

**IN THE SUPREME COURT OF MAURITIUS**  
*Commercial Division*  
*(Before the Honourable Judge in Chambers)*

**SC/COM/WRT/000657/2025**

**In the matter of:**

**TANZANIA INTERNET SERVICE PROVIDERS ASSOCIATION**

**Applicant**

**v**

- 1. African Network Information Centre (AfriNic) Ltd**
- 2. Goltamsingh DABEE**

**Respondents**

**ORDER**

**Mr R. Pursem, Senior Counsel, appears together with Mr A. Sookhoo, of Counsel, for the applicant, instructed by Mr Attorney J. Gujadhur, who is also in attendance.**

**Mr M. Namdarkhan, of Counsel, appears for the respondents, instructed by Mr Attorney N. Ramasawmy, who is also in attendance.**

Mr R. Pursem, SC, files bundle of authorities on behalf of the applicant and rests content with his written submissions.

Mr M. Namdarkhan states that he rests by the written submissions filed on behalf of the respondents. In reply to the point about the 5<sup>th</sup> schedule and the fact that the election is not being conducted at an annual general meeting, he refers to page 53 of the brief clause 11.1 and submits that in the present case, there is no board to call the annual general meeting and the receiver has received a Court mandate to conduct the election to constitute the board. With regards to the question of proxies, he further submits that following issue that one Power of Attorney was found forged, the nomination committee looked into the matter and found the same pattern of signatures. Therefore, the process was stopped and a new process was starting under the supervision of the Electoral Commission.

Mr R. Pursem, SC, submits as regards to the 5<sup>th</sup> schedule, same is a must as it is the law. So, whether you are appointed by the court, the receiver ought to have complied with the 5<sup>th</sup> schedule and the receiver had to ensure that the shareholders who are called upon to vote are apprised of the list of candidates 21 days before the election and as at today, no one knows who are the candidates for the board election.

After hearing legal advisers, **I take time to consider.**

**Later same day,**

In view of the time constraints to determine the present application, the preliminary objections and the merits of the application are dealt with altogether.

After due consideration of the lengthy affidavits of the parties on record, the bulk of documents annexed to the present application and the submissions of Learned Senior Counsel for the applicant and Learned counsel for the respondents, I find that this present application is frivolous and misconceived for the following reasons:

- (i) The present application fails to satisfy the prerequisite requirement of celerity which must underlie any application for injunctive relief sought for before the Judge in Chambers. This finding is based on the following facts as averred in the applicant's affidavits:
  - (a) The applicant's grievances is mainly directed against the respondent no. 1, the Receiver, whom it contended is acting in concert with Cloud for having been appointed by Cloud. However, it is to the knowledge of the applicant that respondent no. 1 has been appointed Receiver since 12 February 2025. Yet he chose to flag those grievances only 15 days before the scheduled date for the current election due to be held on 12 September 2025.
  - (b) Applicant raised concerns of the failure of the Receiver to raise any objection when Cloud was conferred the status of Registered Member. However, based on Annex J of applicant's 1<sup>st</sup> affidavit, this issue arose since May 2025. Whilst it was open to the applicant to raise this issue at the material time, he chose to ignore same and raised it now at two weeks from the scheduled date for the current election.
  - (c) One of the grounds relied upon by the applicant to seek the urgent intervention of this Court to restrain the respondent no. 1 from conducting the election of the Board of Members of respondent no. 2 is the fact that respondent no. 2 has been designated as a Declared Company. Yet, it is to the knowledge of the applicant that respondent no. 2 was designated a Declared Company since 18 July 2025.

Hence, Applicant cannot sleep on its rights and is now, at the eleventh hour, seeking the urgent intervention of the Judge in Chambers to stop an election process which is already underway. The applicant's contention that he would have



acted earlier but in the meantime an Inspector had been appointed did not hold water as same did not in any manner preclude the applicant from entering an application like the present one.

- (ii) The balance of convenience does not tilt in favour of the applicant in preventing an election process which has already started and is to be carried out on the 12 September 2025. Respondent no. 2 has over 2000 members and one member cannot two weeks before the scheduled date of the election, challenge the election at the expense of the other members for reasons to which he was privy since June 2025. Additionally, I take note that respondent no. 2 is without a Board since September 2023 and as per the decision of the Court of Civil Appeal [2024 SCJ 476] the reconstitution of the Board of Afrinic is "*certainly a matter of utmost urgency*".
- (iii) The contradictory stand of the applicant. The purpose of this present application is for an order restraining and prohibiting the Receiver from conducting the Election of the Board of members of respondent no.2 "pending the determination of the application of the applicant for the appointment of a Joint Receiver of AFRINIC or until such time as AFRINIC is no more a Declared Company, whichever is the earlier".

This begs the question as to how the appointment of a Joint Receiver, if same comes earlier, would resolve the issue of respondent no. 2 being a Declared Company.

Albeit the above, the fact that the applicant has been designated a Declared Company did not preclude respondent no. 1 from holding the current election as per his Court mandate dated 12 February 2025 ordering respondent no. 1 to expediate matters regarding the election process for the constitution of the new Board of respondent no. 2. (Annex 7 of the respondent's bundle of documents).

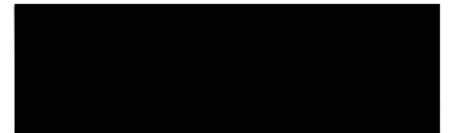
Additionally, the alleged violation of the 5<sup>th</sup> Schedule of the Companies Act and of the constitution of respondent no. 2 as to the manner in which respondent no. 1 is conducting the current election process, is contradictory to the purpose for which the present application has been entered inasmuch as neither the appointment of a Joint Receiver nor the company being no longer a Declared Company would resolve the

issues raised by the applicant of the alleged breach of the laws and of the constitution of respondent no. 2 by respondent no.1.

- (iv) In light of all the above, I find that this present application lacks in all respects the basic requirements of an application for injunctive relief as set out in the leading case of **American Cyanamid Co v Ethicon Ltd 1975 AC 396** inasmuch as there is no serious issue to be tried and the balance of convenience weighs heavily in not granting the injunctive relief sought for by the applicant in the present application.

**I therefore hold that this application is devoid of any merit and is accordingly set aside with costs.**

**Chambers, this Tuesday the 09<sup>th</sup> day of September 2025.**



**K BISSOONAUTH  
JUDGE**