

**IN THE HIGH COURT OF JUSTICE OF THE  
CAPITAL TERRITORY ABUJA  
IN THE ABUJA JUDICIAL DIVISION  
HOLDEN AT MAITAMA - ABUJA**

**BEFORE: HON. JUSTICE O. C. AGBAZA**

**COURT CLERKS: UKONU KALU, GODSPOWER EBAHOR & ORS.**

**COURT NO:**

**SUIT NO:FCT/HC/CV/2334/2020**

**COURT NO: COURT 6**

**BETWEEN:**

**CHIEF OFFOR WILLIAMS**

**PRESIDENT GENERAL, OHANEZE NDIGBO**

**EBONYI STATE COMMUNITY, FCT ABUJA CHAPTER**

(Suing for himself and on behalf Ohaneze Ndigbo Ebonyi, State  
Community, FCT Abuja Chapter.....)

**CLAIMANT**

**VS**

**1. ODOZI NWODOZI**

**(PRESIDENT, OHANEZE NDIGBO FCT CHAPTER**

**2. JOHN NNIA NWODO**

**(PRESIDENT, OHANEZE NDIGBO, WORLDWIDE.....DEFENDANTS**

**RULING/JUDGMENT**

By an Amended Originating Summons dated 6/10/2020 but filed on 14/10/2020 the Claimant is seeking the determination of the following questions:

- (1) Whether on a proper construction of Article 8 (A) (3) and Article 14 of the Byelaws of Ohaneze Ndigbo FCT Chapter (As

Amended in 2019), the facts and Exhibits contained in the Affidavit in support of the Originating Summons, the tenure of office of the Executive Committee of Ohaneze Ndigbo FCT Chapter which includes the 1<sup>st</sup> Defendant has elapsed.

- (2) Whether having regard to Article 12, Article 15 (B) (15) and Article 15 (D) (2) of the Byelaws of Ohaneze Ndigbo FCT Chapter (As Amended in 2019), the facts and Exhibits contained in the affidavit in support of the Originating Summons, the Executive Committee of Ohaneze Ndigbo FCT Chapter which includes the 1<sup>st</sup> Defendant is empowered and mandated at the expiration of their tenure to constitute the screening and Election Committees for the conduct of the Ohaneze Ndigbo FCT Chapter Election.
- (3) Whether on a proper construction of Article 15 (B) (5) and (6) of the Byelaws of Ohaneze Ndigbo FCT Chapter (As Amended in 2019), it is the turn of the Ebonyi State Community FCT Abuja to produce the next President and other positions equitably distributed among the seven (7) Igbo States which make up the Ohaneze Ndigbo FCT Chapter.
- (4) Whether having regard to the entire Provisions of Article 15 (D) (1) of the Byelaws of Ohaneze Ndigbo FCT Chapter (As Amended in 2019), the facts and Exhibits contained in the Affidavit in support of the Originating Summons, the 1<sup>st</sup> Defendant is ONLY required to write to the National Executive Committee of Ohaneze Ndigbo Worldwide of which the 2<sup>nd</sup> Defendant is the

President to inform them about the expiration of the tenure of the Executive Committee and the General Assembly at least Sixty (60) days to the expiration of their tenure.

- (5) Whether having regard to Article 15 (D) (1) of the Byelaws of Ohaneze Ndigbo FCT Chapter (As Amended in 2019), the facts and Exhibits contained in the affidavit in support of the Originating Summons, and having regard to the Constitution of the Byelaws of Ohaneze Ndigbo Worldwide 2004 (As Amended), the 2<sup>nd</sup> Defendant is not empowered to constitute Caretaker Committee to oversee the affairs of the Byelaws of Ohaneze Ndigbo FCT Chapter.

If the Answers to the foregoing questions are in the affirmative, the Claimant seeks the following reliefs:-

- (6) **A DECLARATION** that on a proper construction of Article 8 (A) (3) and Article 14 of the Byelaws of Ohaneze Ndigbo FCT Chapter (As Amended in 2019), the facts and Exhibits contained in the Affidavit in support of the Originating Summons, the tenure of office of the Executive Committee of the Ohaneze Ndigbo FCT Chapter of which the 1<sup>st</sup> Defendant is the President has elapsed.
- (7) **A DECLARATION** having regard Article 12, Article 15 (B) (15) and Article 15 (D) (2) of the Byelaws of Ohaneze Ndigbo FCT Chapter (As Amended in 2019), the facts and Exhibits contained in the Affidavit in support of the Originating Summons, the Executive Committee of Ohaneze Ndigbo FCT Chapter of which

the 1<sup>st</sup> Defendant is the President is empowered and mandated at the expiration of their tenure to constitute the screening and Election Committees for the conduct of the Ohaneze Ndigbo FCT Chapter Election.

- (8) **A DECLARATION** that it is the turn of the Ebonyi State Community, FCT, Abuja to produce the next President and other positions equitably distributed among the seven (7) Igbo State Association which make up the of Ohaneze Ndigbo FCT Chapter.
- (9) **A DECLARATION** that the 2<sup>nd</sup> Defendant is not empowered to constitute Caretaker Committees to oversee the affairs of the Byelaws of Ohaneze Ndigbo FCT Chapter.
- (10) **AN ORDER** mandating the 1<sup>st</sup> Defendant and the Executive Committee Ohaneze Ndigbo FCT Chapter to constitute the screening and Election Committees to conduct election for the respective offices of the Ohaneze Ndigbo FCT Chapter whose tenure has elapsed within one (1) month.
- (11) **AN ORDER** restraining the 2<sup>nd</sup> Defendant, his Agents, Privies and Assigns from constituting Caretaker Committee or any Committees whatsoever to do or carry out any action(s) whatsoever and/or to oversee the affairs Ohaneze Ndigbo FCT Chapter.
- (12) **AN ORDER** voiding the appointment of any Caretaker Committee or any Committees whatsoever constituted by the 2<sup>nd</sup> Defendant

to carry out any action(s) whatsoever and/or to oversee the affairs Ohaneze Ndigbo FCT Chapter.

(13) And for such further Order(s) this Honourable Court deems fit to make in the circumstances.

In support of the Amended Originating Summons is a 21 Paragraph affidavit deposed to by the Claimant with 4 Exhibits attached marked "A" – "D". Filed a Written Address and adopts the Address.

In response to the Amended Originating Summons, the Defendant filed a Counter-Affidavit of 18 Paragraph on 24/2/2021, sworn to by Tony Ogbulafor with Exhibits attached marked 1 and 2. Also filed Written Address and adopts the Address, in urging the Court to dismiss the Suit.

On receipt of the Counter-Affidavit, the Claimant filed a Further Affidavit on 5/10/2021 with One (1) Exhibit attached marked 1 and a Written Address.

In the Written Address of Claimant Emeka Ibeneme counsel for Claimant, formulated a sole issue for determination and that is;

"Whether the Plaintiff based on the affidavit and materials placed before this Hon. Court is entitled to the grant of the reliefs sought".

And submitted that the Suit borders on the Bye-laws of Ohaneze Ndigbo FCT Chapter (As Amended in 2019). That the Article creates a contract which derives its binding force from an undertaking by members individually who subscribes to it, refers to Article 1 (B) of the Bye-laws. That 1<sup>st</sup> Defendant having undertook to abide by the Bye-laws is bound to comply with its

Provisions failure of what will entitle Claimants and those he represent to sue and enforce them. That for Claimant to disclose sufficient interest entitling him to sue on behalf of himself and others there has to be some wrong occasioned to him and others. That 1<sup>st</sup> Defendant whose tenure elapsed since 23/8/2019 have refused/or neglected to constitute a screening and Election Committee to conduct election for Ohaneze Ndigbo FCT Chapter. Further that 2<sup>nd</sup> Defendant on his own frolic appoints Caretaker Committee to oversee the affairs of Ohaneze Ndigbo FCT Chapter. That failure of 1<sup>st</sup> Defendant to comply with the Provisions of Article 15 (B), (15) Article 15 (D) (2) of Bye-laws have affected Claimant and other persons he represent. Further that no where it is provided in the Constitution of Ohaneze Ndigbo Worldwide 2004 (As Amended) that 2<sup>nd</sup> Defendant is empowered to appoint Caretaker Committee for Ohaneze Ndigbo FCT Chapter. That by the action of Defendants, claiming and those he represent cannot stand by and allow Defendants enthrone illegality.

Also submitsthat it is the turn of Ebonyi State Community, FCT Abuja to produce the next President of Ohaneze Ndigbo FCT Chapter and other positions equitably distributed among the affiliate States. Refer the court to Article 15 (B) (5) and (6) of the Bye-laws.

In the Written Address of Defendants settled by Kingsley O. Uti, three (3) issues were formulated for determination:-

- (1) Whether the instant Suit complies with the Provisions ofthe Rules of this Hon. Court?

- (2) Whether Exhibit "C" attached to the Claimant's affidavit is competent to be relied upon by this Court.
- (3) Whether the 1<sup>st</sup> Defendant has power to screen candidates and conduct election into the Executive of Ohaneze Ndigbo FCT Chapter?

On issue 1, answered it in the negative and submitted that the originating Summons filed falls short of the strict prescription of Order 2 Rule 5 of Rules of Court. Cited Ekechi Vs Okah (1993) 1 NWLR PT 267, 34, Johnson Vs Osaye (2001) 9 NWLR PT 719, 729, Umoh Vs Nkan (2001) 3 NWLR PT 701, 512. That failure of Claimant to adhere to the Provisions of the Rules is fatal to this case.

On issue 2, also answered in the negative and refer to Annexure 1 accompanying 2<sup>nd</sup> Defendant's affidavit. That 1<sup>st</sup> Defendant was elected and became President of Ohaneze Ndigbo, FCT Chapter in August, 2019 for single term of 4 years in line with Article 14 of Constitution and due to misconduct was suspended from by Ime Obi Ohaneze, FCT Chapter on the directive of the National Executive Committee pursuant to Article 10 (3) (c) Constitution of Ohaneze Ndigbo Worldwide and the suspension remained in force until the tenure of 1<sup>st</sup> Defendant expired in August 2019. That 1<sup>st</sup> Defendant while on suspension drafted and passed the Exhibit "C" which does not comply with Article 29 of Ohaneze Ndigbo Constitution (Worldwide). Submitted that the power of 1<sup>st</sup> Defendant to act as president of Ohaneze Ndigbo FCT Chapter abated from the time he was suspended by the Ime Obi. Cited Oshiomole Vs APC (2020) (Unreported).

Submitted that the extant Constitution of Ohaneze Ndigbo, FCT Chapter, the Exhibit 1, is silent on amendment and therefore recourse must be had to the parent Constitution, refer to Article 29 of Ohaneze Constitution, the Exhibit "D". That the procedure for amendment was not complied with and therefore Exhibit "C" is null and void and any act done therefrom is of no effect.

On issue 3, submitted that having regard to the invalidity of Claimant's Exhibit 'C', the 2<sup>nd</sup> relief cannot be granted. That the power to conduct election into the Chapter's Executive Committee is vested on the Ime Obi. Referred to Article 4 (a) of the Extant Constitution of FCT Chapter.

I have given an insightful consideration to the instant application, the questions set out for determination, the reliefs sought, the affidavit evidence, the Exhibits annexed, the written submission of counsel as well as the judicial authorities cited and finds that only one (1) issue calls for determination and that is;

"Whether the Claimant has made out a case to warrant the grant of the reliefs sought in this Suit"

Before proceeding to determine this sole issue distilled for determination, I shall consider the issue raised by Defendants that this Suit did not comply with the Provisions of the Rules because the originating Summons filed by Claimant fall short of the strict prescription of Order 2 Rule 5 of the Rules of Court and therefore incompetent. I have looked at the Originating Summons filed by Claimant vis-à-vis the Order 2 Rule 5 of the Rules referred to by Defendants and find that indeed it is not in strict compliance with the Rules.



However, this non-compliance does not rendered it invalid or incompetent as argued by Defendants. Such situations are treated as an irregularity by the Rules which does not rendered the Originating Summons invalid or incompetent. See Order 5 Rule 1 (2) and (3) of the Rules. See also Okoli Vs NSITF Management Board & Anor (2016) LPELR – 4223 (CA). Therefore the argument of the Defendants on the point does not avail the Defendants.

Now to the sole issue distilled for determination by the court.

It is the affidavit evidence of Claimant that 1<sup>st</sup> Defendant and other Executive Committee Members of Ohaneze Ndigbo, FCT Chapter came into office on 23<sup>rd</sup> August, 2015 for single term of 4 years and whose tenure expired on 23<sup>rd</sup> August 2019. That in consonance with the Bye-laws of Ohaneze Ndigbo, FCT Chapter (As Amended in 2019) they are empowered and mandated at the expiration of their tenure to constitute the screening and Election Committees for conduct of Ohaneze Ndigbo FCT Chapter election and that they wrote to 2<sup>nd</sup> Defendant during the expiration of his tenure. That 2<sup>nd</sup> Defendant upon receipt of the letter appointed caretaker committee to take over the affairs of the FCT Chapter and 1<sup>st</sup> Defendant has refused and/or neglected to constitute the screening and Election Committee for conduct of election. That if the 1<sup>st</sup> Defendant and his Executive Committee are not ordered by the court to constitute the screening and Election Committees for conduct of election for the FCT Chapter, there will not be any Executive Committee and the various offices will be vacant. That by virtue of Article 15 (B) (5) and (6) of Bye-laws and in an alphabetical order of the seven states that makes up the Ohaneze Ndigbo, FCT Chapter it is the turn of Ebonyi State Community, FCT Chapter to produce the next President and other

positions equitably distributed among the seven states. That the actions of 1<sup>st</sup> Defendant in refusing and/or neglecting to constitute screening and Election Committees negates the Bye-laws and the Constitution of Ohaneze Ndigbo Worldwide 2004 does not empower 2<sup>nd</sup> Defendant to appoint Caretaker Committee.

The Defendants, on the otherhand, though admitted that the tenure of the Executive members expired on 23<sup>rd</sup> August, 2019, contended that the 1<sup>st</sup> Defendant ceased to be President consequent upon his suspension from office by the Imo Obi on grounds of gross misconduct on 19<sup>th</sup> May, 2018 and therefore his tenure elapsed prior to that of his Executive Committee. That having been suspended lacks the power to constitute the screening and Election Committee to conduct election into the Executive Committee of the FCT, Chapter. That such power is vested on the Imo Obi of the Chapter. That due to the unresolved issues arising from the FCT Chapter, they were unable to set up screening and Election Committees to conduct Election and the National Executive Committee invoke its supervisory powers and set up screening and Election Committees from among members of the Chapter to conduct election into the Executive Committee and restore peace and unity in the Chapter. Further that FCT Chapter has no Bye-law called Bye-laws of Ohaneze Ndigbo, FCT Chapter (As Amended in 2019). That at all material time, the FCT Chapter is governed by its constitution of 2004. That the Bye-law annexed to Claimant's affidavit is contrived for the purpose of this action. Also that the Bye-law does not comply with the Provisions of the FCT Chapter's Constitution. That the Constitution of Ohaneze Chapter or branch in states outside Igbo land and places outside Nigeria shall be submitted to Ime

Obi for approval before it becomes law. That the National Constitution and Constitution of FCT Chapter determine equitable distribution of Executive Provision amongst the Constituent States.

From all of these contentions, several issues comes up for consideration. First isthe issue of the Bye-laws of Ohaneze Ndigbo, FCT Chapter (As Amended in 2019), that is Exhibit "C" of Claimant which Claimant heavily relied upon in his claims. The Defendants have posited that the FCT Chapter has no Bye-laws and never had one. That the Bye-law annexed to Claimant's affidavit, isthe Exhibit "C" is contrived for the purpose of this Suit. In determining this contending issue recourse is had to the Constitution of Ohaneze Ndigbo, FCT Chapter 2004, that is the Exhibit 2, annexed to the Defendants affidavit which is same document the Defendants strongly contended governs the FCT Chapter at all material times and the question is; whether the Constitutionof the FCT Chapter, 2004 makes Provision for Bye-laws for the FCT Chapter?

The answer tothis poser is in the affirmative. Article 9 (2) (j) of the Constitution of FCT Chapter, 2004 makes Provision for Bye-laws for the FCT Chapter and it ison the basis of this Provision that the Bye-laws of FCT Chapter (As Amended in 2019), Exhibit "C" ofthe Claimant, was made. The Defendants, therefore cannot say that the Claimant's Exhibit "C" was contrived for the purpose of this action or that FCT Chapter has no Bye-laws or had never had one. Their argument on the issue, therefore, does not avail the Defendants.

On the issue that the Bye-laws does not comply with the Provisions of Ohaneze Ndigbo FCT Chapter's Constitution. The Defendants have argued that the Constitution of Ohaneze Chapter or branches in states outside Igbo Land and in places outside the country shall be submitted to the Ime Obi for approval before it becomes law. Again this argument of the Defendants is untenable and unavailing. First, as earlier stated the Constitution of FCT Chapter 2004 makes Provisions for Bye-laws. Secondly, there is nowhere in the Constitution of the FCT Chapter, 2004 wherein it is provided that the Constitution of Ohaneze Ndigbo branch or Chapter shall be submitted to the Ime-Obi for approval before it becomes law neither did counsel referred the Court to particular Provision wherein it is provided.

Having determined that the FCT Chapter have a Bye-law (As Amended in 2019), in considering this instant suit therefore, the Extant Law for consideration is the said Bye-law, that is the Exhibit "C" annexed of the Originating Summons. And in the construction and interpretation of relevant Provisions of the Bye-law, the court will be guided by the laid down canon of interpretation which is simply that where the ordinary plain meaning of the words used in a statute are clear and un-ambiguous, effect must be given to those without resorting to intrinsic or external aid. See *Coco-Cola Nig Ltd Vs Akinsanya* (2018) All FWLR PT 931, 614.

In this instant case, five (5) questions are up for determination. On question 1, Claimant relied on the Provision of Article 8 (A) (3) and 14 of the Bye-laws. Article 8 (A) (3) provides:

“There shall be Twenty-Six (26) members of the Executive Committee who shall be elected every four (4) years.....”

And by Article 14:

“All the Executive Committee members of the organization shall be elected for a single term of Four (4) years”.

From the provision it is clear that the tenure of any Executive Committee for the FCT Chapter is for Four (4) years. In this instant case, the Executive Committee which includes 1<sup>st</sup> Defendant, were elected into office on 23<sup>rd</sup> August, 2015 and by computation their tenure elapsed on 23<sup>rd</sup> August, 2019. These facts were even attested to and admitted by the Defendant in their affidavit evidence. This therefore, answered the question in the affirmative and in favour of the Claimant. On the point by Defendants that 1<sup>st</sup> Defendant ceased to be President upon his suspension from office on 19<sup>th</sup> May, 2018 and that his tenure elapsed prior to that of his Executive Committee. This contention of Defendant is not tenable. First, the 1<sup>st</sup> Defendant is part of the Executive Committee and his tenure cannot be severed from that of other members of the Executive Committee. Secondly, the Claimant has stated in his further-affidavit evidence that the suspension of the 1<sup>st</sup> Defendant was not recognized by the National Body of Ohaneze Ndigbo, a fact the Defendant never contradicted or deny.

On question 2, the Claimant referred to Article 15 (B) (15) And 15 (D) (2) of the Bye-laws both of which are of similar Provisions as follows:-

“The Executive Committee of Ohaneze Ndigbo, FCT shall constitute the screening and Election Committees.....”

It is also obvious from the above Provision that it is the Executive Committee of Ohaneze Ndigbo FCT Chapter which includes the 1<sup>st</sup> Defendant that is empowered and mandated to constitute the screening and Election Committees for conduct of Ohaneze Ndigboi FCT Chapter Elections. This, invariably answered the question 2 in the affirmative and also in favour of the Claimant. The point by the Defendant, that 1<sup>st</sup> Defendant having been suspended lacks the power to constitute screening and Election Committees, cannot be sustained. First, as earlier stated, the suspension of the 1<sup>st</sup> Defendant, was not recognized by the National Body of Ohaneze Ndigbo and therefore 1<sup>st</sup> Defendant was part and parcel of the Executive Committee. Secondly, Article 15 (B) (15) and 15 (D) (2) did not state that it is the 1<sup>st</sup> Defendant that shall constitute the screening and Election Committees, rather it is the Executive Committee which 1<sup>st</sup> Defendant is part of that is vested with the powers to constitute the screening and Election Committees.

On question 3, the Claimant referred the court to Article 15 (B) (5) and (6) which provides as follows:-

15 (B) (5) “The office of the President shall be rotated among all the component states. The rotation shall follow alphabetical order”.

And by (6) “Positions other than the President shall be equitably distributed provided that the Deputy President, Secretary and Treasurer do not come from same state as the President”.

Clearly from the Provisions, the position of the President shall be by rotation and other Executive positions to be equitably distributed among the constituent states. And on this basis, the Claimant stated that it is the turn of Ebonyi State community, FCT Abuja to produce the next President and other positions equitably distributed among the seven (7) constituent states that makes up Ohaneze Ndigbo, FCT Chapter. The Defendant did not controvert these facts of Claimant, rather contended that it is the Constitution of the National Ndigbo and the Constitution of FCT Chapter of Ohaneze Ndigbo that determines equitable distribution of Executive positions amongst the Constituent states, without more. I have earlier stated that in considering this instant Suit, it is the Bye-laws made pursuant to Article 9 (2) (j) of the Constitution of FCT Chapter, 2004 that shall be of consideration. In effect, the facts as presented by the Claimant is deemed to be correct and true in the absence of contradiction or denial by the Defendants. The question 3, therefore, is answered in the affirmative and in favour of the Claimant.

On questions 4 and 5 taken together. Both are of same Provisions, that is Article 15 (1) (1) of the Bye-laws which Claimant referred the court to. It reads;

15 (1) (1) " The Executive Committee and the General Assembly shall write to inform the National Executive Committee of Ohaneze Ndigbo of the expiration of their tenure at least Sixty (60) days to the expiration of their tenure".

By virtue of the above Provisions, the Executive Committee and the General Assembly shall write to inform the National Executive Committee which 2<sup>nd</sup> Defendant is President of Ohaneze Ndigbo of the expiration of the tenure of the Executive Committee without more. The Claimant has stated in his affidavit evidence that they complied with this requirement of the Bye-laws by writing to the National Executive Committee, a fact the Defendant also did not deny or controverted which fact the court shall also take as true and correct. The Article 15 (D) (1) of the Bye-laws under consideration did not give the National Executive Committee or the 2<sup>nd</sup> Defendant the power to set up Caretaker Committee for the Ohaneze Ndigbo, FCT Chapter. The questions 4 and 5 is therefore answered in the affirmative and in the negative respectively.

Having considered and proffered answers set out in the Originating Summons, it is for court to determine whether the Claimant is entitled to the reliefs sought.

Consequent upon the determination of questions 1, 2, 3, 4 which the court have answered in the affirmative, the Claimant is entitled to the reliefs 1, 2, 3 and 4 as prayed and they are hereby granted. Also upon the determination of the question 5 which the court have answered in the negative, the Claimant is also entitled to the relief 5 as prayed. It is also hereby granted.

This is the Ruling of the court.



Signed

**HON. JUSTICE C.O. AGBAZA**

Presiding Judge.

14/12/2022

**APPEARANCE:**

EMEKA IBENEME ESQ - FOR THE CLAIMANT

UZEZI I. OBEUWOU ESQ - FOR THE 1<sup>ST</sup> DEFENDANT

NO APPEARANCE FOR THE 2<sup>ND</sup> DEFENDANT

