

1972  
July 31

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COSTAS  
CLEANTHOUS  
(No. 2)

v.

REPUBLIC  
(MINISTER OF  
INTERIOR AND  
ANOTHER)

[TRIANTAFYLLIDES, P.]

IN THE MATTER OF ARTICLE 146 OF THE  
CONSTITUTION

COSTAS CLEANTHOUS (No. 2),

*Applicant,*

*and*

THE REPUBLIC OF CYPRUS, THROUGH  
1. THE MINISTER OF INTERIOR,  
2. THE PUBLIC SERVICE COMMISSION,

*Respondents.*

(Case No. 209/72).

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*Provisional Order—Suspending effect of a decision posting the interested party to Kyrenia as District Officer, and of a decision terminating applicant's acting appointment thereto—Until outcome of the recourse made under Article 146 of the Constitution against the validity of such decisions—Application for such provisional order refused for the reasons given in Case No. 195/72, (reported in this Part at p. 371 ante)—Moreover, the decision terminating the acting appointment having been reached after the filing of the present recourse cannot in law be regarded as forming part of the subject-matter of the recourse—Consequently, no provisional order ought to be made in respect thereof.*

*Recourse under Article 146 of the Constitution—Provisional order—See supra.*

The facts sufficiently appear in the judgment of the learned President refusing to issue the provisional order applied for. The reasons given for such refusal are the same as those given in the Case No. 195/72, reported in this Part at p. 371 *ante*).

**Application.**

Application for a provisional order suspending, *inter alia*, the effect of a decision posting the interested party to Kyrenia, as District Officer, pending the determination of a recourse against the validity of such decision.

*K. Talarides*, for the applicant.

*L. Loucaides*, Senior Counsel of the Republic,  
for the respondent.

*K. Michaelides*, for the interested party.

*Cur. adv. vult.*

The following decision was delivered by:-

TRIANTAFYLIDES, P.: By recourse 195/72 the applicant in the present case has challenged the validity of the appointment of the interested party, K. Marcou, to the post of District Officer; and today I have just dismissed an application, in that recourse, for a provisional order postponing the taking of effect of such appointment until the outcome of the recourse.

In the present case the applicant seeks the annulment of the decision to post the interested party to Kyrenia as District Officer as from the 1st August, 1972, and of a decision terminating the applicant's acting appointment as District Officer in Kyrenia as from that date. He has applied for a provisional order postponing the taking of effect of these decisions pending the outcome of the proceedings.

For the same reasons given in my Decision \* by which I refused a provisional order in case 195/72 I have reached the conclusion that it is not proper to make the provisional order applied for in this case.

In any case, the effect of the decision concerning the termination of the aforesaid acting appointment of the applicant should not have been interfered with by means of a provisional order made in this case, because, as it has transpired during the proceedings, it is a decision reached by the respondent Commission on the 28th July, 1972, after the filing of this recourse on the 26th July, 1972, and, therefore, as it cannot in law be regarded as forming part of the subject matter of the present recourse it follows that no provisional order should be made in respect thereof in these proceedings.

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\* Published in this Part at p. 371 *ante*.

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The application for a provisional order is, thus, dismissed; but in the circumstances of this case I am not prepared to make any order as to the costs of such application.

*Application dismissed.*

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Note: The recourse was withdrawn later before judgment.