

IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA
ON FRIDAY THE 18TH DAY OF MAY, 2018,
BEFORE HIS LORDSHIP, THE HON. JUSTICE A. I. CHIKERE
JUDGE

SUIT NO: FHC/ABJ/CS/853/2017

BETWEEN:

CHIEF NKEREUWEM UDOFIA AKPAN ===== PLAINTIFF

AND

FEDERAL INLAND REVENUE SERVICE ===== DEFENDANT

JUDGEMENT

The Learned Counsel to the plaintiff Christopher A. Eiche Esq. on the 15/09/17 by way of Originating Summons distilled the following questions for determination by this court thus:

1. Whether the plaintiff is entitled to make the demand for information relating to the all recruitment made from May, 2015 till date as well as the nominal roll of defendants pursuant to the provisions of the Freedom of Information Act, 2011.
2. Whether the Defendants were duty bound to provide the information sought by plaintiff within 7 days vide a letter dated August 8, 2017 and served on defendants on 17th August, 2017.

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Date *25/5/18*

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3. Whether this honourable court can compel the defendants to provide the information required by plaintiff and pay the plaintiff the sum of N500,000.00 (Five hundred thousand naira) for failure to provide the information with the time specified in the Freedom of Information Act, 2011.

The Learned counsel prayed court for the following reliefs:

1. A DECLARATION that the plaintiff is entitled to make the demand for information relating to all recruitments made by defendants from May, 2015 till date as well as the nominal roll of defendants pursuant to the provisions of the Freedom of Information Act.
2. A DECLARATION that defendants were duty bound to provide the information sought by plaintiff within 7 days vide a letter dated August 8, 2017 and served on defendants 17th August, 2017.
3. AN ORDER directing the defendant to provide the information required by plaintiff and pay the plaintiff the sum of N500,000.00 (Five hundred thousand naira) for failure to provide the information within the time specified in the Freedom of Information Act, 2011.
4. COST OF THIS ACTION left at discretion of the honourable court.

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The application is supported by a 7 paragraphs affidavit sworn to by the plaintiff himself. Counsel filed written address.


Upon service, the learned counsel to the defendant on 29/11/17 filed a 22 paragraphs counter affidavit in opposition, sworn to by one Yohanna Dikko. Counsel also filed a written address in support.

I have read the Originating Summons and affidavit in support. I have perused the counter affidavit in opposition. I have thoroughly read the written addresses for and against the grant of the Originating Summons.

The present suit is brought pursuant to **Section 20 of Freedom of Information Act**, which provides:

“Any applicant who has been denied access to information, or a part thereof, may apply to the Court for a review of the matter within 30 days after the public institution denies or is deemed to have denied the application, or within such further time as the Court may either before or after the expiration of the 30 days fix or allow.”

By paragraph 3 of the affidavit in support the demand was made vide a letter dated August 8 2017 and served on the defendant on August 17 2017, (Exhibit A).

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In response to Exhibit A, the defendant in paragraphs 9, 10, 11, 12, 12, 13, 14 etc averred thus:

9. That the defendant upon the receipt of this demand wrote a response to the plaintiff and directed its staff to deliver same to the address contained in the letter.
10. That I was informed by Mr. Benjamin Saturday of the Communication Department of the defendant, who was sent to deliver the response of the following:
 - a. That all attempts to serve the reply on the plaintiff failed as the place was always locked up.
 - b. That upon inquiry from the neighbours, he was informed that the property has been under lock for about 2 months.
 - c. That several trips to the said address have not yielded results as the said address remained locked.
11. That the consents of the staff nominal roll and information on employees being sought by the plaintiff are personal information of staff.
12. That the staff nominal roll contains information such as the names, ranks, grade level, date of appointment, bank account, sort code, designation, location etc.
13. That the consent of the staff are required before such information is given out

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14. That the document been sought by the plaintiff contains the personal information of staff which if released would put such staff at risk and a target of dangerous elements in the society.

From the plaintiff further affidavit filed on 8/12/17, the above facts were not specifically denied as required by Evidence Act and same deemed admitted.

Furthermore, the information sought by the plaintiff are personal information of the staff of the defendant.

Section 14(2) of the Act provides:

“A public institution shall disclose any information that contains personal information if
(a) the individual to whom it relates consents to the disclosure.”

In the letter dated August 2017, the plaintiff requested in paragraph 2 of the letter for

“nominal roll of FIRS staff and all appointments and recruitments made from May 2015 till date”

Nominal roll and appointment of staff are personal to them.

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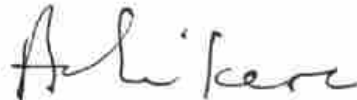
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Without their consent as stipulated by the Freedom of Information Act it cannot be released. Section 14 of the Act is titled Exception of Personal Information.

The meaning of this subtitle or preamble is that personal information is exempted from the Freedom of Information Act. I so hold.

Accordingly the Originating Summons is refused.



HON. JUSTICE A. I. CHIKERE
JUDGE
18/05/18

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Date... 25/5/18

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