



THE COURT OF APPEAL

Neutral Citation Number: [2017] IECA 5

[2015 No. 276]

The President

BETWEEN

NOEL LONG

PLAINTIFF / APPELLANT

AND

BORD BIA, IRISH NATIONAL ACCREDITATION BOARD, NATIONAL STANDARDS AUTHORITY OF IRELAND, DEPARTMENT OF AGRICULTURE, FOOD AND THE MARINE

DEFENDANTS / RESPONDENTS

JUDGMENT of the President delivered on 20th January 2017

1. This is a motion brought by Mr. Long in relation to his application for leave to appeal the judgment of this Court to the Supreme Court. He seeks to challenge the manner in which Bord Bia, as a national accreditation body, implements Regulation EC 765/2008.
2. On 25th March 2015, Mr. Long's proceedings were struck out by Baker J. of the High Court. He appealed to this Court which upheld the judgment on 8th November 2016 in finding that he did not have the standing to pursue his complaints and that they were bound to fail regardless. Mr. Long submits that he is entitled to a copy of the DAR transcript on the basis that it would be of great help to him in preparing his leave to appeal application, as well as the appeal itself should it proceed. This is notwithstanding that the papers have already been lodged with the Supreme Court Office in respect of the matter.
3. The Supreme Court, as the court of final appeal, has, subject to such regulations as may be prescribed by law, appellate jurisdiction where it is satisfied that the case involves a matter of "general public importance" or it is otherwise in the "interests of justice" for it to hear the appeal. An appeal from this Court is governed by Article 34.5.3, but in "exceptional circumstances" an appeal from the High Court will be entertained under Article 34.5.4. This is known generally as the "leapfrog" procedure.
4. An application for leave to appeal to the Supreme Court is governed by O. 58 R.S.C S.I. 2014/485. Under r.15, any such application must specify the constitutional grounds under which leave is sought and the grounds that will be relied upon should leave be granted. There is no requirement that those grounds must be accompanied by a transcript or that transcript references underpin the application.
5. The provision of a transcript is an entirely separate matter from any application for leave to appeal to the Supreme Court. It may very well be the case that the DAR might have been of assistance to Mr. Long in preparing that application, but the prospect of an appeal does not depend on his acquiring a copy of the transcript. This is most certainly the case where the papers have already been submitted and the matter is now in the hands of the judges of the Supreme Court. Whether Mr. Long gets his appeal or not is now a matter for the Supreme Court. If that court requires a transcript of the proceedings in this Court in making its leave determination or in examining the case further upon a successful application for leave, then it will undoubtedly ask for it.
6. Obtaining the DAR is irrelevant to an application for leave and I refuse Mr. Long's application accordingly.