

MODESTOS PITSILLOS,

Appellant,

and

1. THE MINISTER OF THE INTERIOR, THROUGH THE DIRECTOR-GENERAL,
2. THE REPUBLIC OF CYPRUS, THROUGH THE ATTORNEY-GENERAL,

Respondents.

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MODESTOS
PITSILLOS
v.
THE MINISTER
OF THE INTERIOR
THROUGH THE
DIRECTOR -
GENERAL
AND ANOTHER

(*Revisional Jurisdiction Appeal No. 84*).

Elections (parliamentary)—Replies by the Administration to written complaints concerning validity of parliamentary elections—Not executory administrative acts ; and therefore they cannot be challenged by a recourse under Article 146 of the Constitution for annulment—Nor was Article 29 of the Constitution infringed, because it refers exclusively to written requests or complaints the subject of which may form the subject of a recourse for annulment.

Constitutional Law—Article 29 of the Constitution—Scope—See supra.

This is an appeal against the judgment of a Judge of the Supreme Court dismissing his recourse whereby he was asking, *inter alia*, the annulment “ of the decision of the Director-General of the Ministry of Interior whereby the latter decided on July 31, 1970, that complaints by the applicant regarding the election that had taken place were unfounded ” etc. etc. The judgment appealed from is reported in this Part *ante* at p. 139. The facts of the case appear in that judgment as well as in the judgment of the Supreme Court dismissing the appeal.

Cases referred to :

Xenophontos and The Republic, 2 R.S.C.C. 89.

Appeal.

Appeal from the judgment of the President of the Supreme Court of Cyprus (Triantafyllides, P.) given on the 12th April, 1971, (Rev. Jurisdiction Case No. 287/70), dismissing appellant's recourse against the validity of the decisions

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of the respondents in respect of applicant's complaints relating to the Parliamentary elections which took place in the Nicosia District on the 5th July, 1970.

Applicant appeared in person.

L. Loucaides, Senior Counsel of the Republic, for the respondents.

The following judgment was delivered by:—

STAVRINIDES, J. : The appellant stood as a candidate in the parliamentary election of July 5, 1970. Having failed, on the 9th of the same month he wrote to the Minister of the Interior "objecting to the parliamentary election" and complaining "of violence and fraud in many cases" and many other matters in connection therewith. On the 31st of the same month the Director-General of the Ministry replied to the appellant in writing that the Ministry "had not found that any offences had been committed against the election law" and informing him that "if he still believed that in particular cases there had been any breaches of the election law he could, if he wished to dispute the validity of the election, apply to the competent Court under the Law". On the following day the appellant wrote a letter to "Mr. Kokos Markou, Returning Officer for the Nicosia constituency, stating that "he raised an objection to the parliamentary election" and repeating substantially the other allegations contained in his earlier letter to the Minister of the Interior. In reply a letter dated August 8, 1970, signed in the capacity of Acting District Officer, was sent to the appellant, in which the writer stated that "he had nothing to add" to the above letter (to the appellant) of the Director-General of the Ministry of the Interior.

On October 7, 1970, the appellant filed in this Court an application whereby he was asking, first, for "annulment of the decision of the Director-General of the Ministry of the Interior whereby he decided on July 31, 1970, that complaints by the applicant regarding the election that had taken place were unfounded" and secondly, for "annulment of the decision of the Acting Returning Officer whereby he decided on August 8 that complaints by the applicant regarding the election that had taken place were unfounded." The application was heard* by one member of this Court, Triantafyllides, J., as he then was, who dismissed it, in

* Vide p. 139 in this Part *ante*.

substance on the ground that what were described in it as "decisions" were not executory administrative acts and therefore could not be challenged by application for annulment. The appellant did not dispute the correctness of this finding, which we uphold, but before us he complained that the administration had infringed Article 29 of the Constitution as the letters of July 31 and August 8 were not reasoned. This complaint is entirely outside the ambit of the application, nor could it form a subject of such an application because, as was held by the former Supreme Constitutional Court in *Xenophontos* and *The Republic*, 2 R.S.C.C. 89, that article refers exclusively to "written requests or complaints" the subject of which may form the subject of an application for annulment. For these reasons the appeal must be dismissed.

It remains to consider a question relating to costs. In accordance with a reservation contained in the notice of appeal the appellant at a later date filed a supplementary document whereby he complained that the Court did not award to him, by way of costs, compensation for loss of time in connection with an adjournment of the hearing of his application on March 12 last in his absence, at the instance of Counsel for the Republic. The appellant could have asked for these costs at the hearing of his application, which he did not do. However, we propose deducting £3 costs in respect of that adjournment from the sum which we consider should be awarded to the Republic as costs of the appeal.

The appeal is dismissed with £9 costs against the appellant.

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