

The State (On the application of Fabiano Piyano) and Lundu Nkhuku as Paramount Lundu & Others Judicial Review Case No. 23 of 2023

Judgment

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Allan Hans Muhome
Cause Number:	Judicial Review Case No. 23 of 2023
Date of Judgment:	July 10, 2025
Bar:	Mr. Ambokile Salimu, Counsel for the Claimant Mr. Kondwani Kunitengo, Counsel for the Defendants

1. Upon the death of Aaron Gideon who was Group Village Headman Gaga, Senior Chief Chapananga wrote the Claimant's family to choose a replacement by a letter exhibited as AB 1 dated 9th August 2021. The family chose the Claimant and he was duly installed as Group Village Headman Gaga on 28th December 2021 by Senior Chief Chapananga himself.

2. The 3rd Defendant lodged a complaint which the 2nd Defendant escalated to the 1st Defendant. The 1st Defendant, Paramount Lundu, passed a decision stopping the Claimant from exercising the chieftaincy per exhibit AB 2. The 1st Defendant did not file any papers and he did not attend Court.

3. The 2nd and 3rd Defendants deponed that the Chewa chieftaincy is passed from an uncle to a nephew and not from a father to a son. That the Claimant is not entitled to the chieftaincy but the 3rd Defendant as determined by Paramount Lundu.

4. The Claimant maintains that he is from the matrilineal side and he was not heard by Paramount Lundu. He seeks an order declaring him a Group Village Headman Gaga.

5. The application is further supported by a sworn statement of Counsel Salimu. He states that the 3rd Defendant's family (Gideon's) held the chieftaincy till 2021 when elders decided that the chieftaincy be handed back to the Elube family (Gaga's), where the Claimant belongs.

6. Having considered the evidence on record and in the absence of an explanation from Paramount Lundu, this Court finds that the Claimant was not duly heard by Paramount Lundu before he was stopped from exercising his chieftaincy duties.

7. This is a clear breach of section 43 of the Republican Constitution of Malawi (1994) which provides as follows:

Every person shall have the right to—

- a) lawful and procedurally fair administrative action, which is justifiable in relation to reasons given where his or her rights, freedoms, legitimate expectations or interests are affected or threatened; and
- b) be furnished with reasons, in writing, for administrative action where his or her rights, freedoms, legitimate expectations or interests are affected.

8. The action of Paramount Lundu followed a lawful installation by Senior Chief Chapananga. This Court finds it reasonable to assume that Senior Chief Chapananga ascertained that the Claimant was the rightful heir, before formalising his appointment. This Court therefore confirms him as Group Village Headman Gaga.

9. Each party shall bear their own costs.

Made in Open Court this 10th July 2025.