IN THE SUPERIOR COURT OF JUDICATURE

COURT OF APPEAL

KUMASI – GHANA

AD - 2026

CORAM:

K. BAIDEN, JA (PRESIDING)

KOGYAPWAH, JA

NABARESE, JA

CIVIL APPEAL NO. H1/120/2025

DATED: 12TH FEBRUARY 2026

IN AN APPLICATION FOR JUDICIAL REVIEW IN THE NATURE OF CERTIORARI PURSUANT TO ORDER 55 RULE 1 OF THE HIGH COURT (CIVIL PROCEDURE) RULES, 2004 (CI 47)

THE REPUBLIC

VS.

THE REGISTRAR,

KWAME NKRUMAH UNIVERSITY

OF SCIENCE AND TECHNOLOGY,

KUMASI ... RESPONDENT/RESPONDENT

EX PARTE:

PROF. REXFORD ASSASIE OPPONG ... APPLICANT/APPELLANT

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REGISTRAR

COURT OF APPEAL

KUMASI

JUDGMENT

KWAMINA BAIDEN, JA.

Applicant/Appellant hereafter called Appellant applied to quash by Certiorari the findings and report of the PROF. SAMUEL I. K. AMPADU FACT-FINDING COMMITTEE constituted by the Vice-Chancellor dated 13th August,

2024 and 20th October, 2023 which breached procedural and substantive standards of the Respondent's statutes.

Applicant complains that:

1. He received a letter from the Respondent's Registrar about a petition against him by some section of senior members levelling various accusations against him.
2. The Vice-Chancellor subsequently constituted a committee on 23rd March 2023 to investigate the allegations made against applicant and Applicant's allegations against others. It was a fact-finding committee.
3. He appeared before the Committee and even though he requested to see and cross-examine his accusers he was not allowed to do so.
4. On 19th August 2024 he received a letter from the Registrar containing the directives of the Vice-Chancellor based on the Report of the Committee.
5. In the letter he was directed to apologise to two of the petitioners Prof. Daniel Yaw Addai Duah and Dr. Alexander Boakye Marful.
6. The Vice-Chancellor's directives changed the character of the Committee to a disciplinary committee.
7. That the Committee has no legal existence per the statutes of the Respondent and it curtailed the Applicant's right of appeal as he could only appeal in respect of a decision of a disciplinary committee.
8. The Committee, its work and the directives of the Vice-Chancellor based on it are null and void.

Respondent admitted setting up the fact-finding Committee but denied that it had the character of a disciplinary committee. It added that the Vice-Chancellor acted within her administrative powers in the steps she took.

The trial Court considered the application and dismissed same.

The Applicant has appealed on three grounds. The grounds are:

I. The learned Judge erred when he failed to consider the totality of the evidence on record and relied only on Exhibit 'F' to dismiss the entire application when the Respondent did not challenge the said exhibit.

II. The learned Judge erred when he failed to take judicial notice of exhibit 'F' which is a public document and can be easily verified.

III. The judgment is against the weight of evidence.

No additional ground was filed though indication was given that it might be filed upon receipt of the record of proceedings.

Counsel for the Appellant submitted, on the first ground, that the trial Judge ought to have examined the evidence to find out whether there was some evidence to support Appellant's case after rejecting Exhibit 'F' but he did not do so and it resulted in a miscarriage of justice.

On the second ground, Counsel submitted that the trial Judge rather than rejecting Exhibit 'F' ought to have taken judicial notice of it as it was a public document.

On the last ground, it was submitted for the Appellant that the Respondent acted in excess of jurisdiction in acting upon the recommendations of the Fact-Finding Committee. The Vice-Chancellor could only issue sanctions or penalties after a disciplinary committee hearing. Again, she could not act judicially without first giving a hearing to the Appellant.

Counsel relied on a number of cases for his submissions including **West African Enterprises Ltd v Western Hardwood Enterprise Ltd. [1995-96] 1 GLR 155, Osei (substituted by) Gilard v Korang [2013-2014] 1 SCGLR 221, Mensah & Others v The Republic [1979] GLR 523, Unicom Commodities Company v Nyonkopa Cocoa Buying Co. Ltd. [2023] 183 GMJ 555, Republic v High Court, Accra Ex Parte Salluom (Senyo Coker – Interested Party [2011] 1 SCGLR 574, Serbeh-Yiadom v Stanbic Bank (Gh) Ltd [2003-2005] 1 GLR 86 SC** and **Republic v Shai traditional Council, Ex Parte Korda II [2001-2002] 1 GLR 299.**

As an appeal is by way of rehearing, the appellant is required to convince this Court that there were lapses in the ruling of the trial Court which ought to be corrected and that the correction would result in the ruling being overturned in his favour. See the cases of **Tuakwa v Bosom [2001-2002] SCGLR 61, and Djin v Musa Baako [2007 – 2008] SCGLR 686.**

The Respondent did not file any written submissions which appears to be a repeat of their conduct that was condemned by the trial Court. We believe that Respondent ought to show more respect to the Court and ensure that it discharges its duties towards it faithfully and promptly.

Counsel for the Appellant has argued all the grounds of appeal and urged this Court to allow the appeal. All the three grounds can be determined under the omnibus ground. The first ground deals with a piece of evidence and the second ground similarly relates to evidence which the Appellant claims ought to have been taken by way of judicial notice.

The first two grounds do not really constitute grounds of appeal as they do not point to any real reason why the judgment should be overturned. They are simply statements of problems that could be considered in evaluating the manner in which the trial Judge dealt with the affidavit evidence in the matter.

We therefore consider the whole appeal under the omnibus ground of appeal namely:

The judgment is against the weight of evidence.

The first issue we consider under this ground is the alleged rejection of Exhibit 'F' by the trial Judge.

The trial Judge held the position that Exhibit 'F' lacked certification and was not the full copy of the statutes of the Respondent so he could not attach any probative value to Exhibit 'F'. He concluded that there were no statutes of the Respondent before him to enable him to make an informed decision on the substance of the application.

The Appellant's Counsel argues that this position of the trial Judge did not preclude him from looking at other pieces of evidence on record to determine the matter. Further, in the absence of any objection to the admissibility of Exhibit 'F' by the Respondent, Counsel deemed it improper for the trial Judge to have rejected the exhibit.

The trial Judge evaluated Exhibit 'F' and concluded that he would not attach any probative value to it and considered that it was as if there was no such exhibit before him. In effect, he could not rely on Exhibit 'F' to determine the application. We do not find any fault with the trial Judge's position having regard to the fact that the statutes as a whole was not tendered to aid his interpretation of same. In the case of **Abu Ramadan & Nimako (No. 1) v Electoral Commission & Attorney-General; Danso Acheampong v Electoral Commission & Attorney-General (Consolidated) [2013-2014] 2**

SCGLR 1654, Wood CJ, in support of this approach, stated as follows at page 1674:

> "To arrive at a proper construction of regulation 1 (3) (d) and (e of the Public Elections (Registration of Voters) Regulations, 2012 (CI 72), firmly-established principles of statutory interpretation require that CI 72 be read as a whole, not piecemeal, and purposively construed and with the impugned legislation interpreted in the context of the other parts of CI 72."

The whole of the statutes ought to have been tendered so they could be construed as a whole.

A distinction must be made between admissibility and the weight to be attached to a piece of evidence. **Barkers-Woode v Nana Fitz [2007-2008] SCGLR 879**

Beyond raising this issue as a ground of appeal, the Appellant's Counsel failed to demonstrate from the record any pieces of evidence apart from Exhibit 'F' on which the trial Judge could have relied.

It is in the depositions in the affidavits of the parties that one finds some pointers to what the statutes required of the parties.

The next issue raised and framed as a ground of appeal was that it was an error on the part of the trial Judge to have refused to take Judicial Notice of the statutes of the Respondent as it was a public document.

I. The learned Judge erred when he failed to take judicial notice of exhibit 'F' which is a public document and can be easily verified.

Section 9 (2) of the Evidence Act, 1975 (NRCD 323) deals with judicial notice and sets out the rules and principles for applying it. It provides as follows:

(2) Judicial notice can be taken only of facts which are either:

(a) So generally known within the territorial jurisdiction of the court, or
(b) So capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

that the fact is not subject to reasonable dispute.

(3) judicial notice may be taken whether requested or not.

(4) Judicial notice shall be taken if requested by a party and the requesting party:

(a) gives each adverse party fair notice of the request, through the pleadings or otherwise, and

(b) supplies the necessary sources and information to the court.

(5) A party shall be entitled upon timely request to an opportunity to present to the court information relevant to the propriety of taking judicial notice and the meaning of the fact to be noticed.

(6) Judicial notice may be taken at any stage of the action.

The rules on judicial notice provide that it could be taken at any stage of the action which has been explained to mean that it could be taken even on appeal. The Appellant has not made any effort to apply for judicial notice to be taken of the statutes especially where the Court has not found it helpful to suo motu do so.

Are the statutes of such notoriety that judicial notice can be taken of them?

The statutes in question are statutes of a public University and the issue is whether having been enacted under the authority of the establishing enactment of the University it occupies the same status as an act of Parliament which is taken judicial notice of by the Court. The other concern to be examined is whether the Appellant has properly raised the issue.

The statutes are not enactments of Parliament which are published by the Government printer and are easily and readily accessible. The contents of such enactments are not subject to disputes. The Judge is assumed to know the law and he can take judicial notice of it without subjecting it to any procedure for proving it.

The statutes are published within the University and do not go through the public procedure to which laws, subsidiary legislation and related enactments are subjected.

In our opinion, whilst the Court could take judicial notice of the fact that the public University as the Respondent herein was governed by statute, it was the responsibility of the Appellant to produce a copy of the statutes to prove the contents. Having failed to do so, the trial Court was justified in not relying

on parts or portions of the statute put in evidence by way of affidavit evidence by the Appellant.

The basic principle in interpretation of documents is to read the document as a whole to interpret it. Without the whole document, the trial Court was disabled from interpreting or applying Exhibit 'F' based on the portions tendered in evidence.

In our view, there is only one issue relevant to the determination of the appeal namely whether the Vice-Chancellor was entitled to issue the directive she issued based on the recommendations of the Samuel I. K. Ampadu Committee.

It is indicated by both parties that the Committee that was set up was intended to be a fact-finding committee. The relevant depositions of the Appellant from his Affidavit in Support are as follows (See pages 4-5 of the Record of Appeal):

5. That on 23rd day of March 2023, I received a letter from the Registrar of the Respondent about a petition from some section of the Senior Members accusing me of harassment/intimidation of staff, taking unilateral decisions affecting the Department without recourse to the Department Board, non-adherence to the School of Graduate Studies regulations on Postgraduate studies and disrupting the just ended mid-semester examinations held on 1st March, 2023. Attached and marked as exhibit A is a copy of the said letter.
6. That on 23rd day of March 2023 the Vice Chancellor of the Respondent constituted a fact-finding committee for the purpose of investigating some accusations levelled against me by some sections of the senior members of the Department of Architecture and counter accusations made by me against some sections of the senior members of the Respondent as well.
7. That on 28th day of April, 2023 I was invited to the said committee to appear before it on 3rd day of May, 2023 for an 'interaction' regarding the committee's work of investigating these allegations at the Architecture Department of the Respondent. (Attached and marked as exhibit B is a copy of the letter of invitation]

8. That I offered both documentary and oral testimony in denial of the allegations made against me by the petitioners at the Fact-Finding Committee's sitting. [Attached and marked as exhibit C is a copy of my response to the various allegations made against me]
9. That at all material times, I knew or understood my interaction with the Prof S.L.K. Ampadu Committee was only a fact finding/gathering in nature and not a disciplinary committee hearing.
10. That during the interaction I persistently requested to meet the Petitioners to cross examine them on their accusations levelled against me and subject their testimonies against me to test but my request was denied by the committee.
11. That on 19th day of August 2024, I received a letter dated 13th August 2024 with reference number PS 16078, addressed to me by the Registrar of the Respondent on the Prof Samuel I.K. Ampadu Committee which said letter communicated the Vice Chancellor's directives premised on the said Committee's report.
12. That pursuant to the preceding paragraph, I say that the Vice Chancellor directed in the said letter that I apologise to two of the Petitioners, namely Prof. Daniel Yaw Addai Duah and Dr. Alexander Boakye Marful. (Attached and marked as exhibit D is a copy of the letter (findings) of the committee)

Exhibit 'A' attached to the Appellant's Affidavit being the appointment letter to the chairman of the committee describes it as a fact-finding committee. Its terms of reference as set out in Exhibit 'A' state as follows:

- Investigate the allegations levelled against the Head of Department of Architecture by the Petitioners;
- Investigate the Head of Department's allegations levelled against some members of staff of the Department;
- Consider any other issues relevant to the mandate of the Committee; and
- Make appropriate recommendations to the Vice-Chancellor.

The Appellant has raised some complaints against the Committee's work and the recommendations it made. Due to the complaints, the Appellant states that he has rejected the findings of the Committee. Some of the

complaints are contained in his affidavit as set out below (see pages 5-6 of the Record of Appeal):

12. That on 20th August 2023, 1 formally requested from the Registrar of the Respondent for the full record of proceedings and the final report of the aforementioned Prof Samel I.K. Committee Fact-Finding Committee. The Registrar of the Respondent however, refused, failed and or neglected to provide me with the said documents despite repeated demands.

13. That further to the preceding paragraph, the denial impeded me from immediately addressing the matters raised in the 13th August 2024 letter.

14. That notwithstanding the blatant refusal by the Registrar of the Respondent to adhere to my request of giving me the full record of proceedings and the final report of the afore-mentioned Fact-Finding Committee, I was able to intercept the official/authentic report of the Prof Samuel I.K. Committee dated 20th October 2023 duly signed by all the committee members, received by the Office of the Registrar on 9th August 2024, the Office of the Vice Chancellor on 29th January 2024 and the Legal Services Division on 12th August 2024 of the Respondent. (Attached and marked as exhibit E is a copy of the report).

15. That after a thorough review of the committee's report I came to the conclusion that the report was not fair, it lacked credibility, objectivity and adherence to professional standards. The report was also fraught with significant flaws and evidence bias, which undermines the credibility of its findings.

16. That during the interaction I was not given the opportunity to cross examine the Petitioners which I am advised by counsel breached the principles of fair hearing.

17. That I am advised by counsel and verily to be true that the report of the Prof Samuel I.K. Ampadu Fact-Finding Committee dated 20th October 2023 duly signed by all the committee members did not comply with the guiding principles of Statute 2 of the Respondent.

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18. That I am further advised by counsel and verily believe same to be true that the Prof Samuel I.K Ampadu Fact-Finding Committee is unknown to the Respondent's Statutes.

19. That the Prof Samuel I.K Ampadu Fact-Finding Committee was not designated as a disciplinary body per its mandate. There are clear provisions under the Respondent's statutes regulating setting up of a disciplinary committee on issues/matters affecting Senior Members of the Respondent. Attached and marked as exhibit F is a copy of Statutes 57-58 of the Respondent's Statutes]

20. That the Vice Chancellor's directive contained in the 13th August 2024 letter as aforementioned constituted in its character and nature the effect of Disciplinary Committee measures, particularly when the Vice Chancellor in her capacity as the Chief Disciplinary Officer directed me to apologise. The measure smacks of blatant violation of the Respondent's rules of setting up a disciplinary committee to investigate matters regarding Senior Members.

21. That because the Prof Samuel I. K. Ampadu Fact-Finding Committee is unknown to the Respondent's Statutes my right of appeal was curtailed because it is only under a disciplinary committee hearing that I have the right of appeal or review under Statute 57(d) of the Respondent's Statute:

The Respondent on the other hand, deposed as follows (see pages 204-207 of the Record of Appeal):

5. In answer to paragraph 5 of the Affidavit in Support I say that the Vice-Chancellor received a petition from a section of the Faculty Members to impeach the Applicant as Head of Department for the following:

i. harassment /intimidation of staff;
ii. taking unilateral decisions affecting the Department without recourse to the Departmental Board;
iii. non-adherence to the School of Graduate Studies regulations on postgraduate studies; and,
iv. disrupting mid-semester examinations held on 1st March, 2023.

6. That the applicant similarly levelled the following allegations against two (2)

   Members of the Faculty:

   a. Insubordination: and.
   b. Soliciting/collecting/charging monies to organise extra classes in the Department of Architecture.

7. That in answer to paragraphs 8 and 9 of the Affidavit in Support, I say that for all intents and purposes, the Ampadu Committee was to find out the allegations levelled against the Applicant and for which some Senior Members wanted to impeach him but was not a Disciplinary Committee.
8. That in answer to paragraph 9 of the Affidavit in Support, I say that, for every fact - finding Committee, the mandate of the Committee is to gather facts in respect of various allegations made and to weigh whether a prima facie case has been made before it would recommend the setting up of a disciplinary committee.
9. That in the work of a fact-finding Committee, everyone who appears before it is the Committee's Witness but not a Subject of Investigations.
10. That fact-finding Committees do not provide opportunities for accusers and petitioners to cross examine each other as is done before a disciplinary Committee.
11. That in answer to paragraph 16 of the Affidavit in Support, I have been advised and verily believe same to be true that the Ampadu Committee was justified in not allowing the Applicant to cross examine his accusers and vice versa before the Committee.
12. That in answer to paragraph 11 of the Affidavit in Support I say that the Committee made the following findings in respect of the allegations made against the two (2) faculty members:

    The findings of the fact-finding committee showed that it was untrue that ABM and DYAD solicited/collected/charged monies to organise extra classes for students of the Department of Architecture. These allegations which were made through a circular the Head of Department sent to staff and students of the Department of Architecture and copied to the University

administration have injured the reputation of ABM and DYAD in the University. Therefore, in the interest of justice and also to address the demand by DYAD, the allegations should be expunged from their records in the University by any of the following:

a. The Head of Department should be instructed to write a letter under the supervision of the Dean and Provost withdrawing the said memo as part of the peace-building effort: or

b. The Registrar should take over and write to the staff and students of the Department of Architecture copied to all who received the initial allegations announcing that the allegations have been established as untrue.

c. The University may consider any other procedures it deems fit.

13. That in complying with recommendation @ the Applicant was directed to apologise to the two (2) Petitioners he had accused of soliciting/collecting/charging monies to organise extra classes for students of the Department of Architecture.

14. That in answer to paragraphs 12 and 13 of the Affidavit in Support, I have been advised and verily believe same to be true that the Report of Ampadu's Fact-Finding Committee, became the property of the University and it is only through a Court that can order for a copy of the Report to be made public or given to an Applicant.

15. That in answer to paragraph 14 of the Affidavit in Support, I have been advised and verily believe some to be true that until the Applicant discloses his source of the Report, the University cannot confirm or otherwise that Exhibit E is the Final Report of the Committee, which he claimed to have intercepted.

16. That I deny the paragraph 15 of the Affidavit in Support.

17. That I deny paragraph 17 of the Affidavit in Support and state that the principle of justice and fairness as enshrined in Statute 2 of the Statutes was rigidly followed by the Ampadu Fact-Finding Committee

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18. That I deny paragraphs 18, 19, 21, 22, 23 and 24 of the Affidavit in Support and say that by Statute 12 of the KNUST Statutes, the Vice Chancellor is responsible for organizing and conducting the academic, financial, and administrative business (including setting up fact-finding Committees) of the University. Nowhere did the letter constituting the Committee indicate that a Disciplinary Committee was being constituted by the Vice-Chancellor.

19. That the Vice-Chancellor in performing her administrative functions (including setting up fact-finding Committees), has the power to delegate functions: This delegation of such administrative function (including setting up fact finding Committees) culminated in her setting up of the Ampadu Committee to look into allegations and counter-allegations leveled by the Applicant and the two Petitioners.

20. That in answer to paragraph 20 of the Affidavit in Support, I have been advised and verily believe same to be true that Statute 57 and Schedule F which deal with discipline of Senior members are very clear on offenses for which a Senior member can be arraigned before the Disciplinary Committee and the penalties/sanctions for such breach of discipline.

21. That I have been advised and verily believe same to be true that because the Ampadu Committee was not a Disciplinary Committee for Senior members (the category of staff to which the Appellant belongs), the Committee's composition did not follow terms of Statute 58(c).

22. That I have been advised and verily believe same to be true that because the Ampadu Committee was not a disciplinary one for Senior members, the Committee did not recommend to the Vice-Chancellor any of the penalties/sanctions as enshrined in Statute 58(d) of the Statutes.

The important issue for our consideration in this appeal is the action taken by the Vice-Chancellor on the recommendations of the Committee namely the directive to the Appellant from the Vice-Chancellor requesting that the Appellant renders apology to some specified persons. Was the Vice-Chancellor entitled to do so?

In the first place, the Vice-Chancellor was entitled, as Chief Administrator of the Respondent, to investigate any matter that touched and concerned the administration of the Respondent. She could do so by herself or delegate the power to a committee to do so and report to her.

A fact-finding committee, as the name goes, investigates and makes recommendations to the appointing authority in this case the Vice-Chancellor. The Vice-Chancellor may act on the recommendations. However, depending on the nature and substance of the recommendations, she could not simply enforce them. If the recommendations were in the nature of disciplinary action, then she had to resort to the disciplinary rules and procedures of the organisation to enforce or implement the recommendations. Essentially, the rules of natural justice were to be observed before action could be taken against any one adversely affected by the recommendations, in this case, the Appellant.

Mr. Christopher Danso and 7 Others v The Attorney-General & 4 Ors [2017] DLCA 5954 and **Paul Kofi Aboagye v Ghana Commercial Bank [2001]** DLSC 2370

The action she could take on the report, however, depends on the nature and substance of the matter at stake.

In the case of the **Republic v High Court, Cape Coast, Ex Parte: John Bondzie Sey and Another [2020] GHASC 6 (12 February 2020)**, an Investigation Committee was set up by the Acting Vice-Chancellor to investigate the reasons for the actions of Dr. Samuel Ofori Bekoe who was a representative of convocation on the Governing Council of the University of Education, Winneba for certain comments allegedly made by him, and make appropriate recommendations.

Though Dr. Bekoe failed to appear before the Committee, it proceeded with its work, made its recommendations and submitted its report to the Acting Vice-Chancellor. Based on the recommendations, a Disciplinary Board was set up to further investigate the matter and recommend appropriate disciplinary action to be taken against Dr. Bekoe who again failed to appear before it. Dr. Bekoe was eventually dismissed by the Governing Council.

These steps were affirmed to be proper, lawful and valid by the High Court as well as the Supreme Court. The disciplinary Board in that case relied on the Investigation Committee Report as part of the materials for its work.

The Supreme Court, in that decision, approved a principle of law espoused in the High Court case of **Republic v Ghana Railway Corporation, Ex Parte Appiah and Annor [1981] GLR 752 at** 758 where the High Court held that: -

> "The core idea implicit in principle of natural justice: "no one ought to be condemned unheard" is simply that a party must have reasonable notice of the case he has to meet and he must be given the opportunity to make his statement in explanation of any question or to answer any arguments put forward against it. The principle does not, in my view, require that there must be a formal trial of a specific charge akin to court proceedings."

The allegations the Appellant was said to have made were imputation of dishonest conduct or making profit out of the Department which was not permissible. The allegations said to have been made by the Appellant bothered on defamation. It is in the face of these allegations that the directive to him to apologise was made.

What is an 'apology' or the nature of it? To understand 'apology' we hereby refer to a few definitions of the word or its characteristics:

The Shorter Oxford English Dictionary (5th Edition) gives the following as one of the definitions of 'Apology':

> "A frank acknowledgement of fault or failure, given by way of reparation; an explanation that no offence was intended, with regret for any given or taken."

Again,

> An apology is one of the remedies in a defamation action. Mozley & Whiteley's Law Dictionary 12th Edition by J. E. Penner (Butterworths) says:
>
> "Apology in libel actions may operate as a defence, or in mitigation of damages (see ...)."

Within the same defamation environment, Words and Phrases Legally Defined; **(Third Edition) Volume 1: A-C John B. Saunders (General Editor) London Butterworths 1988,** stated the following:

"Apology

[The defendant pleaded to an action for libel that he had subsequently inserted in the newspaper concerned a full 'apology'. The apology was inserted in small type amongst the notices to correspondents.] An apology means the insertion of something to operate as an apology. Inserting an expression of regret in small type, suitable only to a notice to correspondents, amounts to this, that the defendant did not insert an apology.' Lafone v Smith (1858) 3 H & N 735 at 736, 737, per Pollock CB

'I am of the same opinion. Inserting an apology means effectually inserting it; not do that people would not be likely to see it; but in such a manner as to counteract as far as possible the mischief done by the libel.' Ibid at 737, per Bramwell B

South Africa

'Apology [for a published defamatory statement] should not only contain an unreserved withdrawal of all imputations made but should also contain an expression of regret that they were ever made. A mere retraction cannot be called a full and free apology.' Ward Jackson v Cape times Ltd 1910 WLD 257 at 263 per Curlewis J".

The apology demanded or directed by the Vice-Chancellor to be rendered by the Appellant within the context of the allegations he was said to have made, was not a simple matter. It was to remedy allegations the fact-finding committee concluded were untrue as deposed to in the Affidavit in Opposition.

This points to the fact that the Vice-Chancellor had accepted the recommendations of the fact-finding committee and was acting on them.

Implicit in an apology is an expression of regret on the part of the Appellant that he made those allegations. The Appellant deemed this improper and raised issues of natural justice and not being allowed to confront or cross-examine those who made allegations against him. This was not necessary as far as the fact-finding committee was concerned.

It was, however, important to observe the rules of natural justice involving fair hearing with appropriate notice to the Appellant of what he (the Appellant) was to face, at the point where the Vice-Chancellor sought to enforce the recommendations. This should have preceded the directive to

the Appellant to apologise within one week. Though there is no indication as to what would happen if the Appellant did not comply with the directive, complying with the directive would have meant that the Appellant was admitting that he was wrong in making the allegations he made.

Do the circumstances of this case warrant the exercise of this Court's discretion in granting the reliefs sought by the Appellant?

It is not in dispute that the grant of the orders sought by the Appellant is discretionary. See **Republic v High Court, Denu; Ex parte Agbesi Awusu II (No. 2) (Nyonyo Agooada (Sri III) Interested Party) [2003-2004] 2 SCGLR 907** Atuguba JSC said:

> "It is well known that certiorari is a discretionary remedy and therefore it does not necessarily follow that when the technical grounds upon which certiorari lies are established, it will pro tanto be granted... Even so it is further well-established that the remedy of certiorari is a residual one to be held in reserve for exceptional circumstances."

Republic v High Court, Accra; Ex Parte Aryeetey (Ankrah Interested Party) [2003-2004] SCGLR 398 Holding 5:

> "Certiorari is a discretional remedy and the conduct of an applicant can disentitle him to the remedy. The court would refuse the instant application after taking into account the circumstances of the case and the conduct of the applicant."

The first question to ask is what was the Committee set up by the Vice-Chancellor?

Both parties indicate that the Prof. Samuel I. K. Ampadu was set up as a fact-finding Committee. This is found in the respective affidavits of the parties.

What then are the features of a fact-finding committee?

A fact-finding committee investigates, gathers information and makes recommendations based on which further action could be taken. Usually, persons who appear before fact-finding committees go as witnesses and not suspects or accused persons. The committee, however, is expected to be fair and give opportunity to the witnesses to air their views. They must be given proper hearing.

Upon the completion of its work, the Committee submits its report to the appointing authority.

Joseph Kobeah & 39 Ors v Akomea Boateng & 78 Orsv Tema Oil Refinery Civil Appeal [2004] DLSC 2395 and **The Republic v Charles Wereko-Brobbey and Kwadwo Okyere Mpiani [2010] DLHC 4858.** The latter case decided that if the committee is a commission of enquiry under the Constitution, its adverse findings are deemed a judgment of the High Court. Persons affected by decisions of the Commission have a right of appeal.

Mrs. Magaret Banful and Henry Nana Boakye v The Attorney-General and the Ministry of Interior Civil Appeal No. J1/7/2016 dated 22nd June, 2017

No matter how it is seen, as long as the Appellant in rendering the apology was going to take a step against his interest, it was necessary for the Vice-Chancellor to adopt a procedure either in line with the statutes of the University or which fully observed the rules of natural justice and gave a proper hearing to the Appellant before issuing the directive. We fault the Vice-Chancellor for this omission.

The failure to adopt a proper procedure within the statutes of the Respondent to properly deal with the matter observing the rules of natural justice as far as the Appellant was concerned, we consider as fatal. See the case of **The Republic v The Vice-Chancellor Kwame Nkrumah University of Science & Technology Ex Parte: Nnambi Nnakwadoro Enekwa & 4 Ors. (Civil Appeal No. J4/7/2008 dated 12th November 2008)** in which the failure to set up a committee of enquiry to deal with the matter involving some Nigerian students was held to be fatal and the decision dismissing them quashed. The Vice-Chancellor had an obligation to act according to the statutes as affirmed in the case of **Paul Kofi Aboagye v Ghana Commercial Bank (CA 10/2000 dated 28th November, 2001)**. Both parties regrettably failed to provide copies to the Court. It was the duty of both parties even more of the Respondent to have furnished the Court with copies of the full statutes.

The case of **Republic v High Court, Cape Coast, Ex Parte: John Bondzie Sey and Another [supra]** illustrated the difference between a fact-finding committee which is similar to the investigation committee in that case and a Disciplinary Committee which in that case was the Disciplinary Board. The importance of setting up a disciplinary committee to deal with disciplinary

matters was made clear. We state the following about a fact-finding body and how its recommendations should be handled:

1. A fact-finding Committee could investigate a matter and make recommendations based on its mandate.
2. The appointing authority could act on the recommendations but should follow due process.
3. Failure to follow due process could result in the invalidation of its decision.

In the letter in issue, Exhibit 'D' at pages 51-52 of the Record of Appeal, references were made to findings of the fact-finding committee, and the Vice-Chancellor gave the directives in her capacity as the Chief Disciplinary Officer who had accepted the recommendations of the fact-finding committee, based on which she was issuing the directives. This is more of an enforcement of the recommendations of the committee as a disciplinary action. This way of taking disciplinary action ought not to be entertained.

In seeking to enforce the recommendations, the Vice-Chancellor ought to have adopted a procedure akin to that of disciplinary proceedings. Then the Appellant, would have been given notice of what he was to face before the disciplinary committee. We deem this lapse as a fatal omission.

Whilst certiorari is a discretionary remedy, we are of the opinion that in this seemingly small matter shall germinate a bigger dispute that would disturb the academic peace of the Respondent. It is our decision to exercise our discretion in favour of the Appellant and grant the remedy.

Consequently, the appeal is allowed. It is ordered that the letter of the Registrar dated 13th August 2024 (tendered as Exhibit 'D') and signed for the Registrar by ISAAC BERKO, Deputy Registrar (Legal Service Division), containing the directive of the Vice-Chancellor to the Appellant to apologise to persons named therein be brought up to this Court to be quashed and same is hereby quashed.

It is worth advising the Appellant that in these matters, it is preferable that you make an effort to exhaust the internal grievance procedure whilst keeping one's eyes on the time limits for instituting such actions. The conduct of the Respondent appears that it is unwilling to assist resolve this matter. This is one of the factors that has necessitated this Court's intervention.

The appeal is allowed. The judgment of the trial Court dated 15th January 2024 is hereby set aside. There will be no order as to costs.

(SGD.)

PATRICK KWAMINA BAIDEN, JA

(JUSTICE OF THE COURT OF APPEAL)

I agree

(SGD.)

RICHARD MAC KOGYAPWAH, JA

(JUSTICE OF THE COURT OF APPEAL)

I also agree

(SGD.)

JOHN BOSCO NABARESE, JA

(JUSTICE OF THE COURT OF APPEAL)

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