

**IN THE SUPERIOR COURT OF JUDICATURE  
IN THE SUPREME COURT  
ACCRA – A.D. 2018**

**WRIT TO INVOKE THE ORIGINAL JURISDICTION OF THE SUPREME COURT**

**SUIT NO:**

**BETWEEN:**

**MAHAMA AYARIGA  
JOB 600, 8<sup>TH</sup> FLOOR  
ROOM 16, EAST WING  
ACCRA**

**PLAINTIFF**

**AND**

**THE ATTORNEY –GENERAL  
ATTORNEY-GENERAL’S CHAMBERS  
MINISTRY OF JUSTICE  
ACCRA**

**DEFENDANT**

**IN THE NAME OF THE REPUBLIC OF GHANA** you are hereby commanded within fourteen days after the service on you of the Statement of the Plaintiff’s case, inclusive of the day of service, that you are to file or cause to be filed for you a Statement of Defendant’s Case in an action at the Suit of: **MAHAMA AYARIGA**

The reliefs sought are as follows:

- (a) A declaration that on a true and proper interpretation of Article 296 of the Constitution of the Republic of Ghana 1992, the implementation of the Infrastructure for Poverty Eradication Programme (IPEP) contained in paragraph 776, 777 and 778 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, and for which funds totaling **GHC 1,237,500,000.00** has been allocated in the Appropriations (No.2) Act 2017 (Act 951), necessarily involves the exercise of discretionary power in the determination of beneficiaries of the “One Village One Dam” projects; the Small Business Development funds and support; the “Water for All” Projects; and the Sanitation Projects, and hence must be governed by regulations made in accordance with Article 11 of the Constitution of Ghana 1992.

- (b) A Declaration that on a true and correct interpretation of Articles 296 of the Constitution 1992, the use of standardized guidelines, instead of regulations enacted by constitutional instruments or statutory instruments, for the selection of projects, as mentioned in paragraph 777 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, offends against the Constitution and consequently the selection of projects is null and void and should be set aside by this Court.
- (c) A declaration that on a true and correct interpretation of the Constitution, and particularly Article 190, 192 and 295(1), governmental initiatives are to be implemented by the public services, howsoever called, properly established by law and consequently the establishment of a “ten-member regional team”, not known by the law or Constitution, for each of the ten regions of Ghana to oversee the implementation of the IPEP, as spelt out in paragraph 778 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, violates the Constitution and hence the regional teams are unconstitutional and their activities are null and void.
- (d) A declaration that the implementation of the National Industrial Revitalisation Programme mentioned in paragraph 785 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, for which the sum of **GHC 236,000,000.00** was allocated in the Appropriations (No. 2) Act 2017 (Act 951), being a stimulus package for industry entails the exercise of discretionary power of the nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to enact such regulations offends against the Constitution 1992 and the implementation of the programme should be restrained by this Court until such regulations are made.
- (e) A declaration that the means by which 80 companies were determined to be eligible for support as mentioned in paragraph 785 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament offends the provisions of Article 296 of the Constitution since the selection was not founded on regulations in the form contemplated by article 296 and hence the selection of the 80 beneficiary companies is null and void and should be set aside by this Court.
- (f) A declaration that on a true and proper interpretation of article 296 of the Constitution of Ghana 1992, the implementation of the “One District One Factory” Programme, mentioned in paragraph 781, 782 and 783 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, entails the exercise of discretionary power in the selection of beneficiaries and such discretionary power is of the nature envisaged in Article 296 and

consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to enact such regulations offends against the Constitution 1992 and the implementation of the programme should be restrained by this Court.

- (g) A declaration that on a true and correct interpretation of the Constitution, and particularly Article 190, 192 and 295(1), the companies mentioned in paragraph 782 and 783 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, which are to be used for implementing the One District One Factory programme can only be in the nature of public corporations established under article 192 and 295(1) of the Constitution and consequently the failure to establish such companies as so constitutionally mandated violates the Constitution and hence the use of companies not in the nature of public corporations so established is unconstitutional and void and their activities should be set aside.
- (h) A declaration that on a true and proper interpretation of article 296 of the Constitution 1992, the implementation of the National Entrepreneurship and Innovation Programme (NEIP), mentioned in paragraph 787 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, and for which an amount of GHC 50,000,000.00 was allocated in The Appropriation (No. 2) Act, 2017 (Act 951), entails the exercise of discretionary power in the selection of beneficiaries and such discretionary power is of the nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to enact such regulations offends against the Constitution of Ghana 1992 and hence the activities of the Private Sector Implementation Partner in selecting beneficiaries as mentioned in paragraph 787 should be set aside by this Court on grounds of being null and void.
- (i) A declaration that on a true and proper interpretation of article 296 of the Constitution 1992, the implementation of the Nation Builders Corps (NBC) to be housed under the Office of the President and mentioned in paragraphs 807, 808, 809, 810 and 811 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, and for which an amount of GHC 600,000,000.00 was allocated in The Appropriation (No.2) Act, 2017 (Act 951), entails the exercise of discretionary power in the selection of beneficiaries and such discretionary power is of the nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to enact such regulations offends against the Constitution of Ghana 1992 and consequently the President should be directed to present such proposed regulations to Parliament for

enactment and until then the programme should not be allowed to commence.

- (j) A declaration that on a true and proper interpretation of article 296 of the Constitution 1992, the implementation of the Planting for Food and Jobs Programme, mentioned in paragraphs 788 and 789 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, and for which an amount of GHC 700,000,000.00 was allocated in The Appropriation (No. 2) Act, 2017 (Act 951), entails the exercise of discretionary power in the selection of beneficiaries and such discretionary power is of the nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to enact such regulations offends against the Constitution of Ghana 1992 and consequently the Minister responsible for agriculture should be directed to present such proposed regulations to Parliament for passage.
- (k) A declaration that on a true and proper interpretation of article 296 of the Constitution 1992, the implementation of the **Microfinance and Small Loans Center (MASLOC)** as mentioned in paragraph 218 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, which will disburse loans to **41,188 beneficiaries** and **procure 1,530 tricycles and 482 hire vehicles**, entails the exercise of discretionary power in the selection of beneficiaries and such discretionary power is of the nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to enact such regulations offends against the Constitution of Ghana 1992.
- (l) A declaration that on a true and proper interpretation of article 296 of the Constitution of Ghana 1992, the implementation of the Ghana School Feeding Programme, mentioned in paragraph 692 and 693 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, and for which an amount of **GHC 423,795,450** was allocated in The Appropriation (NO. 2) Act, 2017 (Act 951), entails the exercise of discretionary power in the selection of caterers and such discretionary power is of the nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and as such the use of new caterer contracting guidelines mentioned in paragraph 693 instead of regulations under article 296 offends against the Constitution of Ghana 1992 and consequently the Minister responsible for Gender, Children and Social Protection should be directed to present such proposed regulations to Parliament for enactment and until then the existing catering contracts for school feeding should be set aside by this Court on grounds of being null and void.

- (m) A declaration that on a true and proper interpretation of article 296 of the Constitution of Ghana 1992, the implementation of the **National Afforestation Programme, for which an allocation of GHC 30,000,000.00 was made in page 184 of The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, entails the exercise of discretionary power in the selection of beneficiaries and such discretionary power is of the kind and nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to make such regulations offends against the Constitution of Ghana 1992 and consequently the Minister responsible for lands and Natural Resources should be directed to present such proposed regulations to Parliament for enactment and until then the implementation of the National Afforestation Programme should be restrained by this Court.
- (n) A declaration that on a true and proper interpretation of article 296 of the Constitution of Ghana 1992, the disbursement of funds from the Zongo Development Fund established under the Zongo Development Fund Act 2017 (Act 964), as mentioned in paragraph 780 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, entails the exercise of discretionary power in the selection of beneficiaries and such discretionary power is of the kind and nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to make such regulations offends against the Constitution of Ghana 1992 and consequently the Minister responsible for Inner-City and Zongo Development should be directed to present such proposed regulations to Parliament for enactment and until then the disbursement of the fund should be restrained by this Court.
- (o) A declaration that on a true and proper interpretation of article 296 of the Constitution of Ghana 1992, the implementation of the **Free Senior High School (SHS) Programme**, mentioned in paragraph 620 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, and for which an amount of **GHC 1,137,861,816.00** was allocated in The Appropriation (No. 2) Act, 2017 (Act 951), entails the exercise of discretionary power in the selection of suppliers of food to the schools for the provision of three square meals to boarding students and one hot meal for day students and such discretionary power is of the nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to make such regulations offends against the Constitution of Ghana 1992 and consequently the Minister responsible for Education should be directed to present such proposed regulations to Parliament for enactment and until then the contracts for the supply of food to Senior

High Schools under the Free SHS programme should be declared null and void and set aside.

- (p) A declaration that on a true and proper interpretation of article 296 of the Constitution of Ghana 1992, the implementation of the scholarship schemes with funding from the **Ghana Education Trust Fund** approved by Parliament in the GETFund formula for 2018 entails the exercise of discretionary power in the selection of scholarship beneficiaries and such discretionary power is of the nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to make such regulations offends against the Constitution of Ghana 1992 and consequently the Minister responsible for Education should be directed to present such proposed regulations to Parliament for enactment and until then the implementation of such scholarship schemes should be restrained by this court.
- (q) A declaration that on a true and proper interpretation of article 296 of the Constitution of Ghana 1992, the implementation of the **“Other Education Requirements” Initiative**, for which an amount of **GHC 300,000,000.00** has been appropriated in page 184 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, entails the exercise of discretionary power in the selection of projects to spend on and beneficiaries and such discretionary power is of the nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to make such regulations offends against the Constitution of Ghana 1992 and consequently the Minister responsible for Education should be directed to present such proposed regulations to Parliament for enactment and until then the implementations of the “Other Education Requirements” initiative should be restrained by this Court.
- (r) A declaration that on a true and proper interpretation of article 296 of the Constitution of Ghana 1992, the implementation of the **HE Nana Akufo-Addo’s Plan for Agricultural Roads, for which GHC 500,000,000.00** has been appropriated in page 184 of **The Budget Statement and Economic Policy of the Government of Ghana for the 2018 Financial Year** approved by Parliament, entails the exercise of discretionary power in the selection of projects to spend on and beneficiaries and such discretionary power is of the nature envisaged in Article 296 and consequently regulations in the form of constitutional or statutory instruments ought to be made to govern the exercise of such powers and the failure to make such regulations offends against the Constitution of Ghana 1992 and consequently the Minister responsible for Roads and Highways should be directed to present such proposed regulations to Parliament for enactment and until then the implementations of the **HE Nana Akufo-Addo’s Plan for Agricultural Roads** initiative should be restrained by this Court.

- (s) A declaration that on a true and proper interpretation of the Constitution, particularly articles 17, 23 and 296 of the Constitution, the implementation of the initiatives enumerated in paragraphs (a) to (r) of this writ require the enactment of appropriate regulations to ensure fairness, equality of opportunities, the removal of arbitrariness, capriciousness and bias in the implementation of the initiatives and consequently this Court should direct all the relevant Ministers of State responsible for implementation to submit appropriate proposals to Parliament for enactment of the requisite regulations.
- (t) A declaration that on a true and proper interpretation of the Constitution of Ghana 1992, particularly articles 190, 192 and 295(1), governmental initiatives shall be implemented by the public services, howsoever called, properly established by law for such purposes and hence the implementation of some of the initiatives mentioned in paragraphs (a) to (r) of this writ by agencies not properly established for such purposes violates the Constitution and consequently this Court should issue appropriate orders restraining the implementation of such initiatives until laws in conformity with the Constitution are enacted to enable appropriate implementation.
- (u) An order of mandamus compelling the President or his assigned Ministers to bring to Parliament appropriate legislation establishing the institutions or agencies to implement the said initiatives and to have proper regulations presented to Parliament for enactment to govern the exercise of discretionary power necessarily implicated in the implementation of the said initiatives once the Appropriations (No. 2) Act, 2017 (Act 951) was passed by Parliament authorizing the appropriation of the funds.
- (v) An interim order of injunction restraining the President or his agents from implementing the initiatives until such time as the appropriate institutions for implementation are enacted by Parliament and the appropriate regulations to govern the implementation of the said initiatives are also approved by Parliament.
- (w) Any other order or orders that the Court deems fit to give effect to the declarations sought by the plaintiff in terms of article 2(2) of the 1992 Constitution of Ghana.

The capacity in which the Plaintiff brings this action is as follows:

The Plaintiff is a citizen of Ghana and brings this action under Articles 2(1), 41(b) and (f) and 130 of the 1992 Constitution of the Republic of Ghana.

The address for service of the Plaintiff is as follows:

**Job 600, 8<sup>th</sup> Floor**  
**Room 16 East Wing**

**Accra**

The name of the person affected by this writ is as follows:

**The Attorney-General  
Attorney-General's Chambers  
Ministry of Justice  
Accra**

DATED AT ACCRA THIS 15<sup>TH</sup> DAY OF MARCH 2018

**The Registrar  
Supreme Court  
Accra**

And for service on the above-named Defendant

**THE ATTORNEY-GENERAL  
ATTORNEY-GENERAL'S CHAMBERS  
MINISTRY OF JUSTICE  
ACCRA**