

1968
July 29
—
ISAAC MIZRAHI
v.
REPUBLIC
(COUNCIL OF
MINISTERS)

[TRIANTAFYLIDIS, J.]

IN THE MATTER OF ARTICLE 146 OF THE
CONSTITUTION

ISAAC MIZRAHI,

Applicant,

and

THE REPUBLIC OF CYPRUS, THROUGH
THE COUNCIL OF MINISTERS,

Respondent.

(Case No. 157/68).

Alien—Alien petitioning Cyprus Government to intervene in relation to his employment by Sovereign Base Areas Authorities—Whether reply given to his petition a duly reasoned reply—Status of alien—No duty of Cyprus Government either to secure for the alien and his wife maintenance from the Base Areas Authorities or to hand them over to such Authorities—No trace of violation by Respondent of Articles 9, 25 and 28(2) of the Constitution of Cyprus or of Articles 2, 3, 5, 8 and 11 of the European Convention on Human Rights, which forms part of the law of Cyprus by virtue of The European Convention on Human Rights (Ratification) Law, 1962 (No. 39 of 1962).

The facts sufficiently appear in the Judgment of the Court.

Recourse.

Recourse against the omission of the Respondent to give a due reply to the substance of Applicant's petition whereby he requested, *inter alia*, that the Cyprus Government should approach the British Military Authorities with a view to his being re-employed by them.

Applicant in person.

A. Frangos, Senior Counsel of the Republic, for the Respondent.

Cur. adv. vult.

The following Judgment was delivered by:-

TRIANTAFYLIDIS, J.: The Applicant in this case, who appears to be a stateless person, is residing, for the time being, in Nicosia.

1968
July 29

—
ISAAC MIZRAHI
v.
REPUBLIC
(COUNCIL OF
MINISTERS)

Without going, at great length, into the history of how he came to be in Cyprus, it might be stated that the Applicant, who was a NAAFI employee, was, originally, brought to Cyprus, in 1956, from Egypt, by the British Military Authorities, for reasons of personal safety, as he had become a *persona non grata* there; this was at the time when the British Forces withdrew from the Suez Canal Zone in Egypt.

The War Department assured the then Government of the British Colony of Cyprus that the Applicant would not become a burden on the Government, *i.e.* that his employment in Cyprus would be guaranteed and that arrangements would be made by the War Department for his removal from the Island if and when he became unemployed.

After his arrival in Cyprus the Applicant continued to work for NAAFI until the middle of 1957; then he became unemployed for a period of time and, eventually, in 1959, he was given employment by the British Military Authorities in Cyprus; such employment continued until the 30th of November, 1967, when it was terminated on the ground of redundancy; while being employed as, aforesaid, the Applicant was working in the areas known, from 1960 onwards, as the British Sovereign Base Areas in Cyprus.

Due to his employment having been terminated the Applicant has become a person without any means of support; he told the Court that he is destitute.

On the 3rd February, 1968, he petitioned the Respondent Council of Ministers. His petition is a lengthy paper to which there are attached copies of various relevant documents (see *exhibit 2*). He was requesting by such petition that the Cyprus Government should approach the British Military Authorities with a view to his being re-employed by them; the Applicant's contention being that the termination of his services was illegal, in that the British Military Authorities had undertaken to employ him for so long as his services continued to be satisfactory, and yet he was dismissed on the ground of redundancy.

The first complaint of the Applicant in this recourse is that he has not been given a due reply to the substance of his petition; he alleges that the reply given to him, which is dated the 10th May, 1968 (see *exhibit 1*), is not a duly reasoned one.

1968
July 29

—
ISAAC MIZRAHI
v.
REPUBLIC
(COUNCIL OF
MINISTERS)

A duly reasoned reply does not, in my opinion, have, necessarily, to be a lengthy one.

The reply given to the Applicant by means of the letter of the 10th May, 1968 (*exhibit 1*) states that, with regard to his employment or re-employment by the British Military Authorities, "this is a matter in which the Cyprus Government cannot intervene". There is attached thereto copy of a letter (see *exhibit 1A*) addressed, on the 19th December, 1967, to an advocate acting, at the time, for the Applicant, in relation to the same matter; it is stated therein that the Republic cannot intervene in relation to the employment of the Applicant by the Sovereign Base Areas Authorities, as this is a matter between the Applicant and his employers.

I find that *exhibits 1* and *1A* amount to a due reply to the substance of the petition of the Applicant and that they do constitute a duly reasoned reply, too, in the circumstances of the matter; the obvious reason for the refusal of the Cyprus Government to take action being that it has no *locus standi* in the matter of the dismissal of the Applicant by the Sovereign Base Areas Authorities; when a reason is so obvious as all that no elaboration thereof is necessary.

The Applicant has complained, further, that the Respondent has not, in response to his petition, secured, for him and his wife, maintenance by the Authorities of the Sovereign Base Areas; nor has, Respondent, in the alternative, handed over the Applicant and his wife to the said Authorities. In this connection the Applicant has pointed out that he is a prohibited immigrant in Cyprus, under the provisions of the Aliens and Immigration Law, Cap. 105; and he has submitted that it is the duty of the Cyprus Government to apply the legislation in force and to expel him from the Republic, handing him over to the Sovereign Base Areas Authorities.

He has argued that the failure of the Cyprus Government to do so, and its attitude as shown by the contents of the letter of the 10th May, 1968 (*exhibit 1*), render him a person living in the Republic in destitution, without the right to work, contrary to Articles 9, 25 and 28.2 of the Constitution, and contrary to Articles 2, 3, 5, 8 and 11 of the European Convention on Human Rights which is part of the law of

Cyprus by virtue of the European Convention on Human Rights (Ratification) Law, 1962 (Law 39/62).

1968
July 29

—
ISAAC MIZRAHI
v.
REPUBLIC
(COUNCIL OF
MINISTERS)

In my opinion, there exists no duty of the Government of the Republic either to secure for the Applicant and his wife maintenance from the Sovereign Base Areas Authorities, or to hand them over to such Authorities. Applicant may, indeed, be a prohibited immigrant, in the sense of Cap. 105, and perhaps he is allowed to stay on in Cyprus by sufferance, but his status as a prohibited immigrant does not *entitle* him to be handed over to, and be thrown into the lap of, the Sovereign Base Areas Authorities. Moreover, I cannot find anything, which has been done by the Government of Cyprus, which would show any trace of violation of any of the Articles of the Constitution of Cyprus, or of the provisions of the European Convention on Human Rights, cited to me by the Applicant.

In any case, the Cyprus Government has taken up the Applicant's case with the British Military Authorities, regarding his future, and there appears to exist a possibility of the Applicant being repatriated, by the British Military Authorities, to the United Kingdom, if he so wished; but he does not wish to go there, for reasons of health of his wife and for other reasons in relation to his *alleged claim* against the Sovereign Base Areas Authorities.

There is no doubt that the Applicant is a very unfortunate person, who found himself unemployed, and in the midst of a most complicated situation regarding his presence in Cyprus.

But it is not for this Court to pronounce in any way, at all, on the rightfulness or not of the termination of his employment by the British Military Authorities; this Judgment does not concern in the least whatever rights he may, or may not, have in the matter.

It appears that in this respect the Applicant has already tried, unsuccessfully, to institute proceedings before the courts of the Sovereign Base Areas, and has also lodged a recourse against the United Kingdom with the Human Rights Commission of the Council of Europe. It is up to him to pursue such remedies as he may deem fit to resort

1968
July 29

ISAAC MIZRAHI
v.
REPUBLIC
(COUNCIL OF
MINISTERS)

to; and this Judgment should not be taken as affecting the outcome of any such effort of his.

I would like to conclude by drawing the attention of the Welfare Services in Cyprus to the plight of the Applicant, in case they are in a position to render him any, *pro tempore*, *ex gratia* assistance; this is something for them, and not for me, to examine and decide upon.

In the result this recourse fails and it is dismissed. But I am making no order as to costs.

Application dismissed.

No order as to costs.