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REPUBLIC OF MALAWI

IN THE MALAWI SUPREME COURT OF APPEAL

MSCA MISC. CIVIL APPLICATION NO. 16 OF 2026

**(Being High Court of Malawi, Civil Division, Lilongwe District Registry,
Judicial Review Cause Number 71 of 2025)**

BETWEEN:

THE CHIEF SECRETARY TO THE PRESIDENT

AND CABINET..... APPELLANT

-AND-

THE STATE (ON APPLICATION OF MAJOR GENERAL

FRANCIS BLESSINGS KAKHUTA BANDA

AND 4 OTHERS) RESPONDENTS

ORDER

(with Skeleton Reasons)

CORAM:

Mzikamanda SC, CJ; Chikopa, SC, DCJ; Kapanda SC, JA; Potani, SC, JA;
Mkandawire, SC, JA; Kalembera, SC, JA; Madise, SC, JA; Mbvundula, SC, JA; and
nyaKaunda Kamanga SC, JA.

Decision

Having carefully considered the Summons for an Order of Stay of Enforcement of the judgment of the High Court dated 12th February 2026, the affidavit and skeleton arguments filed in support thereof, the affidavit and skeleton arguments filed in opposition thereto, the submissions of Counsel for both parties, and the applicable law, we are satisfied that this application should be granted.

Skeleton Reasons

The grant of a stay pending appeal is a discretionary remedy to be exercised in accordance with the interests of justice, having regard to all the circumstances of the particular case.

Having carefully considered the material before us and the submissions of Counsel, we are satisfied that the present matter is not an ordinary case. Its subject matter concerns the administration of a public institution whose peculiar nature requires that the competing interests of the parties be approached with particular caution.

Without expressing any view on the merits of the appeal, we are satisfied that, in the peculiar circumstances of this case, the interests of justice favour maintaining the existing position pending the determination of the appeal. We are further satisfied that any prejudice likely to be occasioned to the Respondents by the grant of a stay is outweighed by the need to preserve the position pending the final determination of the appeal.

Accordingly, we consider it just and appropriate to grant the stay sought.

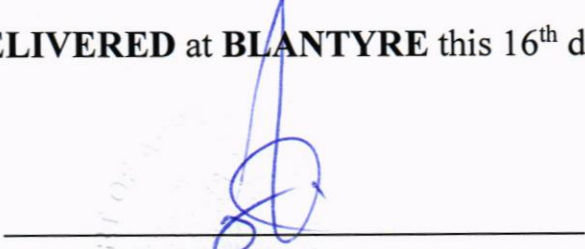
Operative Orders

Consequently, it is hereby ordered as follows:

1. The Applicant's application for a stay of enforcement of the judgment of the High Court dated 12th February 2026 pending the determination of the appeal is hereby granted.
2. The enforcement of the judgment of the High Court dated 12th February 2026 shall remain stayed pending the hearing and determination of the appeal.
3. The appeal shall be heard on an expedited basis.

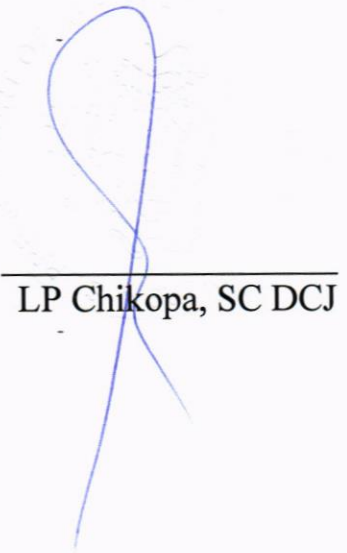
4. The parties shall, within fourteen (14) days from the date hereof, appear before the Registrar of this Court for directions regarding the expeditious settlement of the Record of Appeal and the preparation thereof.
5. Upon completion of the Record of Appeal, the Registrar shall immediately place the appeal before the Court for allocation of the earliest available hearing date, and the appeal shall be set down for hearing during the Lewis Chatsika Session, 2026, or on such earlier date as the Court may direct.
6. Each party shall bear its own costs.

DATED and DELIVERED at BLANTYRE this 16th day of July, 2026.



**ASSISTANT REGISTRAR
MALAWI SUPREME COURT OF APPEAL**

I certify that this is the order of the Court.



LP Chikopa, SC DCJ