

AUGUSTINE ALEGEH_{SAN, FCI}Arb. [UK] CON

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2nd May, 2024

The Secretary

Body of Benchers

Plot 688 Institutions & Research District

FCC Phase III

Abuja

FCT.

Dear Sir,

RE: RECONSTITUTION OF THE COMMITTEES OF THE BODY OF BENCHERS

I write in respect of your email of 29th April, 2024 on the “Reconstitution” of the Committees of the Body of Benchers and trust that you will bring the issues raised in this letter to the attention of the Chairman and other distinguished Benchers.

Preamble

The Body of Benchers was established by section 3 of the Legal Practitioners Act, Cap LII LFN as a “**body of legal practitioners of the highest distinction in the Legal profession in Nigeria**”. The legal profession is in the forefront of the promotion of Rule of Law in Nigeria.

I was appointed into the Body of Benchers as a representative of the Nigerian Bar Association [NBA] and subsequently, by God’s grace, I became the 27th President of the NBA. The NBA stands in the forefront of the enthronement and defence of rule of Law; “**Promoting the Rule of Law**” is the mantra of the NBA. All Legal Practitioners are indeed, expected to be avid proponents and defenders of the Rule of Law.

Consequently, I have always seen the Body of Benchers as the apex body in the promotion and defence of the Rule of Law.

Body of Benchers Regulations

On 21st of March, 2024, just over a month before your email under reference, the Body of Benchers passed unanimously the new Regulations, made pursuant to the Legal Practitioners Act, 2014 [as Amended].

The Regulations are sacrosanct and binding on all members of this distinguished body. It is important to draw attention to some critical provisions of the Regulations, which are reproduced below as follows:

Regulation 11 – Standing Committees

- 1) **The Body of Benchers shall have power to setup Committees from time to time.**
- 2) **The Committees shall be known as Standing Committees, Adhoc Committees or such other names that the Body may deem fit to give the Committee.**
- 3) **The following shall be the Standing Committees of the Body of Benchers:**
 - a. **Screening Committee**
 - b. **Legal Practitioners Disciplinary Committee**
 - c. **Regulations Committee**
 - d. **Elders Committee**
 - e. **Recruitment, Promotion and Disciplinary Committee on Staff matters**
 - f. **Benchers Appointment Committee**
 - g. **Ethics and Compliance Committee**
 - h. **Mentoring Committee**
 - i. **Publicity Committee**
 - j. **Special Duties Committee**
 - k. **Judiciary Advisory Committee**
 - l. **Body of Benchers Complex Management Committee**
 - m. **Finance Committee**
- 4) **The Committees shall have and may exercise such functions and powers as the Body may determine or direct, from time to time.**
- 5) **Membership of any Standing Committee of the Body shall not exceed thirteen at any material time.**
- 6) **The tenure of members of all Standing Committees shall be for a single term of three years.**
- 7) **Membership and tenure of any Adhoc Committee of the Body of Benchers shall be determined by the Body as the need arises.**
- 8) **Any member who absents himself from the meeting of either a Standing or Adhoc Committee twice consecutively shall be deemed to have voluntarily withdrawn his membership of the Committee, except with cogent and satisfactory reasons.**
- 9) **No member shall serve in more than two Standing Committees of the Body at the same time.**
- 10) **Membership of all the Committees of the Body shall be based on recommendation by the Secretariat of the Body of Benchers. Provided that the Chairman, Body of Benchers shall have the powers to appoint Committee members.**

- 11) **Each Committee shall hold its meetings and carry out its functions at such times and place (physical or virtual) to be determined by the Chairman of the Committee.**
- 12) **The quorum for the Committee meeting shall be one-third of the members of the Committee.**

The above Regulations show clearly that the power to create Committees rests with the entire Body. The practice has been for proposals to establish any Committee to be discussed and approved on the floor of the Body. I am not aware of any committee of this distinguished Body that has been created in a different manner.

The Regulations clearly set out and define the Standing Committees of the Body of Benchers and the names so ascribed to the Committees cannot be changed as if the Regulations have no effect whatsoever. The renaming of the Standing Committees clearly violates the Regulations.

In your email, under reference, you stated that the membership of the Committees was now to be for a period of two [2] years only, whereas Regulation 11[6] states clearly that membership of Committees is for a period of three [3] years. I wonder how the tenure of members can be shortened to two [2] years, contrary to the clear stipulations of the Regulations.

Chairmanship of Body of Benchers Appointment Committee

I was appointed as the Chairman of the Body of Benchers Appointment Committee and my letter of appointment, which I duly accepted, stated clearly that I was to serve for a term of three [3] years. I am surprised to see that whereas my tenure has not expired, my respected big brother and Life Bencher, Mallam Yusuf Ali, SAN, whom I hold in very high esteem, and who has a rich history of respect for the Rule of Law, was published in your email as the “Chairman” of the same Committee. Please note that I accepted to serve the full term of three [3] years and I have not resigned my appointment as the Chairman of the Body of Benchers Appointment Committee. I believe there must be an error which I respectfully request should be corrected immediately.

This error is made more apparent by the statement in your email under reference as follows:

“However, members already serving in Committees and are being retained, shall serve the remaining term of office as indicated in their letter of appointment earlier issued”

In the list attached to your email under reference, I am supposed to have been retained as a “member” of the Body of Benchers Appointment Committee whereas my letter of appointment states clearly that I was appointed as the Chairman of the Committee for a term of three [3] years. I therefore would continue to act as Chairman of the Committee in the terms stated in my Letter of Appointment.

Stability of the Body of Benchers

I believe that the efficacy, stability and sanctity of decisions of the Body of Benchers must be based on decisions taken on the floor of the Body and it would portend grave danger if each year the decisions made in the last year are overturned when a new Chairman assumes the mantle of leadership. I believe that the Regulations passed and all decisions made under the leadership of Honourable Justice Mary Ukaego Peter-Odili, JSC [Rtd] must be respected as they are decisions of the Body of Benchers.

It will not be in the best interest of this distinguished Body for decisions to be changed when the Chairman hands over. We should not allow such a precedent to be set in this Body.

Prayers

I believe that the clear provisions of the Regulations may not have been brought to the attention of the Chairman before you sent the email under reference. I urge you, as a matter of urgency, to draw the attention of the Chairman to the provisions of the extant Body of Benchers Regulations, 2024 and ensure compliance and respect for the said Regulations.

I close this my appeal for the need to respect the Rule of Law with the often-quoted dictum of **Late Niki Tobi, JCA** (as he then was) in **Onagoruwa vs IGP (1991) 5 NWLR (Pt. 193) 593 at 650**.

"Nigeria is a democracy and by the grace of the Almighty God, it will remain a democracy for all times.

The foundation of any democracy is anchored on the Rule of Law both in its conservative and contemporary meeting. Putting it naively, we are paid mainly and essentially to uphold the Rule of Law in the entire polity.

And so, once we fail to uphold Rule of Law, anarchy, despotism and totalitarianism will pervade the entire society. The social equilibrium will be broken. Law and order breaks down. Everybody will be his own keeper and God for us all"

Please accept the assurances of my warm regards and very high esteem.

Yours Faithfully,



**Augustine O. Alegeh, SAN FCI Arb [UK] CON
Life Bencher
27th President of the NBA
Member, Board of Trustees of the Nigerian Bar Association
Chairman, Body of Benchers Appointment Committee [2024-2027]**