

IN THE SUPERIOR COURT OF JUDICATURE, IN THE HIGH COURT OF JUSTICE  
(GENERAL JURISDICTION DIVISION, COURT 12) ACCRA, HELD ON MONDAY  
THE 11<sup>TH</sup> DAY OF MARCH 2024 BEFORE HIS LORDSHIP JUSTICE AYITEY  
ARMAH-TETTEH, JUSTICE OF THE HIGH COURT

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SUIT NO: GJ/0726/2021

1. ALIMATU QUAYE  
2. EDINAM ADOBOE  
3. BRYAN E. SARPONG - PLAINTIFFS  
4. ESTHER DORMAN

VRS

GHANA INSTITUTE OF JOURNALISM - DEFENDANT

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PARTIES: PLAINTIFFS ABSENT

DEFENDANT ABSENT

COUNSEL: MS. NAA DJAMAH AYIKOI OTOO FOR PLAINTIFFS

MR. JOSEPH ARYITEY WITH HIM MS EDITH MENSAH FOR  
DEFENDANT

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**JUDGMENT**  
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**FACTS**

At the time this action was mounted, the Plaintiffs were students of the erstwhile Ghana Institute of Journalism (Defendant) which is now the Institute of Journalism a constituent of the University of Media, Arts and Communication established by the University of Media, Arts and Communication University of Media, Arts and Communication Act 2020 (Act 1059). The objective of the Institute of Journalism established under the Act is to train

students in the skills and techniques of journalism, mass communication, advertising, public relations, information technology and any other related subject that the Council of the University may determine.

## **PLAINTIFFS' PLEADINGS**

It is the case of the Plaintiffs that they are some of the Interim Executives of the Student Representative Council (S.R.C.) of the Ghana Institute of Journalism (G.I.J). According to Plaintiffs Per Article 20(1)(b) of the G.I.J. – S.R.C. Constitution, SRC Elections are to be held between the 8<sup>th</sup> and 12<sup>th</sup> weeks after reporting for the second semester of the academic year. However, during the COVID-19 pandemic, the Defendant Institution had to close down and lectures were conducted online with the consequence that election for the SRC Executives could not take place. It is the further case of the Plaintiffs that the SRC Executives at the time whose tenure had expired stayed in office and later in accordance with Article 30 of the SRC Constitution suspended the part of the constitution that deals with elections of the SRC Executives. The President in accordance with the SRC Constitution and in consultation with the General Assembly, the Judicial Committee and the Chief Justice set up a consultative committee that eventually appointed an Interim Executive of the SRC.

The event which seems to have provoked the Plaintiffs' present action according to them is that Management of the Defendant Institute issued a communique to the effect that they would no longer recognize the Interim SRC Executives, following a petition they had allegedly received from some concerned students. Management tasked the Dean of Students to ensure the setting up of a fifteen (15) member Interim Management Committee to run the affairs of the student body with a mandate to organize SRC Elections. The Interim Management Committee opened nominations for the elections commencing 26<sup>th</sup> March 2021 and ending 27<sup>th</sup> March 2021. This action the Plaintiffs deemed an interference in the affairs and a violation of the SRC Constitution and the

provisions of the GIJ Undergraduate Student Handbook hence the action against the Defendant.

The Plaintiffs then claim against the Defendant as follows:

- a. A declaration that upon the true and proper interpretation of Article 30 of the G.I.J.- SRC Constitution, the action of the then S.R.C. President in suspending Article 20(1)(b) and getting the Plaintiffs appointed as Interim G.I.J. – SRC Executives were a lawful exercise of authority and therefore the Plaintiffs are the legitimately appointed Interim S.R.C representatives and ought to be recognised as such.
- b. A declaration that by the provisions of the “G.I.J Undergraduate Students Handbook” management of the Defendant Institute has no mandate to interfere in the affairs of the Student Representative Council (S.R.C.) unless requested in writing by the Secretary of the S.R.C. to assist in resolving a dispute arising between students and their leadership in extreme cases which threaten normal academic work.
- c. An order setting aside the fifteen (15) member Interim Management Committee for Students of the defendant Institute as unconstitutional, null and void and of no effect.
- d. Any or further reliefs as this Honourable Court may deem just.

## **DEFENDANT’S PLEADING**

The defendant in its defence denied the claim of the Plaintiffs. It denied having closed down the school during the outbreak of COVID-19 and stated that it was in-person physical contact and teaching in the school that was suspended. It contends that the acts of the Plaintiffs were unlawful and their short tenure in office was illegal. That the Plaintiffs purporting to act for the SRC had been challenged by other students who had petitioned management and the matter was under investigation. Defendant further

contends that so far as Plaintiffs were challenged or opposed as an illegal team the defendant was obliged to maintain law and order to be able to run the institution. It is the further case of the Defendant that in so far as the legitimacy of Plaintiff's interim team was questioned Defendant was obliged to resolve that issue.

## **PROCEDURAL HISTORY**

On 21<sup>st</sup> March 2022, the Defendant applied to dismiss the case of the Plaintiff. Among the grounds upon which the said application was filed was that, the Plaintiffs had completed their studies at the Defendant's Institution and they cannot demonstrate their right to pursue or prosecute the action once their tenure has ended. In effect, the Defendant was saying that the issues raised in the action were moot.

The application was resisted by the Plaintiffs who filed an affidavit in opposition. The main grounds of the opposition were that the action the Plaintiffs mounted was in the nature of an interpretation of the GIJ-SRC Constitution and the GIJ Undergraduate Students Handbook with respect to the Student and Management relationship. Plaintiffs contended that the issues are not moot and being a constitutional issue, it may occur in future and that the case should proceed to trial.

This court differently on 16<sup>th</sup> June 2022 agreed with the Plaintiffs and dismissed the application holding that the issues raised in this matter need determination as if not determined same issues could re-occur.

The Court held as that:

The Defendant Institution is a National Institution with perpetual succession. It has a permanent existence. the relationship between the management and the student body will continue. What it means is that the incidents that culminated in the filling of the present action is likely to re-occur. It is therefore relevant for the matters in contention in this case to be determined to avoid multiplicity of suits.

## **ISSUES FOR DETERMINATION**

At the close of pleadings and evidence, in my view, the following issues raised in the application for directions and additional issues are the main issues for determination.

1. Whether or not due to COVID-19 Pandemic the then SRC President of GIJ-SRC properly invoked the provisions of the GIJ-SRC Constitution and suspended the provisions dealing with S.R.C. elections.
2. Whether or not the Consultative Committee formed after the suspension of the provisions dealing with SRC elections acted properly when they appointed an Interim GIJ-SRC Executives to hold elections for SRC Executives.
3. Whether or not Management of Defendant Institute acted in accordance with the Undergraduate Students Handbook when they intervened in Students Affairs by directing students to elect an Interim Management Committee to run the affairs of SRC Executives and to hold elections.
4. Whether or not the Management of the defendant had the mandate to intervene in student affairs when there is an impasse between the students and their leaders.

In proof of their case, the 1<sup>st</sup> Plaintiff testified for herself and on behalf of the other Plaintiffs and called no witnesses. Dr. Janetta Sika Akoto, the Registrar of the University of Media Arts and Communication and a former Registrar of the Defendant Institute also testified for the defendant and no witnesses were called.

## **EXAMINATION OF ISSUES**

I will examine issues 1 and 2 together as they are related.

It is provided by Article 20(1) (a) and (b) of the Constitution of the Students' Representative Council (SRC) of the Institute of Journalism as follows:

The Electoral Commission shall -

- (a) At the beginning of each academic year, supervise class elections of Representatives to General Assembly and the Judicial Committee.
- (b) Conduct General SRC Elections within eight (8) to twelve (12) weeks after reporting of the Second Semester of the academic year.

The above provision of the SRC Constitution mandates the Electoral Commission to conduct SRC General Elections within eight (8) to twelve (12) weeks after reporting of the Second Semester of the academic year. It is the case of the Plaintiffs that due to the CONVID-19 Pandemic, there were no in-person interactions and lectures were held online or virtual and as such students were not meeting in person which made it impossible for the elections to be conducted in accordance with article 20(1)(a) and (b). As a consequence, the SRC President at the time whose tenure of office had expired invoked Article 30 of the SRC Constitution and suspended Article 20(1)(a) and (b) and appointed a Consultative Committee to see to the running of the SRC.

It is provided by Article 30 of the SRC Constitution that:

Suspension of part(s) or whole of the Constitution.

1. Any articles(s), clause (s), or section(s) thereof of this Constitution may be suspended for a specified period of time by the President in consultation with General Assembly and the Judicial Committee.
2. The President, the Speaker of General Assembly and the Chief Justice shall draw up transitional provisions for the period for which part(s) of the Constitution shall be suspended, and a table for the restoration of the suspended part(s) of the Constitution.

The above provision permits the SRC President to suspend articles(s), clause(s), or section(s) of the Constitution. He or she exercises this power in consultation with the

General Assembly and the Judicial Committee. If the President exercises his or her power under Article 30 and suspends any part of the constitution without the consultation of the General Assembly and the Judicial Committee, his or her action would be deemed to be unconstitutional of the SRC Constitution.

After the President in consultation with the General Assembly and the Judicial Committee has suspended any part of the constitution, per clause 2, the President together with the Speaker of the General Assembly and the Chief Justice shall draw up transitional provisions for the period for which part(s) of the Constitution shall be suspended, and a time table for the restoration of the suspended part(s) of the Constitution.

In the present case, it is the case of the Plaintiffs that the SRC President properly invoked Article 30 in suspending Article 20(1)(a) and (b) which deals with the election of SRC Executives. The defence argues to the contrary to the effect that Article 30 of the SRC Constitution was not properly invoked and what culminated in the appointment of the Plaintiffs and others as Interim Executives of the SRC was an illegality. It is their claim that some aggrieved students have petitioned management claiming per the Constitution SRC Executives are to be elected and not to be appointed so the Plaintiffs were in office illegally.

I take judicial notice of the fact that during the period of the COVID-19 outbreak, personal contacts were suspended in many educational institutions in Ghana. Indeed, on 28 March 2020, President Nana Addo Dankwa Akuffu-Addo announced a lockdown on the Greater Accra Metropolitan Area and the Greater Kumasi Metropolitan Area from 01:00 (local time) on Monday 30 March 2020 due to the COVID-19 outbreak. I take further judicial notice that the Defendant Institution is situated within the Greater Accra Metropolitan Area.

The defendant admits that it suspended personal contact and teaching and resorted to online teaching. This being the case, in my view the Electoral Commission of the SRC of the defendant institution could not have conducted an in-person election to elect the SRC Executives at the time. According to the Plaintiffs as a consequence of that the SRC Executives overstayed their tenure in office. This prompted the President to resort to Article 30 of the constitution to suspend the provision for election of SRC Executives.

It is pleaded in paragraphs 6 and 7 of Plaintiffs' Statement of Claim as follows:

6. Attention was later drawn to Article 30(1) & (2) of the GIJ-SRC. Constitution, which contains provisions which empower the S.R.C. President to suspend any article or clause of the Constitution in consultation with the General Assembly and Judicial Committee and after suspension, for the President, the Speaker of the General Assembly and Chief Justice to draw up transitional provisions and a roadmap, for the restoration of the suspended part(s) of the Constitution.
  
7. Faced with the situation, the then SRC President Joseph Agbezuke invoked the provisions of Article 30 of the G.I.J.-SRC, Constitution and suspended that Article dealing with Elections and in accordance with clause 2 issued out a Notice entitled an "Invitation to a Consultative Meeting", which called upon stakeholders to meet and fashion out the way forward. The meeting took place on the date as scheduled in the said Notice.

The 1<sup>st</sup> Plaintiff is his witness statement which was adopted as her evidence-in-chief testified as follows:

10. The attention of the then President was drawn to the need to activate Article 30(1) and (2) of the GIJ-SRC Constitution.



11. The said Article 30, contains provisions which empower the SRC President to suspend any article or clause of the constitution in consultation with the General Assembly and Judicial Committee and after the suspension, for the President, the Speaker of the general Assembly and the Chief Justice to suspended (sic) draw up transitional provisions and a roadmap for the restoration of the part(s) of the Constitution.
12. Pursuant to clause 2 the President issued out a Notice entitled an "Invitation To A Consultative Meeting", which called upon stakeholders to meet and fashion out the way forward. The meeting took place on the date as scheduled in the said Notice.
13. I say that at the said meeting, the Stakeholders decided that the way forward or roadmap was to set up a Seven (7) Member Vetting and Appointment Committee, membership of which was made up of nominations as follows: two from executive arm. Two from the Judicial Committee and three from the General Assembly.
14. I say that the Vetting and Appointment Committee had the mandate to open Nominations, vet aspirants and choose Interim S.R.C Executives from the winners for the various portfolios namely; President, General Secretary, Financial Secretary, Women's Commissioner, Organizing Secretary and External Affairs Commissioner pending restoration of suspended part of the constitution.
15. I say that at the end of the vetting, all nominees who excelled were given the nod and the positions were filled by some of the Plaintiffs to constitute the Interim SRC Executives with the mandate "to institute a constitutional review and make proper arrangements for a referendum and an election in the second semester of the pending academic year".

It was after the suspension of Article 20 dealing with Elections and the subsequent setting up of the Vetting and Appointment Committee that led to the appointment of the Plaintiffs and others as the Interim Executives of the SRC with the 1<sup>st</sup> Plaintiff as the

President. Their mandate was to institute a constitutional review and make proper arrangements for a referendum and an election in the second semester of the pending academic year.

According to the Defendant, some aggrieved students who were not agreeable to the Plaintiffs and others being appointed as SRC Executives petitioned Management claiming that SRC Executives are to be elected and not appointed in contravention of Article 20 of their Constitution.

In his testimony, Dr. Janetta Sika Akoto testified as follows:

8. Management was petitioned by a section of the student body over the unconstitutional way the members of the SRC Executive came into office. Their brief was that the SRC Executive had been appointed contrary to the GIJ-SRC Constitution that mandated the student body to elect the SRC Executives.
9. In or around March 2021 A Report on Student governance issues was submitted to the Rector a copy of which is attached and marked Exhibit '2' concerning the illegal change of signatories to the Bank account of the SRC and subsequent withdrawal made by 1<sup>st</sup> Plaintiff of Gh¢30,000 and deposit in her personal account contrary to the rules. Her actions gave cause for agitations. This was a time to arrange for examinations and a peaceful atmosphere was required for smooth academic work.

According to The Management of the Defendant Institution, they intervened in the SRC affairs because there was a dispute between some of the students (aggrieved) and the leaders.

The question that needs to be answered is can a GIJ- SRC President in consultation with the General Assembly and Judicial Committee suspend the part of the constitution

including the Clause that deals with the elections and draw up a transitional provision in such a way that Executives of the SRC could be appointed by the Vetting and Appointment Committee rather than holding SRC Elections? My answer is in the affirmative.

Article 30 of the constitution of the SRC grants the SRC President the authority to temporarily suspend any part of the constitution. However, the President must consult with the General Assembly and the Judicial Committee prior to taking this action. It's important to note that no clause, including Article 20, is exempt from the President's power of suspension. The effect is that the president can suspend any part of the constitution, even those pertaining to elections. If the President properly exercises this power, his action will be lawful and deemed to be unconstitutional.

The right to vote is a constitutional right because that right originates from the Constitution. See **Tehn-Addy v Electoral Commissioner** [1996-1997] SCGLR 589 and **Ahumah Ocansey v Electoral Commission; Centre for Human Rights and Civil Liberties (CHURCIL) v Attorney-General** [2010] SCGLR 575.

In the present scenario, students of the Institute of Journalism have the right to vote for the SRC Executives when the Electoral Commission initiates the electoral process under Article 20 of the SRC Constitution. Therefore, if the constitution that gives this right also grants the President the power to suspend that right in certain circumstances, and the President in accordance with the Constitution suspends the right to vote, his action cannot be said to be unconstitutional. Consequently, when Article 30 is invoked to suspend Article 20, the right to vote for the SRC Executives is also suspended. Therefore, at that point there will be no inherent right of a student to vote for the SRC Executives in such circumstances and as such no student can lawfully claim that SRC Executives have

been appointed instead of being elected. The action of the President will be Constitutional.

The Defendant tendered in evidence Exhibit 2. Exhibit 2 is a Report of A Management Sub-Committee on GIJ Students' Representative Council (SRC) Governance Issues Submitted to the Rector through the Registrar on 9<sup>th</sup> March 2021.

The report seems to agree with the provisions of the Constitution and the subsequent action of the then President. Under 'Background to the new SRC leadership appointment "I wish to reproduce for a clearer understanding of the issues:

It is evident that ordinarily, GIJ-SRC Executives derive their mandate from the students through popular elections during the second semester of each academic year. The process of elections of the SRC Leadership is clearly stipulated in their constitution, which also provides for what happens during leadership crises such as when normal elections are not held.

The SRC Elections to appoint executives for this Academic year should have taken place between March and August 2020. However, the COVID-19 pandemic disrupted the regular way in which elections are held. Thus, the prescribed physical or face-to-face voting by all bona fide students of GIJ as enjoined by the SRC Constitution could not happen. This resulted in a leadership crisis. However, in such a situation, Article 30, clauses 1 and 2 of the SRC Constitution mandate the three arms of the SRC Government, namely the President, the Speaker and the Chief Justice, to take necessary steps to get new leadership in place to steer the affairs of students.

From our investigations, the constitutional processes including vetting of aspirants and declaration of same were duly followed (Please, see attached

documents of vetting processes). In fact, the former Acting Dean of students and former SRC President facilitated the process. Consequently, the new handing over to the newly 'appointed' SRC Executives took place on 18 December 2020, and we understand a memo to that effect was sent to Registrar. It appears the GIJ Registry recognized the 'current' SRC leadership they were invited and introduced to the students by Academic Affairs Registry at the 2020/2021 students' orientation session. These happenings put the 'appointed' leaders in a position to assume legal control of the SRC assets including the SRC Bank Account."

And at page 2 of the report under Culpability this is what the report states:

The background and findings presented earlier shown how the students in question came to be student leaders. We discovered that they did not wrongfully arrogate power unto themselves as SRC Executives. Procedures for the SRC leadership were announced and supervised by the various stakeholders and seemingly in line with fair representation of the student body. The students in question merely availed themselves like other interested students. After going through the processes, they were 'appointed' to the leadership roles which empowered them to change signatories under the facilitation of the outgoing SRC President as stipulated the SRC Constitution.

From Exhibit 2, the Management of the Defendant Institution accepts and recognizes the power of the President under the SRC Constitution to suspend any part of the Constitution including Article 20 which deals with the Election of SRC Executives.

In the present case, I would not have had any difficulty in granting the Plaintiff's 1<sup>st</sup> relief by declaring that upon a true and proper interpretation of Article 30 of the G.I.J.- SRC Constitution, the action of the then S.R.C. President in suspending Article 20(1)(b) and getting the Plaintiffs appointed as Interim G.I.J. – SRC Executives were lawful exercise of

authority and therefore the Plaintiffs were the legitimately appointed Interim S.R.C representatives and ought to be recognized as such if the President had taken this action during the tenure of his office. Consequently, the aggrieved students would have no basis to claim that the appointment of the Plaintiffs and others as Interim SRC Executives was unconstitutional.

It is argued on behalf of the Defendants that the tenure of the President had expired and as a consequence had no authority to act as President and therefore had no authority to invoke Article 30 to suspend the election. Counsel for the Defendant therefore submits that whatever the President did after the expiration of his tenure was unlawful and the setting up of the Consultative Committee that eventually got the Plaintiffs appointed as Interim Executives of the SRC was unlawful.

The power of the President to invoke Article 30 includes the power to invoke it during his tenure of office. It is not in doubt that at the time the President purported to invoke Article 30 SRC Executive including the President was not in office. The 1<sup>st</sup> Plaintiff testified as follows:

8. During the COVID-19 pandemic, the Institute had to 'close down' in terms of person-to-person instructions and as a result academic Instructions were done online or virtually. In the absence of Students from campus, Elections could not take place.
9. The G.I.J.-S.R.C Constitution has no specific provisions dealing with such eventualities and therefore the **Executives whose term had expired continued in office. (Emphasis mine).**
10. The attention of the then President was drawn to the need to activate Article 30(1) & (2) of the G.I.J.-S.R.C. Constitution.

The tenure of GIJ-SRC Executives is provided for by Article 11 of the SRC constitution:

## Article 11-Tenure of Office

1. A student elected as an Executive Officer shall-
  - (a) Hold office for a term of one academic year only.
  - (b) Be handed over to by incumbents within 14 days after declaration of the final results by the Electoral Commission, or, where such elections are challenged, within five (5) days after such declaration by the Electoral Commission.
  - (c) Cease to hold any other office within GIJ four months after assumption of executive office.
  - (d) In case of death, resignation or removal of an incumbent from office hold office for the duration of the remainder of the tenure of the existing officer.

The Executive Officers of the SRC hold office for only one Academic year. Their tenure expires after that and they hand over 14 days after the declaration of results by Electoral Commission or where such elections are challenged, within five (5) days after such declaration by the Electoral Commission. The expiration of the tenure of the President Mr. Joseph Agbezuke at the time he invoked Article 30 to suspend the constitution is not in doubt. This was clearly stated in the pleadings and evidence of the Plaintiffs.

In the Constitution of the SRC, there is no specific provision that states that all officers elected or appointed shall continue to discharge the duties of their office after their terms of office have expired until their successors have been elected and sworn in. The purpose of such provision will be for the incumbent to perform his duties until the successor is elected and sworn in but not to perpetuate the tenure of the officer.

From the above facts, I find that the President at the time he invoked Article 30 was out of office and he did not have the mandate to act. In the absence of a specific provision in the SRC Constitution that allows the President to continue to discharge the duties of his office after the term of office has expired, the SRC President had no constitutional

mandate to invoke Article 30 to suspend the provisions on the elections the way he did. If the President wanted to exercise that power he should have done so before the expiration of his tenure.

The Executive office created by the SRC constitution is a public trust and is created for the benefit of the student body. The office exists for student welfare and this welfare is promoted by the performance of the duties attached to it and that those duties should be discharged without intermission, while the office continues to exist. The failure to elect should not be permitted to cause a temporal extinction of the trust. To guard against this challenge, there should be a provision in the SRC Constitution for officers to hold over until the appointment or election of a successor. It must be borne in mind that an official is frequently the custodian of important properties, the care of which ought not to be abandoned and which he cannot properly surrender to anyone not legally authorized to assume control.

I will now examine issues 3 and 4 and I will examine them together.

The defendant's witness testified that management was petitioned by a section of the student body over the unconstitutional way the members of the SRC Executives came into office and their brief was that the SRC Executive had been appointed contrary to the GIJ SRC constitution that mandated the student body to elect the SRC Executives.

Was the Petition by the aggrieved students to the Management alleging constitutional breach of the SRC Constitution the appropriate step taken by them?

Article 3 of the Constitution on enforcement of the Constitution and it provides that:

**Article 3-Enforcement of the Constitution**

1. A student who alleges that: -



- (a) An enactment or anything contained in or done, under the authority of that or any other enactment: or
  - (b) Any act or omission of any student body, association, organization or union; is inconsistent with or is in contravention of a provision of this Constitution, may bring an action in the Judicial Committee for a deliberation to that effect.
2. The Judicial Committee shall, for the purpose of a declaration under clause (2) of this article make such orders and give such directions as it may consider appropriate for giving effect, or enabling effect to be given, to the declaration so made.
  3. Any student or group of students to whom an order or direction is addressed under clause (2) of this article by the Judicial Committee shall duly obey and carry out the terms of the order or direction.
  4. Failure to carry out the terms of an order or direction made or given under clause (2) of this article constitutes contempt of the judicial committee, and shall, in case of the President or Vice President or an Executive Committee, constitute a ground for removal from office.

The SRC Constitution has provided a mechanism by which students who allege a provision of the constitution has been breached to seek redress. By the terms of Article 3 the option opened to aggrieved students who feel the constitution has been violated is to bring an action before the judicial committee that the President has violated Article 30 of the constitution by not conducting an election to elect SRC executives but has appointed them.

Article 14 also provides as follows:

14(7) The Judicial Committee shall have jurisdiction: -

- (a) In all matters relating to the enforcement or interpretation of this Constitution.
- (c) in all matters relating to elections under this Constitution.
- (d) Disputes of whatever nature involving students of GIJ

There is a mechanism available for an aggrieved student(s) to seek redress when an allegation that a part of the constitution has been breached. Per Article 3, a student who alleges that any provision of the SRC Constitution has been breached has to apply to the Judicial Committee of the SRC which has jurisdiction in such matters for it to be addressed or resolved. So, in any situation where a portion of the Constitution is alleged to have been breached the appropriate step the aggrieved student(s) should do is to proceed under Article 3 of the Constitution to seek redress and not to petition Management as was done in the instant case. A petition to Management in respect of a breach of the constitution for redress will violate Article 3 and Management would not have the mandate to resolve unless the Secretary of SRC invites the Dean of Student to intervene as provided for in the Undergraduate Student Handbook.

The Plaintiff tendered in evidence without objection the Undergraduate Handbook of the Ghana Institute of Journalism as Exhibit 'F'. Section 8.10.1.ii provides that:

“Any disputes between the students on one hand, and their leaders (i.e. the SRC) on the other shall be settled within the framework of the Constitution of the SRC that in cases where it has been impossible to resolve any such dispute and the dispute threatens to affect normal academic work, the SRC secretary shall notify the Dean of Students in writing clearly specifying the issues in dispute and seeking his assistance in resolving the dispute. The Dean of Students shall deal with the matter as he deems fit.”

It is only when the issue or dispute between the student(s) on the one hand, and their leaders (i.e. the SRC) on the other had not been able to be settled within the framework of the Constitution of the SRC that the dispute threatens to affect normal academic work that the Management can come in. even here it is the SRC secretary who shall notify the

Dean of Students in writing clearly specifying the issues in dispute and seeking his assistance in resolving the dispute.

In the present case, the tenure of the Judicial Committee that an action in respect of a constitutional violation could have been sent to had expired and it would have lacked jurisdiction to entertain it. Equally, the tenure of the secretary had also expired and would not have had the Constitutional mandate to write to the dean of students to intervene

According to Exhibit 2, if a dispute arises that threatens normal academic work, the appropriate course of action is for the Secretary of SRC to invite the Dean of Students to intervene and resolve the issue. It would be unconstitutional and unlawful for an aggrieved student to petition Management in such cases, as per the provision of the SRC Constitution and Undergraduate Students Handbook. And again, Management's communique withdrawing recognition to the Interim SRC because they were not elected would have been ultra vires the SRC Constitution.

I agree with Counsel for the Plaintiff's when she said the decision of withdrawing the recognition was wrong and it violated Article 23 of the 1992 Constitution by refusing to give hearing to the Plaintiffs before the withdrawal of the recognition. At least the Plaintiffs should have been given a hearing.

It is the case of the Defendant that some students have petitioned management that the Interim SRC Executives were elected in contravention of the Constitution and as a result of there was tension which threatened to affect smooth academic work and they had to intervene. According to Defendant the student governance issues that threatened academic work. The Bureau of National Investigations (BNI) had prompted the Institute about the chaos.

It is provided by Article 2 of the SRC Constitution that:

## Article 2 – **Supremacy of the Constitution.**

- (a) This Constitution shall be subject to the Constitution of the Republic of Ghana, the Laws of Ghana and the statute establishing the Ghana Institute of Journalism.

The SRC Constitution therefore is subject to the statute establishing the Ghana Institute of Journalism. The statute that sets up the Defendant Institute mandates the Rector to settle disputes and he exercises general authority over the staff and students of the Institute.

It is the responsibility of management to ensure peace and tranquility on campus especially so when academic work is threatened. The management have the duty to ensure the smooth running of the institution and can interfere to resolve any matter that seems to threaten the smooth running of the institution including matters to deal with student affairs. That is why the undergraduate student Handbook provides that the secretary can invite the dean of students to intervene in certain circumstances. But they cannot impose leaders on the student body because fundamentally it is members of a group that have the right to elect or appoint its leaders.

The setting up of the 15-member committee was a way of resolving the dispute that had arisen in terms of electing the student leadership when in the present circumstances the tenure of the President and the Executives have expired and any action taken by them was deemed to be unconstitutional.

In conclusion, for the above reasons I will dismiss the case of the Plaintiffs. Even though the SRC President in consultation with General Assembly and Judicial Committee has the power to invoke Article 30 to suspend any part of the Constitution including Article 20 that deals with elections, at the time President Mr. Joseph Agbezuke invoked Article 30 of the SRC Constitution to suspend Article 20 dealing with elections, his tenure of

Office had expired and he had no power to act as President. His actions were therefore null and void and anything based on the said void act is equally void. The Management per the law setting it up has the mandate to resolve any matter that seems to threaten the smooth running of the institution including matters to deal with student affairs. If the dispute involves the enforcement, or interpretation of the Constitution, it is the Judicial Committee of the SRC that has the jurisdiction to deal with the matter and not the Management of the Institute through Petition by aggrieved students. It is only when the dispute is of such a nature that involves students and their leaders and it threatens the smooth academic work that Management can intervene through the invitation by the SRC Secretary.

**(Sgd.)**

**Ayitey Armah- Tetteh J.**

**(Justice of the High Court)**