

ST. VINCENT AND THE GRENADINES

IN THE HIGH COURT OF JUSTICE

CIVIL SUIT NO. SVGHCV104 / 2003

BETWEEN:

CABLE & WIRELESS (WEST INDIES) LIMITED

Claimant

and

THE NATIONAL TELECOMMUNICATIONS REGULATORY COMMISSION

Defendant

Appearances:

Mr. Derek Jones and Mr. Samuel Commissiong, instructed by Commissiong & Commissiong for the applicant.

Mr. Anthony Astaphan SC, Mr. Grahame Bollers and Mr. Joseph Delves, instructed by Mr. Joseph Delves for the respondent.

2003:March 28, 31.

JUDGMENT

ALLEYNE J.

[1] There being no opposition to the application for leave to apply for judicial review of the decision of the respondent of 7th March 2003 to declare the applicant a dominant provider of telecommunications, leave is granted.

[2] Learned senior counsel for the respondent has applied for an adjournment of the application for a stay of the decision until the application for judicial review has been heard and determined on its merits. The application was filed on 17th March, and Mr. Astaphan asserts that his busy schedule has not enabled him to

adequately address this application, which, he says, has serious public law and public interest implications.

- [3] Mr. Astaphan is of course aware that the busyness of counsel is not a legitimate ground for adjourning the hearing of an application which complies with the time lines laid down in the **CPR 2000**, which this application does.
- [4] Learned senior counsel submitted that the present situation, that is the declaration that the applicant is a dominant provider, does not give rise to irreparable harm to the applicant, but simply to the need for the applicant to justify the increases in rates proposed. I take this as an indication that the respondent NTRC does not intend to take any steps pursuant to the declaration until after the trial and disposition of the issue, in respect of which he requests a speedy trial as a condition of the adjournment.
- [5] In the circumstances, I will refrain from giving consideration to the application for a stay at this time, and adjourn this application. I also direct that this matter proceed to a speedy trial on the 9th day of May 2003, and that the matter be placed before the Master for case management this week, to the end that all matters be put in place for a trial on that date.
- [6] The applicant is granted liberty to approach the court on the matter of the application for a stay in the event that the respondent take any steps pursuant to the declaration of dominance which the applicant considers unfairly prejudices its position.

Brian G.K. Alleyne
High Court Judge