

Supreme Court judgment reiterates that it is not the role of the Court to interfere with the powers vested in public authorities absent procedural impropriety, illegality, bad faith, or reliance on irrelevant considerations, and a delay to make an application must be explained.

On 21 September 2026, the Supreme Court handed down its judgment in *G. Murday v. Ministry of Agro-Industry, Food Security, Blue Economy and Fisheries i.p.o The Public Service Commission and others* [2026 SCJ 405]. The question which the Court was called upon to decide turned on whether the applicant's application for leave to apply for judicial review had been made promptly.

The applicant waited some 9 weeks after the impugned decision before filing his application and never explained the delay, let alone mention it in his affidavit. His fallback argument was a medical certificate which mentioned that he was suffering from stress at the time and was given one week's rest which was incidentally the date of his change in posting with immediate effect.

This was not good enough. The Supreme Court held that the applicant failed to show that he acted "with the requisite promptness" when lodging the application.

NOTE: This application for judicial review predates section 76C of the Courts Act (in force since 5 January 2026), which now sets a firm 45-day deadline for leave applications to be made.

It is also worth highlighting the position restated by the Supreme Court, namely that it is not the role of the Court to interfere with the powers vested in public authorities unless it can be shown that their decisions:

- (i) are procedurally improper, or
- (ii) are illegal, or
- (iii) have been taken in bad faith, or
- (iv) took irrelevant matters or failed to consider relevant ones.

Significance:

Delay is not fatal on its own. Failing to explain it is. Any applicant who is late must account for the delay right away.

It is to be noted that under the new section 76C(5) of the Courts Act, if an application for leave to apply for judicial review is made after the delay of 45 days, the applicant must explain and justify the delay – absent good cause shown, the Judge in Chambers will reject the application.

In addition, as rightly observed by the Supreme Court in the *Murday* decision, it is not sufficient to merely invoke all well-known grounds for judicial review without backing any of them up. This observation is also a reminder that an application cannot be argumentative, speculative, unsubstantiated and based on mere assumptions and suggestions. (*Mauritius Sailors Home Society v. Seafarers' Welfare Fund & Anor* [2015 SCJ 330])

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