

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE PORT HARCOURT JUDICIAL DIVISION
HOLDEN AT PORT HARCOURT
ON TUESDAY, THE 20TH DAY OF DECEMBER, 2022.
BEFORE HIS LORDSHIP
HONOURABLE JUSTICE PHOEBE M. AYUA
JUDGE

SUIT NO: FHC/PH/CS/261/2019

BETWEEN:

1. APIAMBO IBIGBENYE WARI Tech. FNISET
 2. OPADO KUN M. KEHINDE Tech. FNISET
 3. ADENIRAN O. AYOBANI Tech. FNISET
- For themselves and as Representatives
Of National Executive Council of Nigerian
Society of Engineering Technicians (Niset)

PLAINTIFFS

AND

1. ENGR. ALI A. RABIU FNSE
2. COUNCIL OF REGISTERED ENGINEERS
OF NIGERIA

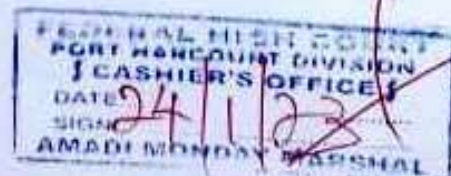
DEFENDANTS

JUDGMENT ORDER

UPON THIS SUIT, commenced by way of an Originating Summons, dated the 16th day of December, 2019 and filed on the 17th day of December, 2019, wherein the Plaintiffs set down five (5) Questions for the determination of the Court as follows:

1. Whether the Nigerian Society of Engineering Technicians is not a recognized Engineering body in Nigeria under Section 1 (2) (h) (ii) of the Engineering (Registration Etc.) Amendment Act, 2019.
2. Whether by the exclusion of the representative of the Nigerian Society of Engineering Technicians by the 1st Defendant in the composition of the 2nd


PHOEBE M. AYUA
JUDGE



Engineering Assembly" held on the 19th – 21st days of August, 2019 at the International Conference Center, Abuja is not a breach of the rights of the Nigerian Society of Engineering Technicians vis-à-vis the Plaintiffs' statutory rights to participate in the 2nd Defendant's activities.

4. Whether the 2nd Defendant's powers under Section 1(1) of the Engineering (Registration Etc.) Amendment Act, 2019 overrides the powers of the National Executive Council of the Nigerian Society of Engineering Technicians as contained in the Memorandum and Articles of Association, in the conduct of internal affairs of the body such as Annual General Meetings and elections.
5. Whether the members of the Nigerian Society of Engineering Technicians are not entitled to damages from the Defendants for unlawful exclusion in the composition and activities.

The Reliefs sought by the Plaintiffs peradventure the questions posited above are answered in the affirmative and in favour of the Plaintiffs, are stated as follows:

1. A DECLARATION that the Nigerian Society of Engineering Technicians is one of the recognized Engineering bodies in Nigeria.
2. A DECLARATION that the exclusion of the representative of the Nigerian Society of Engineering Technicians by the 1st Defendant in the composition of the 2nd Defendant is unlawful and a breach of the instant law.
3. A DECLARATION that the exclusion of the representative of the Nigerian Society of Engineering Technicians by the 1st Defendant in the 2nd Defendant's "28th Engineering Assembly" held on the 19th – 21st days of August, 2019 at the International Conference Center, Abuja is a breach of the law.
4. A DECLARATION that it is the National Executive Council of the Nigerian Society of Engineering Technicians that can validly conduct Annual General Meeting and elections of the body.
5. AN ORDER of the Honourable Court directing the 1st Defendant to admit the 1st Plaintiff into the 2nd Defendant, having been elected as the President of the Nigerian Society of Engineering Technicians.



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6. AN ORDER directing the Defendants to pay the sum of N1,000,000.00 for unlawful exclusion of the Nigerian Society of Engineering Technicians in the composition and activities of the 2nd Defendant.

The said Originating Summons was filed along with a 34 – paragraph Affidavit setting out facts relied upon and annexed to the supporting affidavit are documents marked as **Exhibits "1", "2", "3", "4", "5", "6", "7", "8", "8i", "8ii", "8iii", "9", "10" and "11"**. The Originating Summons was also filed together with the Written Address of learned Counsel for the Plaintiffs.

Upon being served with the originating process and accompanying processes, the Defendants filed their Memorandum of Conditional Appearance on the 11/02/2020 via their lawyer, Joseph Oche, Esq., and accompanied the same with a Motion on Notice dated the 02/03/2020, seeking an Order for the transfer of the suit to the Abuja Judicial Division of this Honourable Court. In opposition to the said Motion, the Plaintiffs filed their Counter Affidavit and supported the same with the Written Address of Counsel. The Motion on Notice for the transfer was heard and opposed and the Court in its Ruling, delivered on the 31/11/2021, dismissed the same for being unmeritorious.

On the 15/06/2021, the Plaintiffs filed an interlocutory application via Motion on Notice, seeking interlocutory injunctions restraining the Defendants from conducting any further Convention, pending the determination of the suit. The application was heard and opposed on the 3/11/2021. The same was dismissed in its entirety by the Ruling of this Court, for being meritless.

In opposition to the substantive suit, the Defendants filed their Counter Affidavit together with the Written Address of learned Counsel, dated the 09/07/2021 and filed on the same date, and annexed thereto, documents marked as **Exhibits "COREN 1", "COREN 2" and "COREN 3"**. In reaction to the Counter Affidavit and Written Address of the Defendants, the Plaintiffs filed a Further and Better Affidavit of 41 paragraphs and thereafter also filed an additional Affidavit in support of their Originating Summons on the 18/05/2022. Furthermore, the Defendants in opposition to the additional Affidavit of the Plaintiffs filed a Further and Better Affidavit dated the 28/09/2022 and filed on the same date.

On the 28/09/2022, Victor N. Nweke, Esq., learned Counsel for the Plaintiffs, adopted the processes filed in support of their Originating

Victor N. Nweke



Summons as well as the Further and Better Affidavit filed in opposition to the Defendants' Counter Affidavit and also the additional Further Affidavit in support of the Originating Summons. He urged the Court to grant the application in the interest of justice. In similar vein, learned Counsel for the Defendants, Joseph Oche, Esq., also adopted their processes filed in opposition to the Plaintiffs' application and urged the Court to dismiss this suit with cost.

ARGUMENT OF THE PLAINTIFFS IN SUPPORT OF THEIR ORIGINATING SUMMONS

In the supporting affidavit of 34 paragraphs, deposed to by Apiamba Ibigbenye Wari, the 1st Plaintiff herein, facts are deposed to the effect that the deponent has the consent and authority of the 2nd and 3rd Plaintiffs as well as the National Executive Council of the Nigerian Society of Engineering Technicians (NASET) to depose to the Affidavit. That the Plaintiffs are members and representatives of the National Executive Council of NASET and have the consent of NASET to file this suit as its representatives. That the 1st, 2nd and 3rd Plaintiffs hold the office of the President, Vice President and Public Relations Officer of NASET, respectively. That the Plaintiffs are all members of the Nigerian Society of Engineering Technicians, a body corporate, registered with the Corporate Affairs Commission as a professional engineering body. A copy of the Incorporation Certificate is attached and marked as **Exhibit "1"**. It was further averred that the 1st Defendant is the President of the 2nd Defendant and that the 2nd Defendant is a Federal Government Agency established under the Engineers (Registration Etc.) (Amendment) Act, 2019, formally, known as Council for the Regulation of Engineering in Nigeria. See paragraphs 3 – 9 of the supporting affidavit.

I consider paragraphs 10 – 33 of the Affidavit in support of the Originating Summons relevant and the said paragraphs are copied below, for ease of reference.

Paragraph 10:

That following a vacuum created in the governance of the Nigerian Society of Engineering Technicians (NASET) due to a legal tussle between the then President, Bolu James Ajibolu Tech. FNASET and three others sometime in 2018.

Apiamba Ibigbenye Wari



Paragraph 11:

That the rest of the National Elected Officers were unable to conduct AGM/Election until the expiration of their tenure sometime in October, 2018.

Paragraph 12:

That the NEC, which was made up of the State Chairmen, whose tenure were still subsisting, met at the National Office of the Nigerian Society of Engineering Technicians (NASET) at Road 4 Bob-Marley Street, Gwarimpa, Abuja on the 22nd of June, 2019 and made resolution.

Paragraph 13:

That a quorum of five (5) members or their representatives in line with the provisions of its Memorandum and Articles of Association was met.

Paragraph 14:

That the 1st Plaintiff on the 22nd day of June, 2019 was elected interim Chairman of NEC through a resolution passed by the National Executive Council of the Nigerian Society of Engineering Technicians (NASET) to take over the governance of the body and to put in place democratically elected national officers to pilot the affairs of the body. A copy of the NEC resolution and the meeting attendance as well as the minutes of the meeting held on the 22nd day of June, 2019 is annexed and marked **Exhibit 2**.

Paragraph 15:

That upon their inauguration, the 1st Plaintiff formally wrote the 2nd Defendant informing them of the resolution. A copy of the letter titled "Covering Letter on the Newly Elected Interim Chairman and other Officers of NASET" is also annexed and marked **Exhibit 3**, and the 2nd Defendant is hereby given notice to **produce the original**.

Paragraph 16:

That irrespective of Exhibit 3, the Defendants have been excluding the Nigerian Society of Engineering Technicians (NASET), a body the Plaintiffs are registered members.



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Paragraph 17:

That the Defendants conducted a conference of the 2nd Defendant tagged "**28 Engineering Assembly**" with the theme "**Strategic Alliance Amongst Engineering Professional for Enhanced Opportunity**" on the 19th – 21st August, 2019 at the International Conference Center Abuja, without including or inviting the 1st Plaintiff or any executive member of the Nigerian Society of Engineering Technicians (Niset) to represent the interest of the body. A copy of the programme titled Council for the Regulation of Engineering in Nigeria, COREN, 28th Engineering Assembly is annexed as **Exhibit 4**.

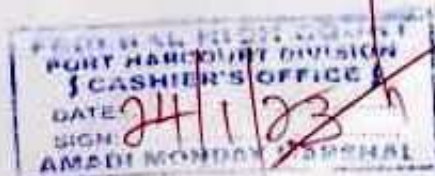
Paragraph 18:

That in the composition of the 2nd Defendant, there are:

- a. One person who shall be elected as President
- b. Six representatives of the Nigerian Society of Engineers
- c. Four representatives of Universities with Faculties of Engineering
- d. One person provided to represent Polytechnics
- e. One person to represent Technical Colleges
- f. Six persons to represent the six geo-political zone (sic) of the Country
- g. Four persons to represent the Minister
- h. One person to represent the Nigerian Society of Technologist (sic) in Engineering
- i. One person to represent the Nigerian Society of Engineering Technicians
- j. One person to represent the Nigerian Society of Engineering Craftsman (sic) etc.

Paragraph 19:

That all the representatives of various societies of Engineering were invited and they fully participated in the conference, save the Nigerian Society of Engineering Technicians, the body the Plaintiffs belonged (sic) to.



Attwaku J.



Paragraph 20:

That the conference attracted several dignitaries from all parts of the country, including the President of the Federal Republic of Nigeria, Muhammadu Buhari and other Engineering Firm (sic) and establishments in Nigeria, as contained in **Exhibit 4**, hereto.

Paragraph 21:

That as a result of the exclusion, the Nigerian Society of Engineering Technicians could not participate in the conference, make presentation or any exhibition in the conference in order to showcase their skill via the conference.

Paragraph 22:

That the members of the Nigerian Society of Engineering Technicians (NASET), suffered humiliation as (sic) result of their non-representation in the 2nd Defendant and in all its activities, and subsequently wrote the 1st Defendant through the Registrar of the 2nd Defendant of their displeasure over the conduct of the **"28 Engineering Assembly"** by the Defendants. A photocopy of the letter dated the 30th day of August, 2019 and its proof of delivery on the Defendants is annexed and **marked Exhibit 5**. A notice to produce the original is hereby given to the 1st Defendant.

Paragraph 23:

That based on the powers conferred on the 1st Plaintiff as (sic) then interim Executive Council Chairman of the Nigerian Society of Engineering Technicians (NASET), and his executive members, announced the 13th National Engineering Technicians Conference/Annual General Meeting (AGM), tagged "Lokoja 2019" slated to hold between the 8th – 9th of October, 2019, the Defendants were invited to the Conference/AGM by the Plaintiffs as contained in Exhibit 5 above. A copy of the document/flyer of the Conference/AGM is annexed and marked **Exhibit 6**.

Paragraph 24:

The quorum for the AGM is 25 members present pursuant to the Constitution of the society.

Attest



Paragraph 25:

That the Conference/AGM was conducted in (sic) the aforementioned dates with the required quorum and election was conducted in (sic) the 9th day of October, 2019 with 51 registered members in attendance. The attendance list of the AGM is annexed and **marked as Exhibit 7.**

Paragraph 26:

That the 1st Plaintiff was elected National President, the 2nd(sic) was elected National Vice President and the 3rd Plaintiff was elected Public Relation Officer.

Paragraph 27:

That the Electoral Committee declared winners and at (sic) the same 9th of October, 2019 wrote to the 2nd Defendant and copied to the 1st Plaintiff. The letter titled the "Result of Nigerian Society of Engineering Technicians NISSET Election" dated the 9th day of October, 2019 is annexed and **marked as Exhibit 8**, the certificate of return issued to the 1st Plaintiff is annexed and marked as **Exhibit 8i**, certificate of return issued to the 2nd Plaintiff is annexed and marked **Exhibit 8ii**, and the 3rd Plaintiff's certificate of return issued by the Electoral Committee is annexed and marked **Exhibit 8iii**.

Paragraph 28:

That the election which was sanction (sic) by NEC of the Nigerian Society of Engineering Technicians (NISSET) complied with the Memorandum and Articles of Association of the society, which is the supreme law regulating the internal affairs of the society. The photocopy of a certified true document of the Memorandum and Articles of Association of the Nigerian Society of Engineering Technicians (NISSET) is annexed **and marked Exhibit 9.**

Paragraph 29:

That the 1st Defendant refused to admit the 1stPlaintiff as the representative of the Nigerian Society of Engineering Technicians (NISSET) in the 2nd Defendant.

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Paragraph 30:

That as a result of the refusal of the 1st Defendant to admit the 1st Plaintiff as representative of the Nigerian Society of Engineering Technicians in the 2nd Defendant, the 1st Plaintiff wrote a letter to the 2nd Defendant issuing them fourteen (14) days to address the issues or they will proceed to (sic) Court of law for redress. An acknowledged copy of the letter by the 1st Plaintiff to the 2nd Defendant dated 21st October, 2019 and titled "Exposition of facts leading to the successful conduct of the two (2) days National Engineering Technicians Conference/AGM and election of officers of NISSET" is annexed and **marked Exhibit 10.**

Paragraph 31:

That the former President, BOLU JAMES AJIBOLU, Tech. FNISSET has formally handed over the mantle of leadership of the Nigerian Society of Engineering Technicians (NISSET) to the 1st Plaintiff. A copy of the hand-over note is **marked Exhibit 11.**

Paragraph 32:

That the 1st and 2nd Defendants do not have powers to interfere in the internal affairs of the body such as election and AGM.

Paragraph 33:

That it would be in the interest of justice for the Court to compel the 1st Defendant to admit the 1st Plaintiff into the 2nd Defendant to represent the Nigerian Society of Engineering Technicians.

In the Written Address of learned Counsel for the Plaintiffs, Victor N. Nweke, Esq., a summary of the facts of the case is stated therein, as follows; that the Plaintiffs are the elected National Executive Council of the Nigerian Society of Engineering Technicians (NISSET). That the 1st Defendant is the President of the 2nd Defendant, an agency of the Federal Government of Nigeria, empowered to monitor and regulate the practice of Engineering in Nigeria. That the Plaintiffs and their body have been denied participation and admission into the 2nd Defendant by the 1st Defendant since October, 2018, contrary to the provisions of the Engineering (Registration Etc.) Amendment Act, 2019.



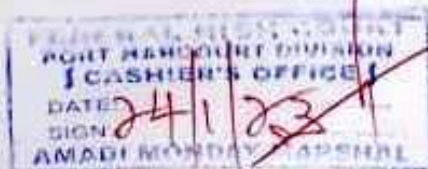
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Learned Counsel then deposited five (5) Issues for the determination of this Honourable Court, as follows;

1. Whether the Nigerian Society of Engineering Technicians is not a recognized Engineering body in Nigeria under Section 1 (2) (h) (ii) of the Engineering (Registration Etc.) Amendment Act, 2019.
2. Whether the exclusion of the representative of the Nigerian Society of Engineering Technicians by the 1st Defendant in the composition of the 2nd Defendant is unlawful and a breach of Section 1 (2) (h) (ii) of the instant law.
3. Whether the exclusion of the representative of the Nigerian Society of Engineering Technicians by the Defendants during the "28th Engineering Assembly" held on the 19th – 21st days of August, 2019, at the International Conference Center, Abuja is not a breach of the rights of the Nigerian Society of Engineering Technicians vis-à-vis the Plaintiffs' statutory rights to participate in the 2nd Defendant's activities.
4. Whether the 2nd Defendant's powers as contained in Section 1 (1) of the Engineering (Registration Etc.) Amendment Act, 2019 overrides the powers of the National Executive Council of the Nigerian Society of Engineering Technicians as contained in the Memorandum and Articles of Association, in the conduct of the internal affairs of the body such as Annual General Meetings and elections.
5. Whether the members of the Nigerian Society of Engineering Technicians are not entitled to damages from the Defendants for unlawful exclusion in the composition and activities.

On Issue one, learned Counsel submitted that the Nigerian Society of Engineering Technicians (NASET) is one of the Engineering bodies recognized under the Engineering (Registration Etc.) Amendment Act, 2019. That going by the provisions of Sections 1 (2) (h) (i) and 4, 4A, (2) (c) of the instant law, NASET is recognized as one of the Engineering bodies in Nigeria and that the Register of Engineering Practitioners shall consist of the registered Engineering Technicians. It was further submitted that the position of the law as stated above is unambiguous and requires the literal rule of interpretation. Reliance was placed on the case of **ADETAYO v. ADEMOLA (2010) 38 WRN 79**, where the Supreme Court held that;



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In the interpretation of a statute, where the words of a document, legislation or Constitution are clear, plain and unambiguous, there is no need to give them any other meaning than their ordinary, natural and grammatical construction would permit unless it would lead to absurdity.

He urged the Court to hold that the NISSET is an engineering body recognized under the Act.

Learned Counsel on Issue 2, argued that the exclusion of the representative of NISSET by the 1st Defendant in the composition of the 2nd Defendant is unlawful and a breach of Section 1 (2) (h) (ii) of the instant law. That the said Section 1 (2) (h) (ii) provides that the Council shall consist of the following members from the Register of Engineering Practitioners, Nigerian Society of Engineering Technicians. That the use of the word "shall" in the Act makes it mandatory and does not create room for the exercise of discretionary powers by the 1st Defendant in the inclusion of the Plaintiffs' representatives in the 2nd Defendant. That the 1st Defendant is by law, duty bound to include a representative of NISSET in the composition of the 2nd Defendant referred under the Act as "Council". He relied on the case of **TAIWO v. ADEGBORO (2011) 11 NWLR (Pt. 1259) 502** and also the case of **MGBADO & ORS v IGOGO & ORS (2019) 42 WRN 164**, where the Court of Appeal held that the word "shall" implies compulsion.

On Issue 3, it was submitted via the case of **AMASIKE v. THE REG-GENERAL CAC (2010) 39 WRN 1**, that the law is trite that a public body or authority vested with statutory powers must act within the law. That the exclusion of the representative of NISSET by the Defendants during the "28th Engineering Assembly" held on the 19th – 21st days of August, 2019 at the International Conference Center, Abuja is a breach of the rights of the NISSET vis-à-vis the Plaintiffs' statutory rights to participate in the 2nd Defendant's activities, having been recognized by the Act as one of the engineering bodies in Nigeria. That the refusal by the 1st Defendant to invite the Plaintiffs is a breach of their participatory rights in the engineering conference. Learned Counsel referred the Court to paragraphs 21 and 22 of their supporting affidavit, where it was stated therein, that as a result of their exclusion, NISSET could not participate, make presentation or any exhibition in the conference in order to showcase their skill via the conference. That members of NISSET suffered humiliation as a result of their

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non-representation in the 2nd Defendant. It was submitted that the law is settled that where there is a wrong, there is a remedy. He urged the Court to hold that the non-inclusion of the Plaintiff is a breach of their rights in the 2nd Defendant's conference.

Learned Counsel on Issue 4, argued that the Memorandum and Articles of Association of the Nigerian Society of Engineering Technicians is the supreme law which regulates the conduct of the internal affairs of the body, being an incorporated trustee of engineering professionals. That the said Memorandum and Articles of Association established the National Executive Council as well as its composition. That by Section 38 of the Memorandum and Articles of Association of NISSET, all acts done by the Executive Council or by any Committee appointed by the Executive Council or by any member of the Executive Council shall be valid, notwithstanding the subsequent discovery of some defects in the appointment provided that such act was performed in good faith. It was submitted that it is the Council that prescribes the venue for the Annual General Meeting to transact the business of NISSET which includes, inter alia, the election of its National Officers. That the Plaintiffs were duly elected at their Annual General Meeting held at Lokoja, on the 8th and 9th of October, 2019. That the Articles of Association of NISSET and or the Engineering (Registration, Etc.) Amendment Act, 2019 do not confer any right on the Defendants with respect to the internal administration of the body.

Issue 5, being whether the Plaintiffs are entitled to damages from the Defendants for unlawful exclusion, was answered in the affirmative. Learned Counsel relying on Section 251 (1) (r) of the 1999 Constitution and the case of **ADETAYO v. ADEMOLA (2010) 38 WRN 79** and also the case of **MOHAMMED v. OLANWUMI (1990) 2 NWLR (Pt. 133) 458**, submitted that where the words are clear and unambiguous in their ordinary meaning, effect must be given to them. That the Plaintiffs are therefore entitled to compensation.

In conclusion, the Court was urged to grant all the reliefs sought by the Plaintiffs, in the interest of justice.

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ARGUMENTS OF THE DEFENDANTS IN OPPOSITION TO THE PLAINTIFFS' ORIGINATING SUMMONS

The Defendants' Counter Affidavit and Written Address in opposition to the Originating Summons of the Plaintiffs dated the 2/03/2020 and filed on the same date, was deposed to by Ify Eke, described as the Deputy Director, Legal, Council for the Regulation of Engineering in Nigeria (COREN), the 2nd Defendant herein. It was averred that paragraphs 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 in the Plaintiffs' supporting affidavit are false and not the correct position. That there is nothing before the Court to show that the 1st Plaintiff has the consent and authority of the 2nd and 3rd Plaintiffs as well as the National Executive Council of NISSET to depose to the Affidavit. That the Defendants were unable to recognize the Plaintiffs as authentic members and representatives of the National Executive Council of NISSET due to the existence of parallel executives of NISSET. See paragraphs 1 – 6 of the Defendants' Counter Affidavit.

It was further stated that contrary to paragraphs 4, 5 and 6 of the Plaintiffs' supporting affidavit, another set of officials of NISSET organized a separate Convention on the 2nd and 3rd of October, 2019 at Ilorin, Kwara State. That at the Convention, a different set of officials were elected and the said officials have been parading themselves as Executives of NISSET and have sued the Defendants herein, in the Abuja Division of this Honourable Court to be so recognized. That the letters to the 2nd Defendant written by the two factions, dated the 3rd and 9th October, 2019 are annexed and marked as **Exhibits "COREN 1" & "COREN 2"**, respectively. That by the provisions of the Engineers (Registration Etc.) Amendment Act, only one person is required to represent NISSET and that due to the fractionalization, the 2nd Defendant was unable to recognize, include and/or invite representatives of NISSET to its Council. That contrary to paragraph 9 of the Plaintiffs' supporting affidavit, the 2nd Defendant is statutorily known as Council for the Regulation of Engineering in Nigeria and not Council of Registered Engineers of Nigeria. That the 2nd Defendant, being a statutory body was unable to recognize the two representatives sent by the parallel groups of NISSET. That the leadership crises foisted on the administration of NISSET was as a result of the activities of the Plaintiffs on one hand and the Ilorin faction led by one Mutiu Oloruntola Tech. FNISSET on the other hand. That the different factions have created a division in the administration of NISSET wherein each group formed parallel executives. That in response to

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paragraphs 13, 14, 15 and 16 of the Affidavit in support of the Originating Summons, the meeting/resolution were the products of a factional group of NISSET and that the 2nd Defendant was unable to act on it due to the existence of a 2nd faction with parallel executives also clamoring to be recognized as the person to represent NISSET in the Council of the 2nd Defendant. That the 2nd Defendant in the performance of its regulatory role held several meetings with the factions in an attempt to resolve the issues but to no avail. A copy of the meeting held with the warring factions of NISSET dated the 17th May, 2019 is annexed and marked as **Exhibit "COREN 3"**. See paragraphs 7 – 23 of the Defendants' Counter Affidavit.

At paragraphs 24 – 33, the deponent further averred that while the first faction, led by the 1st Plaintiff herein, instituted this suit on the 17/12/2019, the second group led by one Mutiu Oloruntola, had previously filed another suit on the 4/12/2019 against the Defendants herein, in **SUIT NO. FHC/ABJ/CS/1493/2019 – NISSET LTD/GTE & ANOR v COUNCIL FOR THE REGULATION OF ENGINEERING IN NIGERIA (COREN) & 2 ORS**. That the said suit instituted by the second faction is also seeking to be recognized and admitted in the 2nd Defendant's Council as the elected President of NISSET. A copy of the Writ of Summons/Statement of Claim of the Ilorin faction is attached and marked **Exhibit "COREN 4"**. That the two suits, to wit: Suit No. FHC/ABJ/CS/1493/2019 and Suit No. FHC/PH/CS/261/2019 have the same parties and cause of action. It was stated that in response to paragraph 31 of the Affidavit in support of the Originating Summons, that the handover done by Bola James Ajibolu, Tech. FNISSET is of no moment as the judgment of this Honourable Court, Coram Hon. Justice A. Chikere in **FHC/ABJ/CS/234/2016 – BOLU DEACON E. A. JAMES "TECH" FNISSET & 2 ORS v BOLU JAMES AJIBOLU Tech, FNISSET** effectively removed him as the President of NISSET. A copy of the judgment is annexed and marked **Exhibit "COREN 5"**. That the Defendants have not in any way interfered with the internal affairs of NISSET but rather the 2nd Defendant only played its regulatory and supervisory role over the activities of NISSET in strict compliance with the provisions of its establishment Act. That this Honourable Court should not be invited to inhibit the 2nd Defendant from performing its statutory duties. That the Plaintiffs are not entitled to the declarative and injunctive orders sought as the fractionalization of NISSET is self-inflicted and that the Plaintiffs cannot benefit from a self-inflicted crises.

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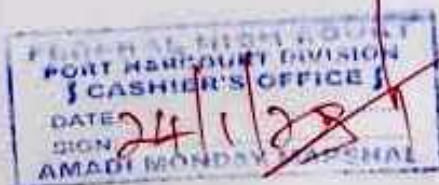
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FEDERAL HIGH COURT
PORT HARCOURT DIVISION
24/1/2023
BAADOM J.
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It was also averred that the existence of two suits in two different divisions of this Court at the same time and praying for the same reliefs if granted would create confusion in the mind of the Defendants as to which judgment to obey. That the Defendants pray this Court to transfer this suit to the Abuja Division of this Court to avoid mockery of the administration of justice. That in the event that this Court declines to transfer this Suit, that it should be dismissed.

In the Written Address of learned Counsel for the Defendants, four (4) issues were raised for the determination of this Honourable Court, as follows:

1. **Whether the 2nd Defendant is empowered to regulate the activities of the registered Engineering Technicians by virtue of S. 1 (1) (d) of the Engineers (Registration Etc.) Amendment Act, 2018.**
2. **Whether the purported "elections" of two parallel executives via two parallel AGM's of NISSET is not an inhibition to the admission of both factions as representative in the 2nd Defendant Council.**
3. **Whether this suit is not liable to be transferred in the interest of due and proper administration of justice.**
4. **Whether the Plaintiffs herein are entitled to damages in this suit.**

On Issue 1, it was submitted that the 2nd Defendant is a creation of Statute. That by virtue of its enabling law, its functions, inter alia, include, regulating and controlling the practice of the engineering profession in all aspects and ramifications. Learned Counsel referred this Court to Section 1 (1) (d) of the Engineers (Registration Etc.) Amendment Act, 2018. It was further submitted that the pertinent question is whether NISSET forms part of the engineering family as envisaged by the Act. That the Cambridge English Dictionary of Modern English defines "aspects" on the one hand, as a part or feature of something; or all of something or subject; and "ramifications" on the other hand, as whole of something; every aspect of something. That going by the provisions of Section 22 of the enabling law, the term "engineering personnel/practitioner" is defined to include; a registered engineer, engineering technologist, engineering technician and engineering craftsman. Relying on the case of **GANA v SDP & ORS (2019) LPELR – 47153 (SC)**, he submitted that the law is trite that words must be given their plain and ordinary meaning under the literal rule of



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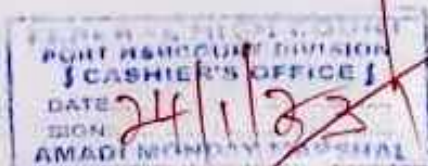
interpretation. That the Plaintiffs cannot import any extraneous interpretation to the express and unambiguous provisions of the Act. Learned Counsel urged the Court to hold that NISSET is an engineering practitioner for which the 2nd Defendant is empowered by law to regulate and control in all its aspects and ramifications.

Furthermore, learned Counsel submitted that the argument of the Plaintiffs that NISSET is an independent body of the 2nd Defendant and strictly guided by the provisions of its Memorandum and Articles of Association is erroneous in law. That going by the combined provisions of Section 4 A (1) & (2) and Section 22 of the enabling Act, NISSET is regulated by the 2nd Defendant and that it is the statutory duty of the Registrar of the 2nd Defendant to prepare and maintain names, addresses and qualifications of all persons entitled to be engineering practitioners. That the 2nd Defendant Council is vested with the statutory powers to determine the standard of knowledge, skill, experience and qualification to be attained by persons seeking to become registered as engineering technicians in Nigeria. That the 2nd Defendant is to engineering practitioners what the Council of Legal Education is to Legal Practitioners in Nigeria. Learned Counsel argued that the Memorandum and Articles of Association heavily relied on by the Plaintiffs is subservient to the Act and cannot override the provisions of the Act. That the law is settled that it is the parent Act that gives validity to every subsidiary document, in this case the Memorandum of NISSET. Reliance was placed on the case of **OSADEBAY v. BENDEL STATE (1991) LPELR – 2781 (SC)**, where the Supreme Court held that:

The rationale for enabling or parent legislation is to give validity to the subsidiary legislation. The general principle of retrospectivity is to enable the legislation take into account matters which had happened before it came into existence and which it is intended to deal with.

Learned Counsel urged the Court to hold that NISSET for which the Plaintiffs are claiming to be its officials is statutorily affiliated to the 2nd Defendant and liable to be regulated by the 2nd Defendant in accordance with the provisions of the Act.

On Issue 2, it was submitted that the fractionalization of NISSET led to two parallel executives from two parallel AGM's laying claims to the office. That the 2nd Defendant as the relevant Government Agency charged with the responsibility to regulate and control engineering profession found it difficult to resolve the leadership lock jam. That the



Amadi Mendoza



fractionalization of the leadership of NISSET has inhibited the smooth administration and regulation of that branch of the Council as it relates to matters pertaining to NISSET. Learned Counsel referred the Court to Exhibits COREN 1, 2 and 3 in support of their Counter Affidavit.

It was further submitted that the failure to have a representative of NISSET in the 2nd Defendant Council is a self-inflicted fault. That the enabling law of the 2nd Defendant only permits one representative of NISSET and other associations and that the 2nd Defendant cannot act beyond the powers given to it by its establishing law. Learned Counsel referred this Honourable Court to Section 1(2) of the COREN Act, 2018 which provides for how the Council shall be constituted and composed. He submitted that the 2nd Defendant has always had the sitting President of NISSET as the representative of NISSET in its Council but for the lingering power tussle of NISSET which made it impossible to have their representative in its Council. The Court was urged to hold that the Defendants have not excluded NISSET from the Council and also resolve Issue 2 in favour of the Defendants.

Learned Counsel on Issue 3, referred the Court to paragraphs 7, 24, 25, 34, 35, 36, 37, 38 and 39 of the Defendants' Counter Affidavit where it was stated that there is a duplicate of this suit in the Abuja Judicial Division of this Honourable Court. That the Defendants in the two suits and the reliefs sought are virtually the same. That on the one hand, the Plaintiffs herein, claiming to be the duly elected Executives of NISSET filed this instant suit against the Defendants in a representative capacity on behalf of NISSET while on the other hand, the second suit with Suit No. FHC/ABJ/CS/1493/2019, has NISSET as the 1st Plaintiff and one, Mutiu Oloruntola as the 2nd Plaintiff, also laying claim to be the duly elected Executives of NISSET. That the existence of the two suits if granted would create confusion in the mind of the Defendants and uncertainty in the administration of justice.

It was further submitted that the law is trite that where two actions of similar or same nature and between same parties and subject matter are being prosecuted concurrently between the same Court or a different Court, it is the latter in time that vacates. He placed reliance on the case of **DINGYADI v. INEC (No. 1) (2010) 18 NWLR (Pt. 1224) 1 at 33**. That Suit No. FHC/ABJ/CS/1493/2019 was filed on the 4th day of December, 2019, whereas this instant suit was filed 13 days after, on the 17th day of



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December, 2019. That this instant suit, filed later in time ought to be transferred. That the failure to transfer this suit to be heard by a single Court may lead to two varying judgments of different Divisions of the Federal High Court. Learned Counsel urged the Court to hold that Suit No. FHC/ABJ/CS/1493/2019 and this instant suit are similar and transfer this instant suit in accordance with Section 22 of the Federal High Court Act.

Issue 4, being, whether the Plaintiffs herein, are entitled to damages in this suit was answered in the negative. Learned Counsel submitted that the Plaintiffs in relief 6 of their Originating Summons claim damages in the sum of ₦1,000,000.00, against the Defendants. It was further submitted that the award of damages is not done or granted as a matter of course. That the law is settled that a party who desires to be granted a relief and damages must plead the facts and lead evidence in proof of the damages sought. That the Plaintiffs' claim is not supported by any fact in any of the paragraphs of the Plaintiffs' supporting affidavit. That the issue of representation of NISSET in the 2nd Defendant's Council is due to no fault of the Defendants that should warrant an award of damages in favour of the Plaintiffs. The Court was referred to paragraphs 7, 8, 9, 10, 11 and 17 of the Defendants' Counter Affidavit.

In conclusion, learned Counsel urged this Honourable Court to dismiss this suit with substantial cost against the Plaintiffs.

PLAINTIFFS' FURTHER AFFIDAVIT IN RESPONSE TO THE DEFENDANTS' COUNTER AFFIDAVIT AND ADDITIONAL AFFIDAVIT IN SUPPORT OF THE ORIGINATING SUMMONS

The Plaintiffs in reaction to the Defendants' Counter Affidavit, filed a Further Affidavit, dated the 09/04/2022 and filed on the same date. In the Further Affidavit of 37 paragraphs, deposed to by the 1st Plaintiff herein, Apiambo Ibigbenye Wari, several documents are annexed thereto and marked as Exhibits 12, 13, 14, 15, 16 and 17.

At paragraph 5 of the Further Affidavit, it is stated therein, that the deponent is not in the position to admit or deny facts contained in paragraphs 1, 2, 3 and 4 of the Defendants' Counter Affidavit. That paragraphs 6, 7, 10, 11, 12, 14, 15, 20, 21, 22, 23, 26, 28, 29, 33 and 34 are false and denied. At paragraphs 8 - 9, facts are deposed to the effect that the individuals referred to by the Defendants as another set of officials of NISSET, are suspended members of NISSET, whose suspension has

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not been lifted by NEC of NISSET. A resolution of NISSET, suspending these individuals as members of the society dated the 6th day of May, 2016 is annexed and marked as **Exhibit "14"**. That a copy of the resolution was served on the 2nd Defendant and the suspended members. That the acknowledgment copy of the receipt of the resolution by the Defendants is in the Plaintiffs' office which has been sealed by the Defendants. That the suspension was also referred to in the last paragraph of "public notice" of the Nigerian Society of Engineering Technicians published in Daily Trust Newspaper of the 11th day of May, 2019 at page 23. A copy of the newspaper is annexed and marked **Exhibit "15"**. That the so called individuals have always been used by the 2nd Defendant to create divisiveness in NISSET. It was further averred that no Extraordinary General Meeting was held in Ilorin to elect or appoint anyone, including one Mr. Mutiu Oloruntola as a National Officer of NISSET. That the 1st Plaintiff was informed of an arrangement for an Extraordinary General Meeting on the 25/09/2019, led by Mr. Mutiu Oloruntola and other suspended members of NISSET. That as the serving interim Chairman, he went to Ilorin and made a complaint at F-Division of the Nigeria Police Station, Tanke, Ilorin in Kwara State, of the leadership's impersonation and that the police invited the 1st Plaintiff, and Mr. Mutiu and others for police interview. That the impersonating group were ordered not to conduct any Extraordinary General Meeting to avoid breach of peace. That based on that order no such meeting was conducted. That the Defendants were formally notified of NISSET's leadership on the 22/06/2019 at the 13th National Engineering Technicians Conference/AGM and that there was no opposition to the interim leadership. That the Defendants refused to recognize the leadership.

That there is no self-inflicted problem in NISSET, but an attempt to divide NISSET by the Defendants to destabilize the hard-earned progress made by NISSET. That NISSET is one with one National Executive Council under the leadership of the Plaintiffs. That NISSET has been running smoothly, without any internal problem, despite the unnecessary interference by the 2nd Defendant. That the Plaintiffs have been holding their NEC meetings, conducting professional examination, issuing certificates to qualified members and inducting new members across the country. That in response to paragraph 13 of the Counter Affidavit, the name, Council of Registered Engineers of Nigeria is contained in Section 1 of the Engineers Registration etc. (Amendment) Act, 2018. See paragraphs 10 – 18 of the Plaintiffs' Further Affidavit.

Mutiu Oloruntola



That there was no meeting between the Defendants and the National Executive Council of the Plaintiffs. That the purported meeting held by the Defendants as contained in the Defendants' Exhibit 3 was to further divide NISSET as no invitation was extended to members of the National Executive Council of NISSET. That the attendees of the meeting were past National Executive members whose tenure had elapsed before the said meeting. It was further averred that the suspended members of NISSET have no legal right to institute any suit on behalf of the Society. That the past President of the National Executive Council, Bolu James Ajibolu, handed over some of NISSET's documents in his custody to the 1st Plaintiff as confirmation of legitimacy accorded to the current National Executive Council of NEC. That Exhibit COREN 5 referred to by the Defendants is inconsequential as a Notice of Appeal together with a Motion for Stay of Execution of the judgment have been filed and served on parties in that suit. A certified true copy of the Notice of Appeal and Motion for Stay of Execution is annexed and marked as **Exhibit 17**.

The Defendants filed Further and Better Affidavit of the Plaintiffs opposing their Counter Affidavit filed on the 02/03/2020.

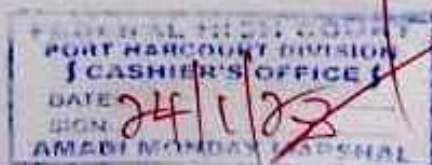
The Plaintiffs also filed an additional Affidavit in support of their Originating Summons. In the 13 – paragraph additional Affidavit in support of the Plaintiffs' Originating Summons, deposed to by the 1st Plaintiff herein, paragraphs 3 – 12 are considered relevant. The said paragraphs are reproduced below, for ease of reference:

Paragraph 3:

That the Respondents have stated in their Affidavit that another faction of the Plaintiffs sued the Defendants via a Writ of Summons before the Federal High Court Abuja Division for them to be recognized.

Paragraph 4:

That the said suit was withdrawn via a Motion for the withdrawal filed by the Plaintiffs on the 18th day of June, 2021. A certified true copy of the said Motion to Discontinue the matter is hereby annexed and marked as EXHIBIT NISSET – AA1.



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Paragraph 5:

That the said suit has been withdrawn and the matter was also dismissed by the Court due to the fact that issues were joined by parties.

Paragraph 6:

That we filed a suit at the Federal High Court of Nigeria, Port Harcourt Judicial Division challenging the status of the purported faction as BOT, their qualifications as members of the Society and the validity of their purported Extraordinary General Meeting in Suit No. **FHC/PH/CS/123/2020 BETWEEN APIAMBO IBIGBENYE WARI & 2 ORS v DEACON EMMANUEL A. JAMES & 2 ORS.**

Paragraph 7:

That the Honourable Court presided over by Hon Justice S. I. Mark heard and determined the matter against the Defendants in the said suit on the 11th of January, 2022.

Paragraph 8:

That the Honourable Court granted many declarative and injunctive reliefs in favour of the Plaintiffs as contained in the judgment.

Paragraph 9:

That the Defendants in Suit No. **FHC/PH/CS/123/2020 BETWEEN APIAMBO IBIGBENYE WARI & 2 ORS v DEACON EMMANUEL A. JAMES & 2 ORS** are not even qualified to be members of the Society and Board of Trustee Members of the Plaintiffs' Society. A certified true copy of the judgment order and the judgment in the said suit are annexed and marked as **Exhibit NISSET-AA2.**

Paragraph 10:

That prior to the said judgment, even during the pendency of this matter in this Honourable Court, the Defendants recognized the said group and appointed the 2nd Defendant in Suit No. **FHC/PH/CS/123/2020 BETWEEN APIAMBO IBIGBENYE WARI & 2 ORS v DEACON EMMANUEL A. JAMES & 2 ORS** whose status as member of the Society has been nullified as COREN COUNCIL MEMBER via a letter

CLERK TRUE COPY
FEDERAL HIGH COURT OF NIGERIA
PORT HARCOURT JUDICIAL DIVISION
24/1/2023
BAADOM J.
REGISTRAR

Amadi Monday Marshall

FEDERAL HIGH COURT OF NIGERIA
PORT HARCOURT JUDICIAL DIVISION
CASHIER'S OFFICE
DATE 24/1/23
SIGN AMADI MONDAY MARSHALL

dated 9th August, 2021. A copy of the letter is annexed and marked as **Exhibit NISSET – AA3.**

Paragraph 11:

That by this judgment, the Defendants in this suit now lack any further defence.

Paragraph 12:

That despite the service of copies of the said judgment and judgment order on the Defendants in this suit, the Defendants have continue (sic) to accord recognition to the judgment debtors in the said suit, by inviting them to COREN COUNCIL MEETINGS and COREN COMMITTEE MEETINGS.

THE DEFENDANTS' FURTHER AND BETTER COUNTER AFFIDAVIT IN OPPOSITION TO THE PLAINTIFFS' ADDITIONAL AFFIDAVIT IN FURTHER SUPPORT OF THEIR ORIGINATING SUMMONS

The Defendants filed their Further and Better Counter Affidavit in reaction to the additional Affidavit of the Plaintiffs. The said Further and Better Counter Affidavits deposed to by Ify Eke, described as the Deputy Director, Legal, for the 2nd Defendant herein, Council for the Regulation of Engineering in Nigeria. In the 19 – paragraph Further Counter Affidavit, facts are deposed therein, to the effect that the deponent who deposed to the additional Affidavit does not have the consent and/or authority of the 2nd & 3rd Plaintiffs as well as the National Executive Council of NISSET to depose to the additional Affidavit. That **Suit No. FHC/ABJ/CS/1493/2019 BETWEEN NISSET LTD/GTE v. COREN & 2 ORS** was withdrawn by the Plaintiff on the strength of the Statement of Defence and that the matter was accordingly dismissed by the Court on the application of the Defendants on the 23/09/2021. That in response to paragraphs 6, 7, 8 and 9 of the additional Affidavit, none of the Defendants herein, was a party to the suit in **FHC/PHC/CS/123/2020 BETWEEN APIAMBO IBGBENYE WARI & 2 ORS v. DEACON EMMANUEL A. JAMES & 2 ORS**. That the Defendants could not have been aware of the pendency of the suit which resulted to the judgment. That the injunctive/declarative reliefs granted in the said suit were not made against the Defendants herein and that the said Defendants cannot therefore, be bound by the judgment of the Court. See paragraphs 6 – 11 of the Further Counter Affidavit.



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It was further stated that the 2nd Defendant is not an independent agency of Government. That the 2nd Defendant is under the supervisory control of the Hon. Minister, Federal Ministry of Works and Housing by virtue of its enabling Act. That Exhibit NISSET AA3, being a letter titled "APPOINTMENT OF COREN COUNCIL MEMBERS" and dated the 9th day of August, 2021 is a public document and that the same was not certified.

RESOLUTION OF THE ISSUES IN THIS APPLICATION

After a holistic review of the processes filed in this suit, this Court is of the view that the issues that call for the determination of the Court are as stated in the Written Address of the Plaintiffs. The four Issues raised in the Written Address of the Defendants are similar to those of the Plaintiffs. The Court adopts the Plaintiffs' issues for determination by this Court. The issues are copied hereunder, again.

- 1. Whether the Nigerian Society of Engineering Technicians is not a recognized Engineering body in Nigeria under Section 1 (2) (h) (ii) of the Engineering (Registration Etc.) Amendment Act, 2019.**
- 2. Whether the exclusion of the representatives of the Nigerian Society of Engineering Technicians by the 1st Defendant in the composition of the 2nd Defendant is unlawful and a breach of Section 1 (2) (h) (ii) of the instant law.**
- 3. Whether the exclusion of the representatives of the Nigerian Society of Engineering Technicians by the Defendants during the "28th Engineering Assembly" held on the 19th – 21st days of August, 2019, at the International Conference Center, Abuja is not a breach of the rights of the Nigerian Society of Engineering Technicians vis-à-vis the Plaintiffs' statutory rights to participate in the 2nd Defendant's activities.**
- 4. Whether the 2nd Defendant's powers as contained in Section 1 (1) of the Engineering (Registration Etc.) Amendment Act, 2019 overrides the powers of the National Executive Council of the Nigerian Society of Engineering Technicians as contained in the Memorandum and Articles of Association, in the conduct of the internal affairs of the body such as Annual General Meetings and elections.**

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5. Whether the members of the Nigerian Society of Engineering Technicians are not entitled to damages from the Defendants for unlawful exclusion in the composition and activities

On issue one, the Plaintiffs submitted that by virtue of the provisions of Sections 1 (2) (h) (i) and 4, 4A, (1) & (2) of the Engineering (Registration, Etc.) Amendment Act, 2019, the Nigerian Society of Engineering Technicians is one of the Engineering bodies in Nigeria and that the Register of Engineering Practitioners shall consist of the registered Engineering Technicians. The Court was urged to hold that the NISSET is an Engineering body recognized under the Act. The Defendants in essence do not dispute that members of NISSET are part of the 2nd Defendant by virtue of Section 1 (2) (h) (ii) of the Engineering (Registrations, etc.) Amendment Act, 2019, but that it is not correct to describe NISSET as an independent body of the 2nd Defendant and strictly guided by the provisions of its Memorandum and Articles of Association, that such interpretation is erroneous in law. The learned Defence Counsel relied on the provisions of Section 22 of the Enabling Act and maintains that NISSET falls under the category of Engineering Personnel/Practitioner for which the 2nd Defendant is empowered by law to regulate and control. On this argument, the learned Defence Counsel also relied on Section 4 A (1) and (2) of the Act, 2019. The relevant Sections of the Act are copied below, as follows:

Section 1:

(1) There shall be established on the coming into force of the Act, a body to be known as the Council for the Regulation of Engineering in Nigeria (hereafter in this Act referred to as the Council) which shall be a body corporate by the name aforesaid and be charged with the general duty of –



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- a) determining who are engineering practitioners for the purposes of this Act;
- b) determining which standards of knowledge and skill are to be attained by persons seeking to become registered as engineering practitioners and raising those standards from time to time as circumstances may permit;
- c) securing in accordance with the provisions of this Act, the establishment and maintenance of registers of persons entitled to practice as registered engineering practitioners and publication from time to time of lists of those persons;
- d) regulating and controlling the practice of the engineering profession in all its aspects and ramifications;
- e) prosecuting any person or firm that contravenes the provisions of this Act in a Court of competent jurisdiction;
- f) regulating industrial training schemes in engineering for the training of engineering practitioners and students;
- g) ensuring capacity building and monitoring local content development in the Nigerian engineering industry through –
 - (i) —
 - (ii) —
 - (iii) —
 - (iv) —
- h) investigating engineering failures; and
 - (i) performing other functions conferred on the Council by this Act; and



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- (2) Subject to the provisions of this Act, the Council shall consist of the following members from the registers of engineering practitioners, that is –
- a) One person who shall be elected by the Council as President;
 - b) Six persons elected to represent the Nigerian Society of Engineers in the manner provided by the Constitution of the Society;
 - c) Four persons appointed to represent the Universities with Faculties of Engineering in rotation, provided that they are serving Deans of Engineering;
 - d) One person appointed to represent the Polytechnics in rotation, provided that he is a serving Dean of Engineering;
 - e) One person appointed to represent Technical Colleges in rotation;
 - f) Six persons appointed to represent the States of the Federation in rotation, provided that no two persons shall be appointed from the same geopolitical zone;
 - g) Four persons to be appointed by the Minister, of whom one shall be from the Ministry under his control and the other person from amongst other interests in the field of engineering covered by this Act, which in his opinion, are not adequately represented;
 - h) One person each to represent –



- (i) Nigerian Association of Technologists in Engineering;
- (ii) Nigerian Society of Engineering Technicians; and
- (iii) Nigerian Association of Engineering Craftsmen.

Section 4 A

(1) The Registrar shall prepare and maintain, in accordance with rules made by the Council under this Section, registers of names, addresses and approved qualifications and of such other particulars as may be specified, of all persons who are entitled, in accordance with the provisions of this Act, to be registered as registered engineering practitioners and who apply in the specified manner to be so registered.

- (2) The registers of engineering practitioners (in this Act referred to as the "the Registers") shall consist of registered –
- a) Engineers;
 - b) Engineering Technologists;
 - c) Engineering Technicians;
 - d) Engineering Craftsmen
 - e) Engineering Consulting Firms; and
 - f) Engineering Firms compiled subject to the provisions of Section 10 of this Act.

Section 22 –

Engineering Practitioner includes a registered Engineer, Engineering Technologist, Engineering Technician and Engineering Craftsman.



Having copied out the provisions of Section 1 (2) (h) (ii) of the Engineering (Registration Etc.) Amendment Act, 2019, it is clear to me that the wording of the provisions are not ambiguous and I choose to give those words their plain and literal meaning. See the case of **ADETAYO v. ADEMOLA (2010) supra**.

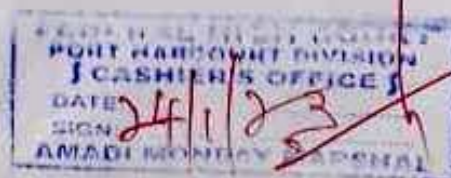
So, going by the literal meaning of the provisions, it is my firm view that the Nigerian Society of Engineering Technicians is a recognized Engineering body in Nigeria. The body (NASET) is among persons referred to under the Act of engineering practitioners. Issue 1 is determined in favour of the Plaintiffs.

On Issue number 2, it is the argument of the Plaintiffs that the exclusion of the representative of NASET by the 1st Defendant in the composition of the 2nd Defendant is unlawful and a breach of Section 1 (2) (h) (ii) of the Act. I have calmly looked at the provisions mentioned above. It is correct that the word "shall" is used to state who shall be members of the 2nd Defendant and the Nigerian Society of Engineering Technicians is included. I agree with the argument of the Plaintiffs that the word "shall" used in a piece of Legislation or Statute usually (most often) invokes mandatoriness. In the context of the provisions of the Act under reference, it would denote that a representative of the Nigerian Society of Engineering Technicians must, compulsorily, be made a member of the 2nd Defendant's Council. See the case of **BPS CONSTRUCTION & ENGINEERING CO. LTD v. FEDA (2017) LPELR - 42516 (SC)**, where the Supreme Court per Kekere-Ekun, JSC at pages 34 - 35, paras. G - C, held that:

It is true that generally the word "shall" is interpreted in its mandatory sense.



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similarly, in the case of **NWANKWO & ORS v. YAR'ADUA & ORS (2010) LPELR - 2109 (SC)**, the Supreme Court held, per Adekeye, JSC, at page 78, paras. C – F, inter alia that:

The word "shall" in its ordinary meaning is a word of command which is normally given a compulsory meaning, as it is intended to denote obligation.

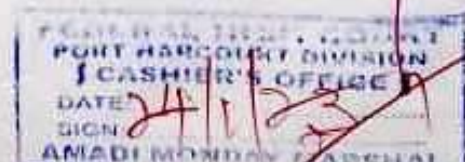
The Court of Appeal took a similar stand in the case of **MGBADO & ORS v. IGOGO & ORS (2019) 42 WRN 164**, (cited by the Plaintiffs' Counsel in his Written Address), where the Court held that the word "shall" implies compulsion.

As a matter of fact, looking at the averment at paragraphs 7 – 12 of the Counter Affidavit of the 1st and 2nd Defendants, it is clear to me that the Defendants know full well that a representative of NISSET is compulsorily required to be a member of the Council. That the only snag, leading to the non-inclusion of a representative of NISSET in the Council at present is because of the factions in the leadership of NISSET. That the practice has been to bring in the President of NISSET to be a member of the Council as provided in the Act, but that two persons, each from the two factions were nominated to be appointed as a member of the Council which was not practicable and unlawful. The provision of the Act aforementioned make provision for only one member of NISSET to be represented in the Council. That is why at paragraphs 7, 8, 9 and 12, the Defendants aver in their Counter Affidavit as follows:

Paragraph 7: That contrary to paragraphs 4, 5 and 6 of their Affidavit in support of the Originating Summons, the Defendants state that apart from the Plaintiffs herein, another set of officials of the NISSET organized a separate convention on the 2nd and 3rd of October, 2019 at Ilorin, Kwara State wherein



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officials of the NISSET different from the Plaintiffs herein, were purportedly elected. These officials are currently parading themselves as the executive of the NISSET and have sued the Defendants in the Abuja Division of this Honourable Court to be recognized. The letters to the 2nd Defendant dated 3rd and 9th October, 2019 written by the two factions to the 2nd Defendant are hereby attached and marked Exhibits 1 & 2, respectively.

Paragraph 8: The Defendants state that they were unable to recognize, include and/or invite the representatives of NISSET to its Council due to the fractionalization and recommendation of different executives to the 2nd Defendant by NISSET.

Paragraph 9: That Section 1 (2) (h) (ii) of the Engineers (Registration Etc.) Amendment Act, 2018 provides for one person to represent the Nigerian Society of Engineering Technicians (NISSET) in the Council of the 2nd Defendant and the 2nd Defendant being a statutory body guided by its enabling Act was unable to recognize, admit and/or accept the two representatives sent by the parallel groups of NISSET.

Paragraph 11: The self-inflicted internal crises bedeviling NISSET which has produced factional leadership have greatly affected the smooth running and administration of the 2nd Defendant Council and made it difficult for the Council in its sittings to deliberate fully on matters affecting the practice of Engineering Technicians which is an aspect and branch of engineering in Nigeria.

Paragraph 12: That the Plaintiffs are factional executive/ members of NISSET and have caused considerable damage to

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the smooth operation of NISSET as a branch of engineering and the Defendants are trying to resolve as the statutory regulatory body empowered by the Section 1 (1) (d) of the Engineering (Registration, Etc.) Amendment Act, 2018.

Paragraph 13: That contrary to paragraphs 10, 11 and 12 of the Affidavit in support of the Originating Summons, the intractable leadership crises foisted on the administration of NISSET was as a result of the activities of the Plaintiffs on one hand and the Ilorin faction led by one Mutiu Oloruntola Tech FNISSET on the other, which has created a division in the activities and administration of NISSET wherein each group formed parallel executives which is impairing and slowing down the smooth/seamless regulation and control of the profession of Engineering Technicians by the 2nd Defendant.

There is no doubt, therefore, that the Defendants are desirous of having the representative of NISSET in the 2nd Defendant Council as stipulated by the Act but that the factions in the leadership of NISSET had made it impossible for the Defendants to recognize one faction and reject the other, more so that the two factions of NISSET had taken the Defendants to Court in two different suits. The first suit was filed at Abuja by the Mutiu-led faction of NISSET in **Suit No: FHC/ABJ/CS/1493/2019 – NISSET LTD/GTE & ANOR v. COUNCIL FOR THE REGULATION OF ENGINEERING IN NIGERIA (COREN) & 2 ORS**, filed on the 04/12/2019 and then the present Suit with **Suit No: FHC/PH/CS/261/2019 – APIAMBO IBIGBENYE WARI TECH FNISSET & 2 ORS v. ENGR ALI A. RABIU, FNSE & ANOR**, filed on the 17/12/2019.

I agree with the Defendants' argument that although the NISSET is one of the engineering bodies recognized as engineering practitioners, recognized as forming part of the 2nd Defendant Council, yet they are not an entirely independent body. I agree that by virtue of the provisions of

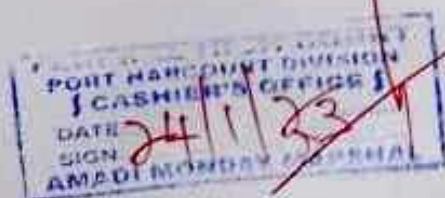


the enabling Act, they, NISSET are just like members of the Nigerian Society of Engineers, the Nigerian Association of Engineering Technologists and Nigerian Association of Engineering Craftsmen, subject to regulation and control by the 2nd Defendant. See Section 1 (1) (d), (2) (h) (iii) and 22 of the Act. See also paragraph 18 of the Counter Affidavit of the Defendants.

It is therefore reasonable for the Defendants to assert that the 2nd Defendant has a duty to ensure that the NISSET follows the provisions of the enabling law and indeed their Memorandum and Articles of Association to ensure that their meeting and election of the leadership of NISSET is done in accordance with laid down procedure.

The Plaintiffs at paragraphs 29, 30 and 31 of the Affidavit in support of the Originating Summons deposed to the effect that the 1st Defendant refused to admit the 1st Plaintiff as a representative of the NISSET in the 2nd Defendant (Council), whereas an election was done wherein the 1st Plaintiff emerged as President of NISSET and that the former President of NISSET, Bolu James Ajibolu Tech FNISSET had formally handed over the mantle of leadership of NISSET to the 1st Plaintiff as President, as shown in Exhibit "11". I have looked at Exhibit "11", it is dated the 23rd of November, 2019.

The Defendants however stated at paragraph 27 of their Counter Affidavit, that the hand over done by Bolu James Ajibolu Tech FNISSET was of no moment as the said Bolu James Ajibolu did not have the locus standi to so act, as he had been effectively removed as the President of NISSET by the Judgment of the Federal High Court sitting at Abuja in **Suit No: FHC/ABJ/CS/734/2016 – BOLU DEACON E. A. JAMES TECH FNISSET & 2 ORS v. BOLU JAMES AJIBOLU TECH FNISSET**. A Certified True Copy of the Judgment delivered by A. I. Chikere, J. is annexed to the Counter Affidavit and marked as "COREN 5". I have looked at the said Exhibit "COREN 5".



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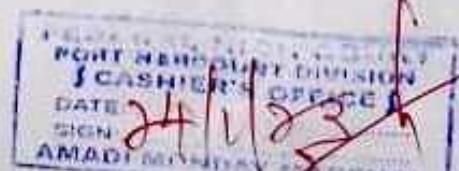
It is a Judgment which was delivered on the 23/03/2018. This shows that Bolu James Ajibolu, who purportedly handed over the mantle of leadership of NISSET to the 1st Plaintiff herein on the 23/11/2019, as the former President, had been validly suspended as President of NISSET by the Board of Trustees, being the Plaintiffs in that suit.

In the Further Affidavit of the Plaintiffs, at paragraph 27 thereof, it is stated that in response to paragraph 27 of the Counter Affidavit, that Bolu James Ajibolu as a past President, handed over some official documents of NISSET in his custody to the 1st Plaintiff is a confirmation of legitimacy accorded to the current NEC of NISSET and that Exhibit "COREN 5", the Judgment of the Court aforementioned is inconsequential as a Valid Notice of Appeal, together with a Motion for Stay of Execution of Judgment have been filed and served on parties in that suit. I looked at the certified copies of the Notice of Appeal and Motion on Notice of Stay of Execution of Judgment filed on the 26/03/2018 but certified on the 27/04/2018 and observed that they had no Appeal number of the Court of Appeal, particularly on the Notice of Appeal. There is also no evidence that the Motion for Stay of Execution of Judgment was heard and granted.

The Plaintiffs have now presented before this Court, the Judgment Order in **Suit No: FHC/PH/CS/123/2021** – delivered on the 11/06/2022. The parties in that suit were **APIAMBO IBIGBENYE WARI TECH FNISSET & 2 ORS v. DEACON EMMANUEL A. JAMES & 2 ORS**. In that suit, an order was made restraining the 1st – 3rd Defendants from parading themselves as the Chairman and Members of the Board of Trustees of the Nigerian Society of Engineering Technicians. That is also a subsisting judgment of a Court of competent jurisdiction. The Defendants herein, were not parties in that suit and during the hearing of this suit, the learned Defence Counsel, Joseph Oche, Esq., submitted that the Defendants were not parties in that suit and cannot be bound by the decision of the Court in that case to



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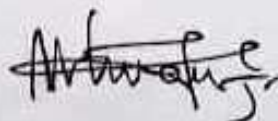
warrant them to take any action in compliance with it, more so, that the Defendants had informed them that they had appealed the decision of the Court in that suit.

Well, that decision is also a subsisting judgment of the Court. In the Judgment Order, a declaration is made that the Annual General Meeting of the Nigerian Society of Engineering Technicians called by the National Executive Council of NISSET on the 8th – 9th of October, 2019 was valid.

All the same, the two Judgments of the Federal High Court are subject of Appeal and I say no more in respect of the said Judgments.

In the present case, the 1st Plaintiff is not happy that the Defendants have refused to recognize him as the current President of NISSET and have therefore not included him in the 2nd Defendant as a representative of NISSET in the 2nd Defendant (Council), which is detrimental to the interests of the members of NISSET and their engineering practice.

In my humble view, by the showing of parties in this suit, including the Defendants, the **Suit No: FHC/ABJ/1464/2019** at the Federal High Court, Abuja Division which was instituted by a rival faction in NISSET, the said suit has been withdrawn by the Plaintiffs and dismissed by the Court. This should be a good indication to the Defendant that as at present, there is no more rival faction in the leadership of NISSET. The Plaintiffs are now the only President and Executive Members on the scene. As a regulatory body, the Defendants must be commended in their effort to quell the crises that bedeviled NISSET. I say so because the Defendants in this case were also Defendants in the case that was dismissed by the Federal High Court, Abuja and learned Counsel submitted at the hearing of this suit that it was as a result of the weighty evidence in their Counter Affidavit and Exhibits that made the Plaintiffs in the Abuja suit to withdraw the suit,



leading to its dismissal, which order of dismissal was also granted on the application of the Defendants' Counsel.

The Defendants had averred in their Counter Affidavit in opposition to the Affidavit of the Plaintiffs in support of their Originating Summons that the Plaintiffs in the present suit had presented a President to be included as a representative of NISSET in the 2nd Defendant and that the Plaintiffs in the Abuja suit (now dismissed) had also sent the name of a person as the President of NISSET to be included in the 2nd Defendant. That the enabling Act of the 2nd Defendant, however, allows only one representative of NISSET as a member of the 2nd Defendant, hence the inability of the 2nd Defendant to recognize and accept either of the candidates as presented by the two factions in NISSET as seen in Exhibit "COREN 1" and "COREN 2". See paragraphs 6 - 9 of the Counter Affidavit of the Defendants.

Now, with the withdrawal of the Abuja suit, I believe there is no longer a rival faction in NISSET. Now that there is no longer a parallel executive of NISSET, the Defendants can go ahead and recognize the Plaintiffs as the authentic members and representatives of the National Executive Council of NISSET as there is no longer the existence of a rival executive of NISSET. See paragraph 6 of the Counter Affidavit of the Defendants and paragraph 7 of the Defendants' Further and Better Affidavit filed on the 28/09/2022. See also paragraphs 4 and 5 of the Plaintiffs' Additional Affidavit in support of the Originating Summons.

It is therefore my finding that there is no longer any proof of factions in the leadership of the NISSET. It is now just the Plaintiffs' suit that is still in Court.

I have observed that the primary reason given at paragraphs 6 - 9, 12 - 14 of the Counter Affidavit for not recognizing the 1st Plaintiff as the President of NISSET and the 2nd and 3rd Plaintiffs and others they are representing as



National Executive Council of NISSET is because of the hitherto existent rival faction led by Mr. Mufiu Oloruntola, Tech FNISSET who had also filed a suit at the Federal High Court Abuja, looking for recognition as the President of NISSET. Now, there is however, not a rival faction. The Defendants can go ahead and recognize the 1st Plaintiff as the President of NISSET and admit him as a member of the 2nd Defendant representing NISSET as required under Section 1 (2) (h) (ii) of the enabling Act.

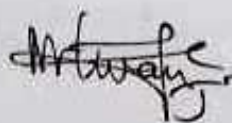
It is noteworthy that by its showing, the 2nd Defendant has been playing the role of a regulator and "playing the fatherly role" and provided a conducive atmosphere under its regulatory supervision for peaceful settlement of the lingering crises in NISSET which informed several peace meetings the Defendants called in an attempt to amicably resolve the crises through a consensus. See paragraph 20 of the Counter Affidavit of the Defendants to the Originating Summons.

Similarly, the Defendants have averred at paragraph 7 of the Defendants' Further and Better Affidavit in opposition to the Originating Summons, dated and filed on 16/12/2019, that:

Paragraph 7: That in response to paragraphs 3, 4 and 5 of the additional affidavit, the Defendants state that Suit No: FHC/ABJ/CS/1493/2019 – BETWEEN NISSET LTD/GTE v. COREN & 2 ORS was withdrawn by the Plaintiff on the strength of the Statement of Defence and the matter accordingly was dismissed by the Court on the application of the Defendants on the 3rd September, 2021.

So, it is evident that there is no longer a rival faction.

In answer to Issue 2, I resolve the same in favour of the Plaintiffs that the exclusion of the representative of the Nigerian Society of Engineering Technicians by the 1st Defendant in the composition of the 2nd Defendant



is unlawful and a breach of Section 1 (2) (h) (ii) of the Act; but only to the extent that with effect from the 23/09/2021, when the Plaintiffs' case filed at the Federal High Court Abuja under reference had been withdrawn and dismissed. I say so because as at then there was no longer a rival faction in NISSET which prevented the Defendants from recognizing and including the 1st Plaintiff as the representative of NISSET in the 2nd Defendant. I so hold.

Issue 3 is whether the exclusion of the representative of NISSET by the Defendants during the 28th Engineering Assembly held on the 19th - 21st August 2019 at the International Conference Centre, Abuja, is not a breach of the rights of NISSET members vis-à-vis the Plaintiffs statutory rights to participate in the 2nd Defendant's activities.

This 3rd Issue is answered in the negative. The conference was held in August 2019 when there were two factions in NISSET. Exhibit "COREN 1" and Exhibit "COREN 2" show that the names of two factional Presidents were submitted to the 2nd Defendant, each person claiming to be the rightful President of NISSET to represent NISSET in the 2nd Defendant. The Defendants could not have taken the two persons as members representing NISSET when the law makes allowance for only one person. The Defendants were also not expected to meet and choose one of the rivals to represent NISSET as that would have demonstrated bias on the part of the Defendants, whichever way, more so that the rival factions had filed cases before the law Court and the matter was sub judice.

In the case of **MEGA PROGRESSIVE PEOPLES PARTY v. INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) (2015) LPELR - 25706 (SC)**, the Supreme Court, per Muhammad, JSC at page 49, para. B, held as follows:

Certainly, when a law provides a particular way/method of doing a thing, and unless such a law is altered or amended by



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legitimate authority, then whatever is done in contravention, it amounts to a nullity.

So, the Defendants could not have acted in contravention of the enabling Act to have admitted two representatives from NISSET when the law permits only one representative. Again, the Defendants could not have acted to recognize one of the persons nominated by the rival factions when their matters were still before the Court. Issue 3 is answered in the negative against the Plaintiffs and in favour of the Defendants. I so hold.

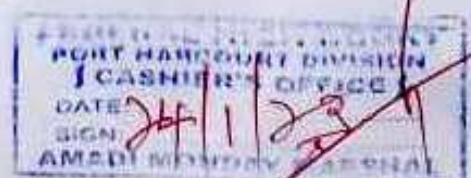
Issue 4 is whether the powers of the 2nd Defendant as contained in Section 1 (1) of the Engineering (Registration Etc.) Amendment Act, 2019 override the powers of the National Executive Council of NISSET as contained in the Memorandum and Articles of Association in the conduct of the internal affairs of the body such as the conduct of Annual General Meetings and elections.

The Defendants have categorically stated at paragraph 28 of the Counter Affidavit that they do not interfere with the internal affairs of the NISSET. That the crises which has crippled NISSET is self-inflicted and that the Defendants have always maintained a neutral posture in an attempt to resolve the logjam. That the 2nd Defendant's position is without prejudice to its supervisory and regulating role over the activities of NISSET in strict compliance with the express provisions of its establishment Act.

I agree that the supervisory and regulatory role should not make the 2nd Defendant descend to the level of interfering in the internal affairs of NISSET. That is why the 2nd Defendant usually waits for NISSET to put its house in order, act as a united front and produce one President of NISSET who would represent the NISSET in the 2nd Defendant. That, does not, however, mean that the 2nd Defendant would remain docile and allow issues to



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generate into serious crisis with fractionalization in the leadership of NISSET. The 2nd Defendant is bound to play the "big Daddy" role and broker peace. That, certainly, should not be regarded by NISSET as the 2nd Defendant being motivated by ill-will when they are cautioned by the 2nd Defendant. In the order of hierarchy of laws, it is obvious that the Memorandum and Articles of Association of a Company or Association or Society e.g. NISSET, is subservient or subsidiary to the enabling Act and cannot override the provisions of the Act. A plethora of cases have held that it is the parent Act that gives credibility to every other subsidiary document e.g. the Memorandum and Articles of Association of NISSET. The case cited by learned Counsel for the Defendants is on point, which is: **OSADEBEY v. BENDEL STATE (1991) LPELR - 2791 (SC)**, where the Supreme Court, per Karibi-Whyte, JSC, at p. 40, paras. D - E stated as follows:

The rationale for enabling or parent legislation is to give validity to the subsidiary legislation.

This Court is also inclined to agree with the submissions of Counsel for the Defendants that going by the unambiguous provisions of Sections 1 (1) (d), (2) (h) and 4 (1) (2) and 4-A of the Act, the 2nd Defendant is the regulator of all Engineering Practitioners in Nigeria, including members of the NISSET and NISSET itself. By the provisions of Section 4 (2) of the Act, the 2nd Defendant is to maintain registers of the names, addresses and approve qualifications of all persons who are entitled to be registered as engineering practitioners, namely, registered Engineers, Engineering Technologists and Engineering Technicians, Engineering Craftsmen, Engineering Consulting Firms and Engineering Firms compiled subject to the provisions of Section 10 of the Act. There is a Registrar who is appointed by the Council and his role is spelt out in the Act. The Registrar, among other things, maintains the registers mentioned above. It is correct to state that by the provisions of the Act, the 2nd Defendant Council is

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vested with statutory powers to determine the standard of knowledge, skill, experience and qualification to be attained by persons seeking to become registered as Engineering Technicians. Learned Counsel drew an analogy with the regulatory role of the Council of Legal Education in respect of Legal Practitioners in Nigeria. That is a good comparison and it must be noted that the Council of Legal Education does not interfere with the election of the leadership of the body of Legal Practitioners, that is, the Nigerian Bar Association (NBA) in Nigeria. The Defence had deposed at paragraph 28 of their Counter Affidavit that the 2nd Defendant Council does not interfere in the internal affairs of the Plaintiffs, the NISSET. So, like I had stated above, the nature of control and regulation the 2nd Defendant exercises over NISSET and its leadership is limited and ought not to extend to who the members of NISSET decide to elect as the President and National executives of NISSET. Where there were two factions in NISSET and two different persons are presented to the 2nd Defendant as President of NISSET, the 2nd Defendant was correct to have rejected the two persons, as to have accepted both of them or even one of them, without more, would have been contrary to the enabling Act under reference. Now, however, there is no longer two factions in NISSET, with the withdrawal of the case which had been instituted by one of the factions at the Federal High Court, Abuja, the Defendants would do well to recognize the Plaintiffs as President and National Executive members of NISSET.

So, Issue 4 is held partly in favour of the Defendants and partly in favour of the Plaintiffs. The reason has already been given above in this Judgment.

Issue 5 is:

Whether the members of the NISSET are not entitled to damages from the Defendants for unlawful exclusion in the composition and activities of the 2nd Defendant.



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The Plaintiffs argued that they are entitled to damages from the Defendants because they wrongfully and unlawfully excluded the Plaintiffs from membership of the 2nd Defendant which has been statutorily provided for under Section 1 (2) (h) (ii) of the enabling Act. The Plaintiffs also rely on Section 251 (1) (r) of the 1999 Constitution, particularly, when liberally interpreted, as was enjoined by the Supreme Court in the case of **ADETAYO v. ADEMOLA (2010) 38 WRN, 79** and the case of **MOHAMMED v. OLANWUMI (1990) 2 NWLR (Pt. 133) 488**.

Section 251 (1) (r) of the 1999 Constitution provides as follows:

Section 251 (1): Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction that may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other Court in civil causes and matters –

(a) – (q) —

(r) any action or proceeding for a declaration or injunction affecting the validity of any executive or administrative action or decision by the Federal Government or any of its agencies; and

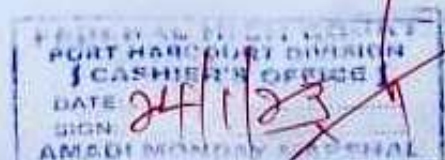
(s) ---

Provided that nothing in the provisions of paragraphs (p) (q) and (r) of this subsection shall prevent a person from seeking redress against the Federal Government or any of its agencies in an action for damages, injunction or specific performance where the action is based on any enactment, law or equity.

The above provision of Section 251 (1) (r) of the 1999 Constitution is clear and when given its literal interpretation, it will show that the Plaintiffs, herein, are claiming a wrong done to them by the executive action of the



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Defendants in refusing to include the 1st Plaintiff, who was, according to them, elected President of NISSET and was duly eligible to be included as a member of the 2nd Defendant as required by law.

The Defendants have argued to the contrary. It was the argument of the Defendants that the 2nd Defendant's enabling Act only permits for one representative of NISSET in the Council of the 2nd Defendant. That the nomination of two sets of officials to the 2nd Defendant to be admitted into its Council made it impossible to resolve the main issue in this suit. He relied on Section 1 (2) (h) (ii) of the Act. I have already analyzed the provisions of Section 1 (2) (h) of the Act in this Judgment, above. I agree with the submissions that the law does not permit NISSET to have two representatives in the 2nd Defendant Council. The Defendants have shown clearly by their evidence in the Counter Affidavit and Exhibits "COREN 1" and "COREN 2" that the Defendants received two different names instead of one name. This foisted a situation of helplessness on the Defendants who said they advised the NISSET to go back and resolve their differences and submit one name to the 2nd Defendant but that went to no avail. It is apparent that the non-inclusion of NISSET's one representative in the Council of the 2nd Defendant was not due to any fault of the 2nd Defendant, as the 2nd Defendant was bound to act in accordance with the enabling Act. But now that the faction led by Mutiu Oloruntola has withdrawn their suit and the same suit has been quashed, there is not a dispute in the leadership of the NISSET again, that's, with effect from the date the said Abuja suit was struck out, being the 23rd of September, 2021. There would no longer be the need to be talking of a crises in the leadership of NISSET. The 1st Plaintiff should now be accepted and included in the Council of the 2nd Defendant forthwith, since there is no longer any order of the Court to the contrary. I so hold.

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the Plaintiffs are however not entitled to compensation as damages as the Defendants had a good reason not to have included the 1st Plaintiff in the Council of the 2nd Defendant. Issue 5 is resolved against the Plaintiffs as the Plaintiffs have failed to show to the satisfaction of the Court that the Defendants committed any wrong against them. I so hold.

In the course of the consideration and resolution of the five issues raised by the Plaintiffs herein, the four questions formulated by the Defendants have also been addressed, adequately.

Issue 1 of the Defendants is:

Whether the 2nd Defendant is empowered to regulate the activities of the registered Engineering Technicians by virtue of Section 1 (1) (d) of the Engineers (Registration, Etc.) Amendment Act, 2018 (2019).

The answer is partly "Yes" and partly "No", the 2nd Defendant is the regulatory Council for engineering practice in Nigeria and has been enabled to carry out supervisory and control/regulatory roles in respect of Engineering Practitioners, including the Plaintiffs (NASET) as one of the bodies that make up the Council of the 2nd Defendant. It is my humble view, however, that the 2nd Defendant has no business interfering in the internal management of the affairs of the NASET. This much the Defendants have admitted and particularly so, in terms of not being interested in which members of NASET are elected as the President of NASET and National Executive members of NASET.

Issue 2 of the Defendants is:

Whether the purported "election" of two parallel executives via two parallel AGM's of NASET is not an inhibition to the admission of both factions as representative in the 2nd Defendant Council.

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This issue has been answered in the affirmative in favour of the Defendants and against the Plaintiffs.

Issue 3 is:

Whether this suit is not liable to be transferred in the interest of due and proper administration of justice.

On this issue, learned Counsel for the Defendants relied on paragraphs 7, 24, 25, 34, 35, 36, 37, 38 and 39 of their Counter Affidavit in opposition to the Originating Summons and submitted thereat that, the Defendants stated clearly that there is a duplicate of this suit which was filed in the Abuja Division of this Court as **Suit No: FHC/ABJ/CA/1493/2019**. The reality of the matter now is that, the same suit filed at the Abuja Division of this Court was withdrawn by the Plaintiffs in that suit and on the application of the Defendants who are also Defendants in the instant case before this Port Harcourt Division of this Court, the Abuja case was dismissed on the 23/09/2021.

Issue 3 of the Defendants has, therefore, been overtaken by events.

Issue 4 of the Defendants:

Whether the Plaintiffs herein are entitled to damages against the Defendants in this suit.

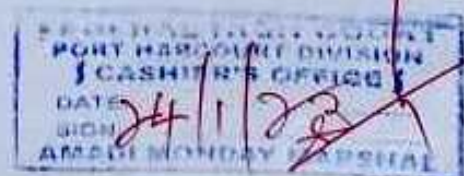
This issue, being similar to Issue 5 of the Plaintiffs has been answered by this Court after due consideration, in the negative, against the Plaintiffs and in favour of the Defendants.

On the whole, the Plaintiffs suit succeeds only in part and I hold as shown in the terms below:

1. A Declaration is made that the Nigerian Society of Engineering Technicians is one of the recognized Engineering bodies in Nigeria.




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2. A Declaration is made that the exclusion of the representative of the Nigerian Society of Engineering Technicians by the 1st Defendant in the composition of the 2nd Defendant is unlawful and a breach of the instant law, now that there is no longer another faction claiming leadership of NISSET, with effect from the 23/09/2021.
3. A Declaration is made that it is the National Executive Council of the Nigerian Society of Engineering Technicians that can validly conduct Annual General Meetings and elections of the body (NISSET), pursuant to the Memorandum and Articles of Association of NISSET.
4. An Order is made directing the 1st Defendant to admit the 1st Plaintiff into the 2nd Defendant, having been elected as the President of the Nigerian Society of Engineering Technicians, as there is no longer any other faction presenting a person to the 2nd Defendant as President of NISSET.
5. Reliefs 3 and 6 of the Plaintiffs as shown on the face of the Originating Summons are denied.

This is the Judgment of this Court in this suit. I make no order as to cost.


Hon. Justice Phoebe M. Ayua
 Judge
 20/12/2022

PARTIES: The 1st Plaintiff is present in Court and the 2nd and 3rd Plaintiffs are absent as well as the 1st and 2nd Defendants are absent.

APPEARANCES: V. N. Nweke, Esq., for the Plaintiffs and H. Amos, Esq., holding the brief of Joseph Oche, Esq., for the Defendants


Hon. Justice Phoebe M. Ayua
 Judge
 20/12/2022

