duly represented by its Permanent Secretary of same address and
3. The Accountant General, Treasury Building, Port Louis.

RESPONDENTS

And in the presence of:

The State of Mauritius, duly represented by the Attorney General,
Attorney General's Office, Port Louis.

CO-RESPONDENT

NOTICE OF MOTION

TAKE NOTICE in order that You, the abovenamed Respondents and Co-Respondent, may not plead or pretend ignorance of same that Applicant shall on Monday the 22nd day of February 2016 at 10 00 a.m move the above Honourable Court for:

- a) Leave to apply for an **Order of Certiorari** directing Respondents No. 2 and 3 to bring up before the Supreme Court all records/files/documents/papers relating to their determinations dated on or about 8 November 2013 and 23 March 2015 respectively, regarding the decision to pay, under "Sub-Head 2-101: Cabinet Office – Expenditure to be Appropriated by Votes", to the Respondent No. 1 an aggregate monthly basic salary as Prime Minister amounting to MUR 282,000 since December 2014 till date, in order to have the said decision quashed and/or reversed and/or set aside and/or otherwise dealt with as the Supreme Court shall think fit in as much as the said decision is in breach of the legitimate expectation of the Applicant, is

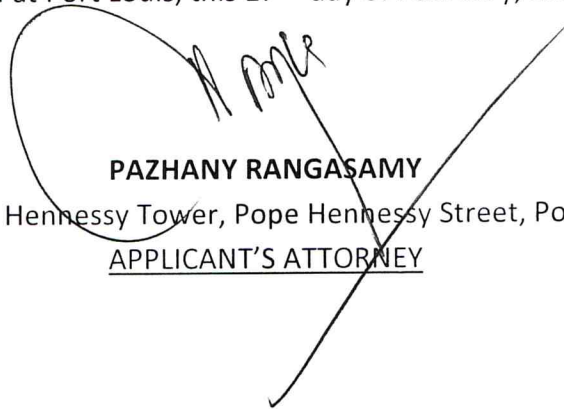
manifestly against the law of the land, wrong, unfair and irrational in the circumstances;

- b) an Order staying any decision of the Respondents Nos. 2 and 3 to pay any emolument as Prime Minister to the Respondent No.1 pending the determination of the main case which Applicant intends to enter before the appropriate forum who shall pray, inter alia, for an Order compelling the Respondent No.1 to reimburse to the Co-Respondent all the emoluments received by him as the Prime Minister of the Republic of Mauritius since December 2014 with interest at the legal rate;
- c) such order or orders that the Supreme Court may deem fit and proper in the circumstances.

NOW TAKE FUTHER NOTICE THAT You, the abovenamed Respondents and Co-Respondent are most formally required, called upon and summoned to appear before the Supreme Court (Court Room No.1) situate at Jules Koenig Street, Port Louis on the aforesaid date and hour.

WARNING YOU that the abovenamed Applicant will proceed with the said case on the aforesaid date and hour whether you be present or not

Under all legal reservations
Dated at Port Louis, this 17th day of February, 2016.



PAZHANY RANGASAMY
Of Level 5, Hennessy Tower, Pope Hennessy Street, Port Louis.
APPLICANT'S ATTORNEY

TO/

1. Sir Anerood Jugnauth, Prime Minister of the Republic of Mauritius, of La Caverne, Vacoas.
2. The Ministry of Finance and Economic Development, Ground Floor, Government House, Port Louis, duly represented by its Permanent Secretary of same address.
3. The Accountant General, Treasury Building, Port Louis.
4. The State of Mauritius duly represented by the Attorney General, Attorney General's Office, Port Louis.

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2. The Ministry of Finance and Economic Development, Ground Floor, Government House, Port Louis, duly represented by its Permanent Secretary of same address and
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RESPONDENTS

And in the presence of:

The State of Mauritius, duly represented by the Attorney General, Attorney General's Office, Port Louis.

CO-RESPONDENT

I, Akil BISSESSUR, a Barrister-at-Law, residing at Dreamton Park Residential Complex, Avenue des Tulipes, Quatre Bornes, the holder of the National Identity Card bearing number B1211813106912.

MAKE SOLEMN AFFIRMATION AS A HINDU AND SAY THAT:

1. I am a citizen of the Republic of Mauritius and a registered taxpayer bearing Tax Registration number 18770182 and affirm the present affidavit in connection with the present proceedings.
2. Respondent No.1 acceded to the post of Prime Minister of Mauritius on 13 December 2014 following the last General Elections held on 10 December 2014.
3. Respondent No 2 is responsible for the allocation of funds to all the ministries of Mauritius, including the Prime Minister's Office.
4. Respondent No 3 is responsible for the payment of personal emoluments to all the employees of the Cabinet Office, including the Respondent No.1 The Summary of Expenditure of the Prime Minister's Office is hereto annexed as Annex 1.

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5. As per Annex 1, the personal emoluments of a prime minister in post in the year 2014 amounted to Rs 3,384,000 and the same figure is estimated for the year ending 2015 and 2016 respectively.
6. I verily believe that the post of the Respondent No.1 yields, amongst other pecuniary benefits, a monthly salary of Rs 282,000.-
7. Respondent No.1 also served as the President of the Republic of Mauritius from 2003 until he resigned on 30 March 2012 and was drawing, amongst other pecuniary benefits, a monthly salary of Rs 288,000 as at March 2012. The Summary of Expenditure of the Office of the President is hereto annexed as Annex 2.
8. As per the provisions of the President's Emoluments and Pension Act 1992, Respondent No.1 was being paid an additional annual duty allowance of Rs 812,400 during the time for which he held the position of the President of the Republic.
9. As stipulated in the President's Emoluments and Pension Act 1992, the Respondent No.1, upon resigning from the office of the President of Mauritius on 10 March 2012, started earning a monthly pension of Rs 237,400 and that Respondent No.1 is still in receipt of the aforesaid amount as pension.
10. I also verily believe that the Respondent No.1 was still in receipt of the president's pension when he acceded to the post of Prime Minister of the Republic of Mauritius on 13 December 2014 and the same pension is still being paid to him till date.
11. I am advised that Section 4(2) of The President Emoluments and Pension Act 1992 further stipulates that a retiring President in receipt of a pension under the Act shall not undertake any remunerative employment during the remainder of his life.
12. I am also advised that the payment of the current basic monthly salary of Rs 282,000, as personal emoluments, to Prime Minister (Respondent No.1) constitutes "remunerative employment" and is therefore contrary to law, i.e, Section 4 (2) of The President Emoluments and Pension Act.
13. I am further advised and verily believe that the aforesaid monthly salary of Rs 282,000 is being allocated by Respondent No. 2 to the Respondent No.3 and paid to the Respondent out of the funds raised from the taxpayers of Mauritius.
14. I aver that the decision of the Respondent Nos. 2 and 3 to continue paying a monthly salary to the Respondent No.1 is ultra vires and illegal.

15. For the reasons set out above, I therefore pray from the Supreme Court for :

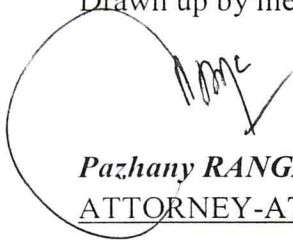
- a) leave to apply for an Order of Certiorari directing Respondents Nos 2 and 3 to bring up before the Supreme Court all records/files/documents/papers relating to their determinations dated on or about 8 November 2013 and 23 March 2015 respectively, regarding the decision to pay, under "Sub-Head 2-101: Cabinet Office – Expenditure to be Appropriated by Votes", to the Respondent No.1 an aggregate monthly basic salary as Prime Minister amounting to MUR 282,000 since December 2014 till date, in order to have the said decision quashed and/or reversed and/or set aside and/or otherwise dealt with as the Supreme Court shall think fit in as much as the said decision is in breach of the legitimate expectation of the Applicant, is manifestly against the law of the land, wrong, unfair and irrational in the circumstances;
- b) an Order staying any decision of the Respondents Nos. 2 and 3 to pay any emolument as Prime Minister to the Respondent No.1 pending the determination of the main case which Applicant intends to enter before the appropriate forum who shall pray, inter alia, for an Order compelling the Respondent No.1 to reimburse to the Co-Respondent all the emoluments received by him as the Prime Minister of the Republic of Mauritius since December 2014 with interest at the legal rate;
- c) such order or orders that the Supreme Court may deem fit and proper in the circumstances.

16. I therefore pray accordingly.

Solemnly affirmed by the abovenamed]
Deponent at Chambers, New Court House]
Port Louis, this 17th day of February 2016]



Drawn up by me



Pazhany RANGASAMY
ATTORNEY-AT-LAW

Before Me



(N. GUEAS)
Chief Court Officer/ Court Manager

I certify that this affidavit shall form part of an application to be lodged before the Supreme Court.



PAZHANY RANGASAMY
APPLICANT'S ATTORNEY

Annex 1
A B C
12/2/16

VOTE 2-1: PRIME MINISTER'S OFFICE

SUMMARY OF EXPENDITURE

	Rs 000			
Details	2014 (Jan-Dec) Actual	2015/16 (Jul-Jun) Estimates	2016/17 (Jul-Jun) Planned	2017/18 (Jul-Jun) Planned
VOTE 2-1 TOTAL EXPENDITURE	2,993,456	3,587,200	3,484,400	3,491,700
<i>of which</i>				
Recurrent	2,379,312	2,808,100	2,788,600	2,809,900
Capital	614,144	779,100	695,800	681,800
Sub-Head 2-101: CABINET OFFICE	123,597	86,300	87,500	88,600
Recurrent Expenditure	119,169	84,300	87,500	88,600
Capital Expenditure	4,428	2,000	-	-
Sub-Head 2-102: PRIVATE OFFICE AND CEREMONIALS	121,387	94,500	93,200	94,000
Recurrent Expenditure	121,387	94,500	93,200	94,000
Capital Expenditure	-	-	-	-
Sub-Head 2-103: DEFENCE AND HOME AFFAIRS	267,562	305,000	290,900	278,300
Recurrent Expenditure	179,308	226,500	213,000	215,400
Capital Expenditure	88,254	78,500	77,900	62,900
Sub-Head 2-104: NATIONAL SECURITY SERVICES	6,000	7,000	7,000	8,000
Recurrent Expenditure	6,000	7,000	7,000	8,000
Capital Expenditure	-	-	-	-
Sub-Head 2-105: CONTINENTAL SHELF AND MARITIME ZONES ADMINISTRATION AND EXPLORATION	5,071	9,900	10,800	10,900
Recurrent Expenditure	5,071	9,900	10,800	10,900
Capital Expenditure	-	-	-	-
Sub-Head 2-106: STRATEGIC POLICY	2,186	4,800	3,800	3,800
Recurrent Expenditure	2,186	3,600	3,800	3,800
Capital Expenditure	-	1,200	-	-
Sub-Head 2-107: EQUAL OPPORTUNITIES COMMISSION	13,861	16,200	16,600	16,000
Recurrent Expenditure	13,861	16,200	16,600	16,000
Capital Expenditure	-	-	-	-

VOTE 2-1: Prime Minister's Office - continued

Rs 000

Details	2014 (Jan-Dec) Actual	2015/16 (Jul-Jun) Estimates	2016/17 (Jul-Jun) Planned	2017/18 (Jul-Jun) Planned
Sub-Head 2-108: GOVERNMENT INFORMATION SERVICE	50,967	58,500	57,100	55,800
Recurrent Expenditure	50,079	52,500	54,200	54,900
Capital Expenditure	888	6,000	2,900	900
Sub-Head 2-109: FORENSIC SCIENCE LABORATORY	89,807	80,700	80,800	84,500
Recurrent Expenditure	56,508	65,700	65,800	66,500
Capital Expenditure	33,298	15,000	15,000	18,000
Sub-Head 2-110: PAY RESEARCH BUREAU	30,052	41,600	35,900	36,700
Recurrent Expenditure	30,052	41,600	35,900	36,700
Capital Expenditure	-	-	-	-
Sub-Head 2-111: CIVIL STATUS DIVISION	74,925	78,500	75,500	76,600
Recurrent Expenditure	74,925	78,500	75,500	76,600
Capital Expenditure	-	-	-	-
Sub-Head 2-112: RODRIGUES	2,208,043	2,804,200	2,725,300	2,738,500
Recurrent Expenditure	1,720,766	2,127,800	2,125,300	2,138,500
Capital Expenditure	487,277	676,400	600,000	600,000
TOTAL	2,993,456	3,587,200	3,484,400	3,491,700

Sub-Head 2-101: Cabinet Office

Item No.	Details	2014 (Jan-Dec) Actual	2015/16 (Jul-Jun) Estimates	2016/17 (Jul-Jun) Planned	2017/18 (Jul-Jun) Planned
	Recurrent Expenditure	119,169	84,300	87,500	88,600
21	Compensation of Employees	49,386	72,160	76,160	77,260
21110	Personal Emoluments	44,099	66,410	70,410	71,510
.001	Basic Salary	33,311	53,060	55,620	56,520
	→ The Prime Minister	3,384	3,384	3,384	3,384
	Secretary to Cabinet and Head of the Civil Service	2,304	2,304	2,304	2,304
	Senior Chief Executive	6,616	13,824	13,824	13,824
	Senior Executive (Generalist)				
	Permanent Secretary	1,368	1,368	1,368	1,368
	Deputy Permanent Secretary	3,845	3,899	3,921	4,018
	Assistant Permanent Secretary	-	662	674	690
	Temporary Assistant Permanent Secretary	1,338	2,994	3,277	3,345
	President, Equal Opportunities Tribunal	-	792	1,584	1,584

Annex 2
A.B. e
17/2/16

VOTE 1-1: OFFICE OF THE PRESIDENT

SUMMARY OF EXPENDITURE

Details	Rs 000			
	2014 (Jan-Dec) Actual	2015/16 (Jul-Jun) Estimates	2016/17 (Jul-Jun) Planned	2017/18 (Jul-Jun) Planned
VOTE 1-1 TOTAL EXPENDITURE	57,908	60,600	54,300	53,800
<i>of which</i>				
Recurrent	49,471	51,600	53,300	53,800
Capital	8,437	9,000	1,000	-

VOTE 1-1: OFFICE OF THE PRESIDENT

		Rs 000			
Item No.	Details	2014 (Jan-Dec) Actual	2015/16 (Jul-Jun) Estimates	2016/17 (Jul-Jun) Planned	2017/18 (Jul-Jun) Planned
Recurrent Expenditure		49,471	51,600	53,300	53,800
21	Compensation of Employees	31,375	35,250	35,875	36,475
21110	Personal Emoluments	26,885	30,875	31,500	32,100
.001	Basic Salary	22,338	24,995	25,566	26,110
	President of the Republic	3,456	3,456	3,456	3,456
	Secretary to the President	-	-	-	-
	Deputy Permanent Secretary	1,062	1,032	1,032	1,032
	Assistant Permanent Secretary	702	702	702	702
	Personal Secretary	-	175	358	366
	Maintenance Officer	317	345	354	362
	Assistant Maintenance Officer	168	177	181	185
	Assistant Manager, Financial Operations	-	510	525	540
	Senior Financial Operations Officer (Personal)	486	-	-	-
	Financial Officer / Senior Financial Officer	-	250	257	264
	Procurement and Supply Officer / Senior Procurement and Supply Officer	835	867	898	920
	Office Management Executive	903	961	997	1,040
	Office Management Assistant	1,043	1,122	1,166	1,195
	Management Support Officer	1,761	2,036	2,053	2,104
	Confidential Secretary	774	797	808	828
	Word Processing Operator	408	430	441	452
	HouseKeeper	326	333	342	350
	HouseKeeper's Assistant	-	140	144	148
	Receptionist/Telephone Operator	164	173	176	180
	Senior Household Attendant	171	181	184	189
	Household Attendant (on roster)	1,138	1,179	1,195	1,225
	Butler	263	275	275	275
	Assistant Chef (on roster)	-	171	176	180
	Driver	561	592	605	620
	Office Care Attendant/Senior Office Care Attendant	687	725	741	760

VOTE 1-1: OFFICE OF THE PRESIDENT

Rs 000

Item No.	Details			2014 (Jan-Dec) Actual	2015/16 (Jul-Jun) Estimates	2016/17 (Jul-Jun) Planned	2017/18 (Jul-Jun) Planned
		In Post 2014	Funded 2015/16				
	Head Gardener/ Nursery Attendant	4	4	964	1,016	1,024	1,049
	Senior Gardener/Nursery Attendant	6	6	1,295	1,350	1,394	1,429
	Gardener/Nursery Attendant	29	31	3,677	4,672	4,696	4,840
	Sanitary Attendant	1	1	128	136	139	142
	Laundry Attendant	3	3	381	412	434	444
	General Worker	8	8	668	780	813	833
	Total	92	98				
.002	Salary Compensation - 2015			-	700	700	700
.004	Allowances			1,773	1,850	1,850	1,850
.006	Cash in lieu of Leave			754	900	900	900
.009	End-of-year Bonus			1,910	2,155	2,209	2,265
.010	Service to Mauritius			109	275	275	275
21111	Other Staff Costs			4,145	4,025	4,025	4,025
.002	Travelling and Transport			2,408	2,500	2,500	2,500
.100	Overtime			1,711	1,500	1,500	1,500
.200	Staff Welfare			25	25	25	25
21210	Social Contributions			345	350	350	350
22	Goods and Services			18,096	16,350	17,425	17,325
22010	Cost of Utilities			1,333	1,650	1,650	1,650
22020	Fuel and Oil			1,146	1,200	1,200	1,250
22040	Office Equipment and Furniture			528	600	400	400
22050	Office Expense			936	1,025	1,025	1,050
22060	Maintenance			4,775	6,150	7,250	6,950
22100	Publications and Stationery			620	725	725	725
22120	Fees			57	100	100	100
22180	Overseas Travel (Mission and Capacity Building)			4,196	-	-	- (NI)
22900	Other Goods and Services			4,504	4,900	5,075	5,200
Capital Expenditure				8,437	9,000	1,000	-
31	Acquisition of Non-Financial Assets	Project Value Rs 000		8,437	9,000	1,000	-
	<i>of which</i>						
31112	Non-Residential Buildings						
.001	Construction of Office Buildings (Ex Samuel Quarters)	10,000		2,677	4,200	500	-
.041	Construction of Agricultural Store	4,720		4,265	-	-	-
.417	Upgrading of Buildings	5,600		-	4,800	500	-
TOTAL				57,908	60,600	54,300	53,800

