

WAR ON CORRUPTION

as graft war sparks fresh disputes

Murgor barred by new court rules

By NATION Correspondent

The new rules seeking to speed up the prosecution of criminal cases took effect yesterday when a Nairobi court declined to refer a case by former public prosecutions boss Philip Murgor to Chief Justice Evan Gicheru.

Mr Justice Gicheru had earlier gazetted the new rules that make it difficult for suspects to obtain court injunctions. The *High Court Practice and Procedure Rules* say that a constitutional application can be heard by a single judge, hence vesting the powers of interpreting the Constitution with the High Court. High Court judge Roselyne Wendoh declined to grant the application by Mr Murgor, saying that the new rules did not provide for the matter to be referred to the CJ.

However, the judge adjourned the case to April 4 following an application by Mr Murgor's lawyer, Mr Cecil Miller.

Yesterday's order arose out of an application by the former seeking to challenge the revocation of his passport and gun licence.

He had on two occasions unsuccessfully sought orders to stop the police from arresting and prosecuting him in connection with the multi-billion-shilling Goldenberg scandal.

Mr Murgor had sued the attorney-general, the commissioner of police, the chief firearms licensing officer, the principal immigration officer and the Government spokesman over the cancellation of his passport.

He claimed that the decision to take away his passport was intended to stop him from travelling to the UK to meet former Ethics and Governance permanent secretary John Githongo.

Mr Murgor said he was recently in touch with Mr Githongo and was to accompany the Public Accounts Committee to London to record his evidence on the Anglo Leasing scandal.

Mr Murgor was among prominent personalities ordered to surrender their passports and firearms to the police pending further investigations into the Goldenberg affair.

His passport was issued on May 9, 2003, and the gun permit in March 1991.

Mr Murgor had sought an order to have the immigration officer stopped from impounding his passport. He also wanted the firearm licensing officer stopped from revoking his certificate or withdrawing the gun, pending the hearing of the case.

In response, the State said Mr Murgor's application was an abuse of the court process because he was seeking to direct police investigations into the Goldenberg affair in a particular manner to exclude himself from the investigations.

The granting of a firearm licence, the State said, was not a constitutional right.



Photo/Paul Waweru

Deputy solicitor-general Muthoni Kimani leaves a Nairobi court yesterday after the hearing of a case in which former Public Prosecutions director Philip Murgor has objected to the revocation of his passport and withdrawal of his gun.

FACE-OFF

Rights watchdog cries foul on audit queries

By DAVID OKWEMBAH

The Kenya National Commission on Human Rights is accusing the Government of trying to use an audit report to silence it because of its high profile exposures of human rights abuses and corruption. This follows queries raised about its accounts by the controller and auditor-general.

The issue has provoked a spat between the commission, chaired by Mr Maima Kiai, and the permanent secretary in the ministry of Justice and Constitutional Affairs, Ms Dorothy Angote. Sources at the ministry, however, dismiss the defence and in turn say that on-going consultations may result in the watchdog being investigated further.

Ms Angote wrote to the commission on February 10 demanding answers to the audit queries. After the *Nation* made inquiries on the issue at the commission last week, Mr Kiai called a meeting and informed commissioners and staff about the queries raised by the PS.

He said the queries amounted to those opposed to the war against corruption fighting back. He told his staff that they should expect more issues to come up, especially after the recent recognition given to former PS for Ethics and Governance John Githongo and the report on extravagance by Narc ministers. Mr Kiai assured the staff that all queries raised by the audit had been adequately addressed.

In an interview with the *Nation*, commission secretary Mburu Gitu adopted the same tone, terming the letter from the PS harassment and intimidation. "This is corruption fighting back. We

shall soldier on with the fight and we hope the media will support us," Mr Gitu said.

But Ms Angote said the commission had written to her but had not made any attempt to address the issues she had raised.

The PS said Mr Kiai and his commissioners were free to give more human rights awards, but that does not give them immunity from issues raised by the controller and auditor-general. Among the queries raised by controller and auditor-general Evan Mwai in the 2004 accounts is an expenditure of Sh809,033.25 that was paid to Mr Kiai as relocation expenses from the United States to Kenya.

A further Sh527,230 was paid to commissioners Khelef Khalifa and Godana Doyo to relocate from Mombasa and Isiolo respectively. But Mr Gitu accused the PS of raising issues which were not part of

'This is graft fighting back. We shall soldier on'

the audit query. He mentioned purchase of vehicles and relocation expenses. On the expenditure of Sh2.9 million, he said the amount was incurred by the predecessor of the Commission, the Standing Committee on Human Rights. He said all the receipts and vouchers had been forwarded to the ministry.

On unsupported expenditure of Sh264,811, Mr Gitu said original invoices were being awaited from Serena, Holiday Inn, Panafic and Norfolk hotels and musician Eric Wainaina. He said the commissioning the audit by Ernst & Young was motivated by the desire to achieve high levels of accountability and transparency.

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