



THE HIGH COURT OF TANZANIA HAS STAYED THE HEARING OF DISCIPLINARY CASES AGAINST ADVOCATE MADELEKA PENDING DETERMINATION OF THE CONSTITUTIONAL CASE CHALLENGING COMPOSITION OF THE ADVOCATES COMMITTEE

The High Court of Tanzania (Main Registry) at Dodoma has issued an order for staying the hearing of two disciplinary applications no 02 and 07 of 2024 before the Advocates Committee pending determination of constitutional case no 7817 of 2024. Both disciplinary applications were instituted by the Attorney General against advocate Peter Michael Madeleka seeking removal of his name from the Roll of advocates. The order has been issued by the panel of three judges: Hon. Judge I. Mugeta, Hon. Judge S. Magoiga and Hon. Judge J. Masabo.

On 25th January and 11th March 2024 the Attorney General filed two complaints (application no 02 and 07 of 2024) of professional misconduct before the Advocates Committee against advocate Peter Michael Madeleka seeking removal of his name from the Roll of advocates.

Advocate Madeleka under the legal support from the Tanzania Human Rights Defenders Coalition (THRDC) filed a constitutional case no 7817 of 2024 in the High Court of Tanzania, Dodoma Main Registry challenging Sections 4[1][b]; 4[3]; 4[4]; [4[5]; 4[6]; 5 and 10 of the Advocates Act which provides for the composition and quorum of the advocates committee. The legal team from THRDC is under the lead of senior counsel John Seka.

The Attorney General (AG) is not only the mandatory member of the Advocates Committee but also the complainant, the prosecutor, and a potential key witness. Though alternatively, the Attorney General may choose not to attend in person and instead delegate attendance to the Deputy Attorney General (DAG), but still if the Deputy Attorney General attends, Madeleka thought that there can exist a conflict of interest and hence a real danger of bias because DAG is a direct subordinate and closest advisor to the AG.

Further, the Director of Public Prosecutions (DPP) is also a statutory member of the committee and is required to personally attend any hearing of the committee including application no 02 and 07 of 2024 against advocate Madeleka and yet the DPP is a direct subordinate and closet advisor to the AG.

Furthermore, the DPP is closely linked with the background facts leading to the filing of application no 02 of 2024 on account of his sanctioning the entry of *Nolle Prosequi* during the hearing of the case of Hashim Ally versus Pauline gekul [Criminal Case No. 179 of 2023 at Babati District Court].

Moreover, the attorney general has exclusive mandate to convene meetings of the advocates committee including the meeting for the hearing of application no 02 and 07 of 2024. Due to such composition and multiple roles that the AG may play, advocate Peter Michael Madeleka considered that he will not be given fair hearing and with possibilities of active and direct or indirect discrimination contrary to 13[1], 13[2], 13[3], 13[6][a], 26[1], 29[1] and 29[2] of the Constitution of the United Republic of Tanzania, hence lodging the said constitutional case. Hearing of the constitutional case on merit will be continuously conducted from 17th to 21st June 2024 at the High Court of Tanzania, Dodoma Main Registry.

Issued by

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Dar es Salaam, Tanzania

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