

The Registered Trustees of the Socio Economic Rights and Accountability Project (SERAP) {Plaintiff}

AND

The Governor of Oyo State & Attorney General of Oyo State {Defendants}

The Registered Trustees of the Socio Economic Rights and Accountability Project (SERAP) [Plaintiff] requested information detailing, inter alia, the total amount of the Universal Basic Education Commission (UBEC) intervention funds accessed by Oyo State Government [Defendants]; counterpart funds provided for primary education by the Oyo State Government; details of projects which such funds have been used to prosecute and the exact amount expended on each of such projects since 2005.

Upon deemed denial, the Plaintiff, by its Originating Summons, sought for the court to determine whether by the provision of Section 4(a) of the Freedom of Information Act 2011 (Fol Act) the defendants are under legal obligation to provide the information it requested for and consequently compel the defendants to release such information as requested.

Counsel to the defendants, O. A Iadapo Esq., by a Notice of Preliminary Objection questioned the jurisdiction of the court to entertain and determine the cause of the plaintiff. He stated that Section 20 of the Fol Act provides for "Judicial Review" as the only adjudicatory procedure for Fol related matters. Citing the incompetence of the origination process to wit that the suit of the claimant was not commenced by the proper originating process as provided by Section 20 of the Freedom of Information Act, he prayed the court to strike out the suit.

Solomon Edoh Esq. counsel to the Plaintiff, in his reply, stated that Section 20 of the Fol Act does not stipulated the mode through which an aggrieved applicant must invoke the court's jurisdiction for the review of a decision denying him access to the information sought but allows an aggrieved applicant the choice of litigation.

Justice P.O Ige after due consideration of the arguments on both sides held that Section 20 of the Fol Act provides for judicial review as the only procedure for initiating FOI related matters in the courts. In his words "*the words 'may apply to the court for a review of the matter' could only mean that, if the Applicant.... was denied the necessary information he can apply to the courts vide an application for a Judicial Review of the decision of the public institution concerned for an order of mandamus to compel the Public institution to provide the information if the court considers it appropriate that the applicant is entitled to it*".

He also stated that an applicant "*must approach the courts under Order 40 Rules 3 of the High Court (civil Procedure) of Rules of Oyo State to seek leave of court to bring an application for the appropriate order against the recalcitrant public institution refusing to give the applicant the information he requires*".

Striking out the matter for want of jurisdiction on the part of the Court to entertain or adjudicate over the action as it is incompetent, His lordship stated that "*the action herein ought to have been commenced or initiated via an Application for Judicial Review and not by Originating Summons as was done in this matter*".