

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

Summary

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

The Claimant, who had been formally installed as Group Village Headman Gaga, sought judicial review in the High Court of Malawi, Principal Registry, against a decision by the First Defendant, Paramount Lundu, that stopped him from exercising his chieftaincy duties. The Claimant's installation followed the death of the previous Group Village Headman and was conducted by the Second Defendant, Senior Chief Chapananga, after the family had chosen the Claimant as a replacement. Following a complaint by the Third Defendant, Paramount

Lundu issued a decision stopping the Claimant from performing his duties. The Claimant contended that Paramount Lundu's decision was procedurally unfair as he was not granted a hearing prior to the decision being made. The First Defendant did not file any papers or attend court to defend the action. The Second and Third Defendants argued that the chieftaincy passes from an uncle to a nephew, and therefore the Third Defendant was the rightful heir.

The Court was tasked to determine whether Paramount Lundu's administrative action was lawful and procedurally fair, in light of the Claimant's right to be heard.

The application was allowed and the Claimant's appointment as Group Village Headman Gaga was confirmed. The Court found that Paramount Lundu's action in stopping the Claimant's chieftaincy without a hearing was a clear breach of section 43 of the Constitution. The Court reasoned that since the installation was conducted by Senior Chief Chapananga, it was reasonable to assume the Senior Chief had ascertained the Claimant's rightful heirship, and therefore, Paramount Lundu's decision lacked procedural fairness. The Court ordered each party to bear its own costs.