

1986 October 9

[A. LOIZOU, J.]

IN THE MATTER OF ARTICLE 146
OF THE CONSTITUTION

KYRIACOS AGATHANGELOS AND OTHERS,

Applicants.

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE EDUCATIONAL SERVICE COMMISSION,

Respondent.

(Cases Nos. 779/85, 876/85,
888/85, 991/85).

*Recourse for annulment—Revocation of sub judice act—
Whether and in what circumstances the recourse can be
examined on its merits.*

The question of law in these cases is whether the ap- 5
plicants are entitled to any remedy, notwithstanding the
revocation of the sub judice acts following a judgment
of this Court in other cases, whereby the regulations, un-
der which the sub judice acts were taken, were found to
be invalid.

Held, (1) A recourse has to be examined on its merits, 10
notwithstanding the revocation of the sub judice act, if
such act has brought about consequences in relation to
which the applicant, if successful in his recourse, may
be entitled to seek redress under Article 146.6 of the
Constitution. 15

(2) In the light of the above principle there would be
a declaration that the sub judice acts were null and void.
The past tense is used as there is nothing that need be
done in the future. The purpose of this judgment is to

3 C.L.R. **Agathangelos and Others v. Republic**

enable the applicants to seek a remedy under Article 146.6.

Declaration accordingly.

No order as to costs.

5 Cases referred to:

Salem v. The Republic (1985) 3 C.L.R. 453;

Andreou v. The Republic (1975) 3 C.L.R. 108;

Kittou v. The Republic (1979) 3 C.L.R. 605;

Hapeshis v. The Republic (1979) 3 C.L.R. 550;

10 *Platis v. The Republic* (1978) 3 C.L.R. 384;

Agrotis v. The Republic (1983) 3 C.L.R. 1397;

Mavronichis v. Industrial Training Authority (1986) 3 C.L.R. 1427.

Recourses.

15 Recourses against the decision of the respondent to transfer applicants.

A. S. Angelides, for applicants.

A. Vassiliades, for the respondents.

Cur. adv. vult.

20 A. LOIZOU J. read the following judgment. These four recourses were by direction of the Court tried together as they involve a common question of law, namely, whether the applicants are entitled to any remedy thereunder in spite of the revocation of the sub judice administrative
25 acts following the judgment in Recourses No. 813/1985 and 830/1985, whereby the Regulations under which the sub judice decisions were also taken were found to be ultra vires.

30 There is ample authority to which reference is made in the case of *Salem v. The Republic* (1985) 3 C.L.R. 453

to the effect that in spite of a revocation of an administrative act a recourse has to be examined on its merits if the sub judge administrative act revoked has brought about consequences in relation to which if the applicant is successful in his recourse he might be entitled to seek redress under Article 146.6 of the Constitution. 5

To this contention advanced on behalf of the applicants, counsel for the respondent Commission, in all fairness, expressed no disagreement. On the contrary he has drawn the attention of the Court to the cases of *Andreou v. The Republic* (1975) 3 C.L.R. 108, *Thekla Kittou v. The Republic* (1979) 3 C.L.R. 605; *Hapeshis v. The Republic* (1979) 3 C.L.R. 550; *Platis v. The Republic* (1978) 3 C.L.R. 384. 10

In addition to these authorities and those referred to in *Salem's case* (supra) learned counsel for the applicant has cited the case of *Michael Mavronichis v. Industrial Training Authority* (Recourse No. 478/81, in which judgment was delivered on the 6th June, 1983, but has not been reported)* where a similar approach was adopted on the ground that the recovery of damages under Article 146.6 of the Constitution presupposes an annulling judgment under Article 146.4. See inter alia *Agrotis v. The Republic* (1983) 3 C.L.R. 1397 and the authorities therein referred to. 15
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Being in full agreement with this legal position and as the sub judge decisions were based on the said Regulations which have been found to be ultra vires, I hereby declare that the sub judge decisions in all four recourses were null and void and with no effect whatsoever. 30

I have used in the declaration made, the past tense as since the revocation of the sub judge acts there is nothing that need be done in the future. The purpose of this judgment is obvious. It is for the applicants to seek, if they so wish, any remedy under paragraph 6 of Article 146 of the Constitution. By this remark, however, I should in 35

* Reported in (1986) 3 C.L.R. 1427.

no way be taken as pronouncing either way on the merits of any step to be taken under the said paragraph.

In the circumstances, however, there will be no order as to costs.

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Sub judice decisions annulled.
No order as to costs.