Chief Registrar 09/11/2016

Sharia Court Of Appeal

Gusau.

SIR

Following our appointment by the chief registrar dated the 26/10/2016 to served as member to investigate a formal complaint by chief inspector against Alkali Bashar Mahe dated 26/10/2016. The chief registrars form the following committee as follows:

1. Mukhtar Ibrahim Mada - Chairman
2. Abdul-Rauf Aliyu B/Magaji - Member
3. Dahiru Muhammed Abdulkadir - Committee Secretary

**THE TERMS OF REFERENCE TO THE COMMITTEE ARE AS FOLLOWS**

“ you should investigate the complaint thoroughly and you should ensure the chief inspector is invited to make his representation, so also the judge, complainants, and Babangida Bala, there after reports back your findings, to be contained in this file”

After the received of the appointment letter to the committee within the complaint file dated 28/10/2016, thereafter, the committee commenced its setting on the 09/11/2016 and the setting of the committee are as follows: Today 09/11/2016 the committee commence its settings by inviting the main complainants to the case in person of Alh. Muhammad Umar who initially filed a complaints before the office of chief inspector and the second complainants in person of Isah Hamza Ismail (Chief Inspector) who filled his complaints to the chief registrar against Alkali Bashir Muhammad Mahe of New Market Higher Sharia Court Gusau.

Committee commence its setting today for the purposes of investigation of complaint filed by chief inspector and to find out the reality otherwise of the complaint in conformity with the directives of the complaint for the formation of this committee by the chief registrar at page 149 of the complaint file for new Market Higher Sharia Court Gusau and bearing in mind the terms of reference giving by the chief registrar.

Committee directed Babangida Bala to read all the complaints because the committee understands that he is acquainted with the facts of the complaints

After reading the complaints.

Committee to Babangida Bala: Are you aware of both the complaints filed the complainants to chief inspector and the complaints by chief inspector to chief registrar?

Answer: Yes

Committee to Babangida: please read both the complaints,

after reading the compliant by Babangida Bala there after

Complainer: Muhammad Umar: accept his complaints file before the office of chief inspector.

Babangida Bala: from there our office understand how the case was initially file (A G Vs Alhaji Bello & 2 others) from their new market replied the letter written from the office of chief inspector and the letter was read before the committee. This letter was replied on 3/3/2016, however after the letter of explanation forwarded before office chief inspector written and forwarded to new Market Higher Sharia Court Gusau dated 16/02/2016 which was replied dated 03/03/2016 as earlier stated and letter from office of chief inspector directed the judge to reply the letter on 03/03/2016.

After the judge replied, an order was given by the chief inspector through letter dated 08/03/2016 requesting the judge to forwards the record of proceeding and an the parties to the case. And the records and the parties to be present by Thursday 10/03/2016 before the chief inspector.

Committee to Alkali Bashar Mahe: Do you follow his directives by forwarded record of proceedings and the parties as contained in the chief inspector letter?

Answer: Yes I directed the complainant the registrar with the record book to attend the office of chief inspector according to his directives: i.e the prosecutor who happens to be the complainants before my court and the registrar of my court (Hamza Musa) not the complainant before the chief inspector I only directed those parties that I have access to them i.e the above mention parties, because after my judgment about three 3 month ago I received the directives, where I have no access to the remaining accused person i.e Alhaji Garba and Alh. Bello who have already settled their before me and left.

Committee Chief Inspector: what have you to say?

Answer: As per as I am concern up to now I did not see any of the party to the case and the record book (09/11/2016).

Committee Alkali: Is there any proved that you directed the parties to attend to chief inspector with the record?

Answer: Yes I have the registrar (Hamza Musa) prosecutor Hamisu Ibrahim and Babangida Bala were all aware that I complied with the chief inspector directives since on 10/03/2016.

Committee to Babangida Bala: what have you to say?

Answer: I can remember on 10/03/2016 prosecutor meet me in my officer and explained to me about the issue before Higher Sharia Court New Market Gusau after that, I advise him to see chief inspector and explained to him from there I didn’t know whether he saw chief inspector or not. Also I call registrar on phone and reminded him about our letter of invitation send to them he replied that he was aware and he is on his way coming; from there I don’t know whether he comes or not, I can also remember last week Monday I meet the registrar inside Sa’idu Bello’s office and he told me that he attended office of chief inspector.

Committee to registrar ( Hamza Musa) what do you know about chief inspector directives in respect of the letter dated 08/03/2016

Answer: on that date I came before the chief inspector office and I went to chief inspector along with the record book and I meet the chief inspector very busy where he asked, why I am here I replied I came in respect of a case before our court where we were directed to come along with the record book, and he replied are all the parties present?

And I replied all the parties are not around he further directed me to me to wait until all the parties are present then I should come back as I was setting out side with the waiting for a hours I also saw the complainant was also outside waiting after setting for longtime I then went to Babangida office and I told him those people are not coming because the nominal complainants to the case is from Sokoto and the accused person when we send our messenger (Mallan Muhammad) has explained to me that one Garba mai Lemu has travel to Niger (2nd accused person) and one Bello the (1st accused person ) is also at Katsina but I informed their families if the they arrive are wanted by our court, or on the alternative inform chief inspector to give us another convenient date to bring the parties, were Babangida said I can go, but I should phone him and inform him convenient date where those parties can be present, then I left to my office and I phone the nominal complainants in person Barrister but he replied if Muhammad Umar (Complainants) instituted a case against him he will come but if he file complainant against the judge at headquarter that judge should go, but he said he is not coming, from then I remain silent because I was shock and I did not call anybody until when a letter of reminder was send to us dated 20/10/2016

Committee to chief inspector: Do you see the registrar as he stated?

Answer: All what the registrar stated is not true I only requested for two things

1. To direct all the parties to the case, appear before me and
2. To forward the record of proceedings, whether I am present or not is in material once the record is kept on my office they have discharged their duty and I know I will see the record.

Committee to registrar: Do you have any evidence as to your attendance?

Answer: I meet many complainants. but I can only remember I saw Umar mai Kaura standing by the side of chief inspector holding a file, also he the chief inspector said if there is no any problem I can go with our record of proceedings, however, the record of proceeding has not gone through as the parties to case were absent.

Committee to prosecutor: (Hamsu Ibrahim) are you aware of the invitation by chief inspector to all the parties in the case of A G vs Alh. Bello and 2 others, and to come along with record of proceedings dated 08/03/2016?

Answer: Yes I am aware, because I saw a letter which was send to our court through the registrar where the registrar explained to me that we are directed to attend the chief inspectors office, and being I am the prosecutor to the case I should go and represent the court therefore, I went before the registrar because I was with my motorcycle, I went to Babangida office after I explained to him my reason of being here I also said I am here in relation to a case of A G vs Alh. Bello, from there he directed me to go to chief inspector office as I went to chief inspector office I meet the office empty as the chief inspector was not in his office, I went back to Babangida where I told him the chief inspector was not in the office and I said I did not even see the complainants before chief inspector. From there he directed me to go to until I was invited again next time

Committee Babangida: You heard what the prosecutor stated what have you to say?

Answer: First of all what the prosecutor stated is true, but I did not directed him to go.

Committee to prosecutor: Can you proof before committee that Babangida Bala directed you to go?

Answer:-The prosecutor replied No

Can you remember whether the registrar was in the office of the chief inspector in the case of AG vs Alh. Bello

Answered: Mai Kaura: I can only remember about 8 to 9 ago registrar Hamza was in chief inspector office carrying the record proceedings where the chief inspector asked him where is your judge? he replied he is in the court, and the chief inspector asked how about the remaining parties? Where he replied they are around, then he directed the registrar to go until the parties are present. That is all what I can remember and I don’t know which case he was referring to.

Committee to chief: Can you remember anything in relation to what mai Kaura stated?

Answer: Yes I can remember we investigated the case of one yar kanoma with mai kaura in my office involving Higher Sharia Court Kanoma and maru but I can’t remember whether registrar was present then or not, but you can make your findings to correspond with that date to see whether Hamza was invited or not on that date committee adjoined its setting to Monday 14/11/2016 by 2:30 pm

Today Monday 28/11/2016 the committee sat and deliberated that, the judge Higher Sharia Court New Market Gusau, registrar and court messenger Malan Muhammadu to appear before the committee to consider the issue of the letter of reminder written on 20/10/2016 also malam Muhammadu (messenger) to clarify certain issues raised during the deliberation to the committee. Also chief inspector (Isah Hamza) to be present on that day.

Committee closed its setting to tomorrow 29/11/2016 at about 10:00 am

Committee commence its setting today 29/11/2016 with opening prayer by Alkali Abdulrauf Aliyu B/Magaji exactly 11:30 am

Committee also decided to once again to invite Babangida Bala in relation to issue of the letter of reminder which was issue before offices of chief inspector dated 20/10/2016, but received on 21/10/2016.

Committee to Babanngida Bala: What do you know about the letter of reminder?

Answer: following of chief inspector directives, a letter of remember was written and forwarded to Higher Sharia Court New Market Gusau, dated 20/10/2016 (on Thursday ) in relation to the letter written and send to them dated 08/03/2016 that they judge (New Market Higher Sharia Court Gusau) should direct the appearance of the parties to the case and registrar to come along with the record of processing before chief inspector on 10/08/2016 as a result of not responding to the earlier directives which was written and forwarded to the judge on 08/03/2016

Committee to Alkali Bashir: Do you received such a letter and do you respond to it?

Answer: I did not received such a letter until 26/10/2016 after the date which the letter is expected to be replied has passed, because I was seriously sick within that time and nobody can see me because I was inside my house on my bed, because of the complainant I forced myself to come to my court to know what is happening and I meet the letter that is not useful before the court because there was no any letter send to us on 08/03/2016 which contain that we should direct the appearance of the parties on 10/08/2016 as he directed the reminder written. What I know he forwarded a letter dated 08/03/2016 that we should direct the parties to appear on 10/03/2016 and on that date the case has already been decided since on 22/12/2015, as I already know that no person is entitled to investigate a case that had already been decided before any court i.e even the chief inspector has no power to investigate a case already decided before a court under section 36 and 37 of Sharia Court establishment law 1999 under the power of chief inspector, but I honor the directives and comply because I don’t know his intention over the matter: that is all that I know, so to me there was no any pending letter which I did not comply with.

Chief inspector: Do you realized when you directed a letter before Higher Sharia Court judge New Market Gusau for the remainder whether you are aware that the case has already been decided by court and do you know you have no jurisdiction to entertain the issue?

Answer: I had him to my knowledge what the judge has stated is not true from my 1st and 2nd letter no letter was written to me that the case was hard and since been decided before the court.

Committee to Alkali: is it true that chief inspector is not aware the case hard by your court and since been decided?

Answer: No is not true. The chief inspector is aware that the case was herd and since been decided, because he is the one who is responsible to confirm by the complainants whether the case was herd and been decided, more so we forwarded the photocopy of the case which was decided on that basis please see page 103 of the complaints file of new market Higher Sharia Court Gusau.

Babaninga: Do you know the existence of such letter? And do you inform the chief inspector?

Answer: Yes, the letter replied and send did not show the case was herd and since been decided, with the committee permission I want read the letter. From page -101/102 of the complaint file.

Committee to Babangida Bala: Go ahead and read the letter

Babangida to committee: I also want to read the letter of under taken at page 103 of the complain file

Committee to Babangida: Go Ahead and read the letter

Committee we hard both letters and we should discus with matter in due course.

Committee to chief inspector: Do you belief once a case has been decided by court you have no jurisdiction to hear and investigate?

Answer: it is not true, chief inspector have the powers under section 36 to 38 of the sharia establishment law 1999 to investigate all matters before any court in any sharia court of the state. Even if the case has been decided. The state chief inspector has the power to report the matter to appellant court for correction, whether there is a complaint or not. (sue motto) In relation to this issue, the reply read and undertaken send by the court as result of our first letter dated on 16/02/2016 which has already been complied with.

But after receiving the letter from the court and letter of under taken I read the letter to the complainant which he objected and stated that he was forced to sign the letter of undertaken (complainant Alh. Muhammad Umar) this resulted me to required from the court to send record of proceedings, and the parties for further investigation and no respond on this letter and the complainant continue to come before me for his complaint, after some month no respond either in written or practical I therefore reminded them through my letter dated 20/10/2016 for reminder which I expected them to replied on 21/10/2016

However in relation to the issue of the judge sickness and his inability to attend to the court I did not received and information in respect of his sickness either from him or his registrar as such for lack of respond which I waited Monday to Wednesday and the complainants was attached to my office waiting for redress in respect of his complaint on this situation I have nothing to do expect to report to my superior office as provided under public service rules order 030304

Committee to registrar: since you earlier on explained to the committee that your judge was sick and was on able to attend court, do you report to chief inspector?

Answer: first of all I received the letter on 21/10/2016 which it was on Friday evening after Jumaat Prayer and the letter need to be replied on Monday 24/10/2016 and to my knowledge I do not know about any directives for any letter to be replied on 10/08/2016, as such I have to wait until Monday to know whether there is any letter from my judge that needs a reply on 10/08/2016 and that date all efforts to get my judge either on phone him proved abortive and I was in the chief inspector office on 24/10/2016 where I was told that the chief inspector was also sick and could not attend office, as such I did not report this issue to any person: and because there was no any letter to be replied before us on 10/08/2016 please I seek committee permission to read a reminder of the letter dated 20/10/2016 at page 147 left of the complaint file.

Committees go ahead and read the letter.

Committee to chief inspector what can you say?

Answer: I had him and the registrar confessed to the committee that he received a letter of my reminder on 21/10/2016 after Friday prayer, therefore it is his duty to reply to us that he will not be able to reply the letter as his judge was sick and he was not in court as such, his in ability to reply the letter was the main course of all the problem. Also from what he stated that there was away directive from chief inspector office the proper things to do by the registrar is to reply us that there was no any directives compelling them to reply, so that we can make any correction if at all there is any mistake in respect of our correspondences

However, to the best of my knowledge there was directives from the office dated 08/03/2016 to the court at page 104 of the complain file the reminder of this letter is at page 147 and therefore I seek the permission of the committee for such a letter to be read before the committee by the writer of the letter (Babangida Bala)

Committee: Go ahead read the letter.

After reading of the letter, committee decided to see the letter and make a decision on the letter.

Committee to registrar: Do you have anything to add?

Answer: First of all I want the committee to know that, the registrar have no power to reply a letter which is addressed to the judge as there was no directives from my judge

Committee adjourned the setting to tomorrow Wednesday 30/11/2016 for continuation of hearing at about 10:00 am

Committee resume its setting today Wednesday 30/11/2016 at about 3:07 pm with opening prayer by Mukthar Ibrahim Mada (DCR) chairman of the committee.

Committee also invited all the parties affected by the complainant i.e chief inspector, Alkali Bashir Mahe, registrar Hamza and the prosecutor Hamsiu Ibrahim

Committee to registrar: Do you have anything to add or that is all?

Answer: Yes what I want add is that I can’t reply any letter which is addressed to my judge, because the same issue was forwarded before our court and to the best of my knowledge I know we replied to the office of chief inspector also both the letter carried different date i.e the first was addressed 10/03/2016 while the second letter was dated 10/08/2016 coupled with time factor that the letter needed urgent reply between Friday and Monday, bearing in mind that I once replied a letter that does not carried stamp signature of my judge which was rejected by the chief inspector previously.

Committee to chief inspector:- I heard him, but all what he stated is contrary to civil service regulation, because he is an officer under service regulation and all the correspondence in respect of the matter are official, therefore it must deal officially, therefore since he acknowledge the receipt of the letter he is duty bound to report the issue for the sickness of his judge, and their inability to replied the letter within stipulated time.

Secondly in relation to lack of adequate time as stated by the registrar is in material because under civil service regulation sometimes an officer may be required to give answer within 24 hours

Thirdly, the difference of date as he claimed is in material, because ones the registrar noted that there is difference on the date he has to report that in consistence.

Fourthly, after expiration of the time limit which was Monday I added 3 days waited for their responses which they neglect. Finally as he stated that a letter one time rejected for lack of the judge endorsement is in material, because the issue may be different and once he replied he discharges his duties, it is left on us to give further directives.

Committee: before the closing of the setting, does anybody have anything say?

Answer: Alkali Bashir Yes I have something to say

Committee: Go Ahead

First of all I want the committee to realized the issue before it is an issues for non compliance with the directives of chief inspector which was written and forwarded before the registrar dated 08/03/2016 and we proved to the committee that we acted rightly by replying the letter to the chief inspector.

Secondly, we also stated that the chief inspector has no power to investigate cases already decided by court, but such matter can only go by way of appeal or report from his office to another the court, and it is duty on him to know whether the case has being discharged or not through the complaint of the complainants, but the chief deliberately went ahead to investigate the matter that he has no jurisdiction.

Thirdly, we proved to the committee that the chief inspector want to cheat us by way of giving us short adjournment i.e between 8 and 10 march, 2016 Friday and Monday and finally he forwarded his complainants against us between 24 and 26 November 2016

Finally, we also explained to the committee reason behind not answering to his letter of reminder, by explaining to the committee that I was sick on that date, also the date on the letter of reminder is different, and to us such of letter of reminder is invalid, because we have already complied with his directives.

Babangida Bala, to the committee: I have something to say

Committee: Go ahead

I want to say something on the issue of the complaint filed before the office of the chief inspector, by the complainants that the complaint has not informed us that his case has already been decided before new Market Higher Sharia Court Gusau, in relation to the complainants file in our complaint filed at page 93

Secondly also in relation to the letter of reminder forwarded before new market Higher Sharia Court Gusau the said letter for the remainder was written on 20/10/2016 and gave to the complainant on that date around 11:00 am, therefore office of the chief inspector has no knowledge of forwarding the said letter on 21/10/2016 as claimed by the registrar and no any respond up to now while the committee is setting.

Lastly, on the issue of reminder where the court claimed they have no knowledge on the letter dated 10/08/2016, we would like to inform the committee that we have no any knowledge as regard to that, until during the hearing of the committee.

Therefore, I appeal to the committee to careful read all the letters concerning this matter

Chief inspector: in relation to what is going own and in particular what the judge stated that I have file a petition against them in order to cheat or course harm on them is not true, I did not intend to cheat anybody all what I did I have done it in good faith and in accordance with provision of civil service regulation, particular by order 030304 of civil service regulation 2004, and also I line with section 15 (1) of Sharia established law of 1999 which stated that “All staff of the sharia court shall be public officers in the public service rules” Therefore, best of the above section all my investigation and report is best in accordance with the provision of the law, no bias what so ever.

Therefore I wish to remind the committee that my office received a complaint from one Alh. Muhammadu Umar Sabon Birnin dated 16/02/2016 page 93 on the complain file against new market Higher Sharia Court Gusau in respect of the matter before the court, which I seek explanation from the court and they obeyed. However the complainant was not satisfied with the respond of the court when it was read before him, which as such I required from the court to send all the parties with the record of proceedings for ascertaining of the truthiness or other wise of the matter as contained in our letter to the court dated 08/03/2016 since that time, no respond from the court after about 6 or 7 months the complainants still is seeking for redress which resulted for my letter of reminder dated 20/10/2016 which was suppose to be replied on 24/10/2016, but no respond where I gave additional three days time i.e from Monday to Wednesday where I report the matter to chief registrar as provided by the law.

Thirdly on the issue which the judge stated that I have no jurisdiction to investigate the matter the statement is contrary to provision of law I refer the committee to section 36-38 of the sharia establishment law no 5 of 1999 the only thing which the judge did not understand is transfer of the matter and investigation of the matter are two different thing under the law. Therefore I hope the committee should follow the law and do justice in accordance with provision of the civil service regulation and sharia establishment law.

**COMMITTEE FINDINGS**

1. The committee also understand that the statement made by the complainant i.e that respondent refused to obey his directives by not complying with directives are not true and in material because the committee through its investigation understand that the respondent has complied with such directives as he explained before the committee and both the registrar and prosecutor confirmed to the committee that such directives where given to them by the respondent (Alkali Bashir Muhammad Mahe). That the committee through its investigation confirmed such directives has been complied with by the respondents. (Bashiru Muhammad Mahe)
2. The committee also understand that the said directives given by the respondent to the registrar to forward record of proceedings and the parties to appear before chief inspector, such directives has not been complied with by the registrar because the registrar stated he was before the chief inspector and the chief inspector directed him to go until the parties to case are around however, the chief inspector denied such statement and the registrar failed to produce witness to that effects. The registrar also stated that, he was directed to go by registrar complaint (Babangida Bala) but the registrar complaint denied such allegation while the registrar fail to produce evidence to that effect. The committee also find out that the registrar does not complied with the directives given to him by the respondents (Alkali Bashiru Mahammad)
3. Where the respondent stated that the chief inspector has no power to investigate this matter, relying on the facts that, judgment of the case has been delivered since on the 22/12/2015 where he relied on section 36 sharia establishment to law 1999 the committee find out that the above section cited by the respondent as in relevant, because the said section is dealing with power to transfer of cases by the chief inspector which is allowed to be done by chief inspector at any stage before judgment vis a vis transfer and investigation are two different issues.
4. The committee find out that the statement made by the respondent against the complainants that the complainant has given them short directives i.e 8 and 10 march 2016 and 24 and 26 November 2016 in order to cheat them is not true, because section 34 and 35 of sharia court establishment law 1999 empowers the chief inspector to have accesses to record of proceeding at all time before any court.
5. The committee find out that the statement made by the complainant (Chief Inspector) where he relied in an order 030304 of public service rules to report the matter to chief registrar the section is correct, but does not apply here because the committee confirmed his directives has already being comply by the respondent (Alkali Bashir Muhammad Mahe)
6. The committee understand that, there is negligent on the part of the respondent (Alkali Bashiru Mahe) for his in ability to ensure his directives should have complied by the registrar
7. The committee during its investigation understand that, when the complainant direct the respondent to forward record of proceedings and the parties to the case the court has already decadent the case since on 22/12/2015 but the complainant (Chief Inspector) does not received any information either verbally or in writing that the case had been decident until through a letter which was forwarded by the respondent that deals with the undertaken of the parties to the case.

**COMMITTEE RE-COMMENDATION**

The committee recommended as follows:

1. That the respondent (Alkali Bashir Mahe) be warn for act of negligent
2. That the registrar be warn for his inability to complied with the directives given to him by the respondent (Alkali Bashir Mahe)
3. That the complainants (Isah Hamza Ismail) be advise to have good working relationship with his subordinate in order to succeed in the discharging his official duties

**NAMES OF MEMBERS OF THE COMMITTEE**

1. Mukhtar Ibrahim Mada -Chairman\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Abdur’rauf Aliyu B/Magaji -Member\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. Dahiru Muhammad Abdulkadir -Secretary \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_