

Supreme Court Petition Number 42 of 2019

March 24, 2021

The Commission on Administrative Justice (CAJ) is mandated to investigate cases of abuse of power and other forms of maladministration in public bodies and to take remedial action. The issue in this appeal was whether the recommendations of the CAJ are binding on public bodies or government agencies. The Court of Appeal had held that the recommendations are binding.

In overturning the decision of the Court of Appeal, the Supreme Court agreed with our submissions that the recommendations of the CAJ are not binding as a recommendation can only be binding when it is specifically provided for in the Constitution or in law. Neither the Constitution nor the Commission on Administrative Justice Act states that the recommendations of the CAJ are binding. The Supreme Court further agreed with our submissions that, where there has been non-compliance with the CAJ's recommendations, the remedy is for the CAJ to prepare a report of the failure to implement the recommendations to the National Assembly for appropriate action.

The Supreme Court held that a court of law cannot dictate the manner in which a recommendation should be implemented by a public body unless there is gross abuse of discretion, manifest injustice or palpable excess authority equivalent to denial of a settled right which the aggrieved party is entitled to and there is no other plain, speedy and accurate remedy. The Supreme Court also formulated guiding principles to assist courts when considering a matter concerning the binding nature of recommendations from constitutional commissions or other public bodies.

Download a copy of the judgment delivered on 24 March 2021.

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