

**UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW**

FINAL EXAMINATION PAPER, MAY 2006

TITLE OF PAPER : ADMINISTRATIVE LAW

COURSE CODE : L205

TIME ALLOWED : THREE (3) HOURS

**INSTRUCTIONS: (1) ALL FOUR (4) QUESTIONS ARE
COMPULSORY**

**(2) MARKS FOR QUESTIONS OR PARTS OF A
QUESTION ARE SHOWN IN BRACKETS.**

**THIS PAPER MAY NOT BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE INVIGILATOR.**

QUESTION 1

Carefully read the following set of facts and then dissect the ensuing problem using your vast knowledge and experience gained from administrative law.

The Radio and Television Act of 1988 is the vehicle through which the allocation of contracts to provide sound broadcasting services is made possible.

To discharge the duty of selecting contractors the Act constitutes or establishes the Independent Radio and Television Commission which is chaired by a former Chief Justice of the High Court, Mr Justice Stanley Sapire.

In early 1989 the Commission awarded two contracts to broadcast (i.e. provide sound broadcasting services) in the Hhohho region. One of the serious contenders among the unsuccessful applicants brought an action against the Commission, their major argument being that the Commission's decision in regard to the contract was void because Mr Sibeko, one of the ordinary members of the Commission was biased by virtue of the fact that he had both his pecuniary and non-pecuniary interest in one of the successful companies, Jazz Station Ltd.

Mr Sibeko's interest stemmed from the fact that he had been involved with CCV Television Ltd. The pecuniary aspect of Mr Sibeko's alleged involvement lay in the fact that he owned some E30,000.00 worth of shares in CCV which owned 70% shares in Jazz Station Ltd. However, it transpired that about a year before the contracts were awarded, Mr Sibeko transferred these shares.

Moreover, Mr Sibeko's daughter was at one stage engaged to Dennis Mlambo, the Chairman of Jazz Station Ltd and CEO of CCV.

Nonetheless before the award of the contracts had to be decided Mr Sibeko's wrote a letter to the Chairman of the Commission (Mr Justice Sapire) in which he pointed out the aforementioned areas of his alleged interests in one of the applicants and sought the Chairman's advice on whether to recuse himself or not. It would appear that the Chairman did not find anything wrong and allowed Mr Sibeko to take part in the decision-making process with regard to the award of the contracts.

Dissect.

(25 marks)

QUESTION 2

- (a) Discuss the two primary remedies associated with judicial review at common law. [10]
- (b) What are the three exceptions to the second remedy which were enumerated by Justice Hiemstra in the case of JHBG City Council v Administration, Transvaal 1969 (2) SA 72? [15]

(25 marks)

QUESTION 3

- (a) Briefly discuss the basic requisites for obtaining an interdict. [10]
- (b) What are the different types of interdicts that obtain under the mandatory interdict and what do they entail? [15]

(25 marks)

QUESTION 4

The office of the Ombudsperson is a very important one in the fight against maladministration and as a means to promoting good governance by public authorities.

- (a) Discuss the functions and jurisdiction of the Ombudsperson and highlight the weaknesses that may render the work of this institution not an absolute effective remedy to curb maladministration. [15]
- (b) As a policy matter does Swaziland need this office? Fully substantiate your answer. [10]

(25 marks)