

Unofficial Translation

National Supreme Court
Administrative Constituency

9/7/2017

Before:

Ms. Faiza Ibrahim	Chairperson
Ms. Shadia Hassan Elfaki	Member
Mr. Ahmed Abdelmotalib	Member

Between:

Adil Burae Ramadan (Applicant)

Vs

Minister of Interior (Respondent)

Ref No: 223/2017

Copy of the decision to:

Mr. Rifaat Osman Makkawi

The legal adviser of the Ministry of Interior

The Decision

After the revocation of the Sudanese nationality from the applicant because of his father's South Sudanese origins, the applicant filed an application before the Minister of Interior for Sudanese nationality through his mother who belongs to a tribe from the northern part of Sudan and enjoyed the Sudanese nationality by birth.

The applicant did not receive any response from the minister, accordingly he challenged the negative decision of the minister which implied rejection of his application to the nationality before the competent Court judge, it's clear that this practice targeted the applicant and those in similar situations based on a legal opinion issued by the Advocate General.

The first instance court's decision of 20 October 2015 dismissed the application based on the reason that it was submitted before incompetent body (the minister), the decision outlined

that the applicant should have submit an application to the President of the Republic to reinstate his nationality or to acquire nationality through maternal line instead of submitting the application before the minister who has no power to grant Sudanese nationality.

The applicant then challenged the decision of the first instance court before the National Supreme Court which accepted the application and informed the respondent which requested for dismissal of the application confirming the correctness of the decision of the first instance court.

After reviewing the documents, we conclude that the case is straightforward and do not need a lot of discussion and deliberation, in our view the application is valid for the following reasons:

- It's clear from the facts that, the authorities revoked the nationality from the applicant based on the fact that his grandparents from the father's side belong to South Sudan, the authorities did not verify whether his mother is Sudanese or no.
- At that time, the applicant did not realize that he has the right to reinstate his revoked nationality, instead he filed a new application for the nationality through his mother since he has being enjoying the nationality since his birth and was residing all his life in the northern part of Sudan.
- The applicant did not acquire the nationality of South Sudan, after the rejection of his application, he applied for the South Sudanese nationality through the South Sudan Consulate in Khartoum, but his application was also rejected from the consulate.
- The authorities did not treat his case and other similar cases with due attention and delayed in responding for long periods which, in its own, constitutes a negative decisions that implies rejection of their nationality applications.
- Sudan Interim National Constitution 2005 article 7/2 provides that every person born to a Sudanese mother or father has indispensable right to Sudanese nationality, for that its sufficient if one of the parent, at the time of application, was holding the nationality, accordingly such right cannot be deprived by a law in contradiction to the provisions of the constitution or a legal opinion from the Ministry of Justice in violation to the constitutional rules.
- The minister of Interior has the power to grant Sudanese nationality in accordance with article 6 from the Sudanese Nationality Act 1994. The minister when rejecting or not responding to the nationality application of the applicant without sufficient reasoning has indeed violated the law and misused his powers.
- Finally, we make reference to the ruling of the Constitutional Court (No153/2015) in a case similar to the current one, which confirmed the right of the petitioners in acquiring the Sudanese nationality through their mother.

Therefore, we decided that the applicant in this case has a confirmed constitutional right to the Sudanese nationality by birth, this right is well articulated in the constitution and law, and he shall not wait for anybody to determine on whether to grant it to him or no.

In conclusion, we decided that, based on article 12 of the Administrative Justice Act 2005, to issue an order for the Minister of Interior **obliging** him to complete, without delay, the procedures for issuance of the Sudanese nationality by birth for the applicant.

Final Order:

- **The Minister of Interior should immediately complete the process for issuance of the Sudanese nationality by birth to the applicant.**

Faiza Ibrahim

Supreme Court Justice

Head of the constituency