FIL-QORTI TAL-MAGISTRATI TA' MALTA

MAGISTRAT DR FRANCESCO DEPASQUALE

Seduta ta' nhar it-Tnejn tnax (12) ta' Gunju 2017

Rikors Numru 392/13 FDP

Onorevoli Ministru Evarist Bartolo
(ID 764952M)

vs

Roderick Agius (ID 77673M) bhala editur tal-gurnal 'Il-Mument'

Il-Qorti:-

Rat ir-rikors promotur ippresentat fl-20 ta' Dicembru 2013 fejn ir-rikorrent, filwaqt illi ghamel referenza ghall-artikolu illi deher fil-harga ta' **Il Mument** tal-Hadd 20 ta' Ottubru 2013 intitolat '***Haddiema fis-servizz pubbliku jpattu qaes ghal decizjonijiet zbaljati ta' Ministri Laburisti***', sahaq illi dak hemm miktub kien libelluz u malafamanti fil-konfront tieghu u kienet intiza li ttellef jew tnaqqas ir-reputazzjoni tieghu, w ghalhekk huwa talab lill-Qorti tiddikjara tali pubblikazzjoni bhala libelluza w malafamanti filwaqt illi tikkundanna lill-intimat ihallas danni a tenur tal-Artikolu 28 tal-Kap 248.

Rat l-artikolu meritu tal-kaz odjern u partikolarment l-ewwel tlett paragrafi ta' l-istess artikolu illi jghidu s-segwenti:

> *Fl-ewwel sitt xhur ta' Gvern Laburista, qabel ma inghata bidu ghal sena skolastika gdida, kienu qieghdin jinhmew mill-Ministeru tal- Edukazzjoni li jmexxi l-Ministru Evarist Bartolo, decizjonijet biex jonqsu l-istipendji u f'kaz minnhom, sahansitra jitnehhew l-istipendji ghal kategorija partikolari ta' studenti.*
>
> *Kollox jindika, anki bi pressjoni interna mill-Partit Laburista u mill-Ministeru, jidher li se jkun Tonio Briguglio, ic-Chairman tal-Bord tal-Maintenance Grants li, bhala impjegat tac-Civil, se jehel u jpatti qares ghad-decizjonijiet zbaljati tal-Gvern Laburista u se jkun il-haruf tas-sagrificcju ghall-izbalji tal-Ministru Evarist Bartolo.*

Evarist Bartolo qal li Tonio Briguglio hu l-persuna responsabbli mid-direttiva biex l-istudenti li qed jiehdu kors fil-Livel Ordinarju f'istituzzjonijiet post-sekondarji ma jinghatawx stipendji u smart car. Dan minkejja li d-direttiva harget bil-barka tal-Ministru Bartolo stess.

Rat id-difiza mqajjma mill-intimat u ppresentata fit 22 ta' Jannar 2014 fejn, filwaqt illi sahaq illi l-artikolu lamentat ma kienx miktub bl-iskop li jtellef jew inaqqas ir-reputazzjon iteghi, insista illi l-artikolu kien jikkonsisti f'fatti verifikabbli u kummenti dwar kwistjonijiet fl-interess pubbliku li ghalhekk jikkonsistu f'fair comment u kritika accettabbli f'socjeta demokratika.

Rat l-affidavit tar-rikorrent **Evarist Bartolo** ippresentat fis-17 ta' Marzu 2014 flimkien mad-dokumentazzjoni hemm annessa.

Semghet ix-xhieda ta' **Tonio Briguglio**, li kien ic-Chairman tal-Bord ta' l-Istipendji bejn l-1 ta' Lulju 2013 u Ottubru 2013, meta huwa rrizenja wara li kienet inqalghet kontroversja dwar decizjoni ta' twaqqif ta' l-istipendji ta' xi studenti, liema xhieda inghatat fit-23 ta' Gunju 2014 u fit-13 ta' Ottubru 2014, flimkien ma' dokumentazzjoni minnu esebita fil-kawza 390/13 FDP fl-ismijiet 'Evarist Bartolo vs Alexander Attard' li kienet miexja flimkien mal-kawza odjerna.

Semghet ix-xhieda ta' **Paul Bonello**, illi kien kien ic-Chairman tal-'*Bord ta' Investigazzjoni dwar Stipendji ghal Studenti li jsegwu kors ta' revizjoni fil-livell Ordinarju fi Skejjel post-Sekondarji*', liema Bord gie mahtur mir-rikorrent wara illi nqalghet il-kontroversja fuq imsemmija, liema xhieda inghatat fl-20 ta' Novembru 2014 fil-kawza 390/13 FDP fl-ismijiet 'Evarist Bartolo vs Alexander Attard' li kienet miexja flimkien mal-kawza odjerna.

Semghet ix-xhieda ta' **Dr Romina Cuschieri**, Chairperson ta' l-Istudent's Maintenance Grants Bord, liema kariga hija inghatat wara ir-rizenja ta' Tonio Brigulio, li xehdet fil-5 ta' Frar 2015 fil-kawza 390/13 FDP fl-ismijiet 'Evarist Bartolo vs Alexander Attard' li kienet miexja flimkien mal-kawza odjerna.

Rat id-dokument ippresentat mill-intimat fit-30 ta' April 2015, wara liema dokument l-istess rikorrent iddikjara illi ma kellux aktar provi x'jippresenta.

Semghet ix-xhieda ta' **Mario Schiavone**, prodott mill-intimat, li kien ic-Chairperson ta' l-Istudent's Maintenance Grants Board qabel ma' lahaq Tonio Briguglio, liema xhieda inghatat fit-23 ta' Novembru 2015 fil-kawza 390/13 FDP fl-ismijiet 'Evarist Bartolo vs Alexander Attard' li kienet miexja flimkien mal-kawza odjerna.

Semghet ix-xhieda ta' **Diane Debono**, illi kienet Segretarja ta' l-Istudent's Maintenance Grants Board ghal madwar tnax il-sena sas-sena 2014 u kienet acting Chairperson ta' l-istess Bord sakemm gie nominat Tonio Briguglio, liema xhieda inghatat fit-18 ta' April 2016, fit-2 ta' Gunju 2016 u fl-14 ta' Lulju 2016 flimkien ma' dokumentazzjoniu ossija korrispondenza skambjata fiz-zmien meta nqalghet il-kontroversja fuq imsemmija fil-kawza 390/13 FDP fl-ismijiet 'Evarist Bartolo vs Alexander Attard' li kienet miexja flimkien mal-kawza odjerna.

Rat illi fl-14 ta' Lulju 2016 il-partijiet ddikjaraw illi ma kellhomx aktar provi x'jippresentaw.

Rat illi, ghal kull buon fini, fil 5 ta' Frar 2015 kien gie dikjarat illi l-provi kollha migbura fil-kawza 390/13 FDP fl-ismijiet 'Evarist Bartolo vs Alexander Attard' li kienet miexja flimkien mal-kawza odjerna kellhom jitqiesu bhala provi fil-kawza odjerna.

Rat in-nota ta' sottomissjonijiet tar-rikorrent ippresentata fl-20 ta' Frar 2017.

Rat in-nota ta' sottomissjonijiet ta' l-intimat ippresentata fl-24 ta' Marzu 2017.

Rat illi fis 27 ta' Marzu 2017 il-kawza thalliet ghas-sentenza.

Ikkunsidrat

Jirrizulta illi, fi zmien il-pubblikazzjoni meritu tal-kawza odjerna, ir-rikorrent kien il-Ministru ta' l-Edukazzjoni, kariga illi huwa kien inghata f'Marzu 2013 u li zamm sa' l-elezzjoni ta' Gunju 2017.

Jirrizulta illi, fl-1 ta' Lulju 2013, a tenur ta' l-Artikolu 18 (1) tal-Regolamenti dwar Ghotjiet ta' Manteniment ghal Studenti, 2005 vigenti dak iz-zmien, ir-rikorrent, bhala Ministru tal-Edukazzjoni, kien appunta lill Tonio Briguglio bhala Chairperson tal-Bord ghall-Ghotjiet ta' Manteniment (fol 59).

Jirrizulta illi, a tenur tal-Artikolu 20 ta' dawk ir-regolamenti, illi illum gew rimpjazzati bl-Avviz Legali 308 tas-sena 2016 li dahhlu in vigore il-Legislazzjoni Sussidjarja 327.178, il-mansjonijet ta' dana il-Bord huma illi:

> *(a) jimmaniġġa u jimmonitorja l-allokazzjoni effettiva u l-ħlas tal-għotjiet ta' manteniment għall-istudenti;*
>
> *(b) jifformula u regolarment jirrevedi proċeduri rigward l-assessjar, l-allokazzjoni, il-ħlas u l-jedd għall-kisba ta'għotjiet ta' manteniment;*
>
> *(ċ) jistabbilixxi kriterji u jassessja, jiddeċiedi u jirrevedi applikazzjonijiet għal għotjiet ta' manteniment supplimentari;*
>
> *(d) jistabbilixxi kriterji u jassessja, jiddeċiedi u jirrevedi applikazzjonijiet taħt kull skema oħra hekk kif ikun assenjat mill-Ministru minn żmien għal żmien;*
>
> *(e) jikkonsidra rapporti mgħoddija lilu minn awtoritajiet edukattivi kompetenti li jirrigwardaw il-progress akkademiku tal-istudenti u japplika sanzjonijiet meta ir-rekwiżiti minimi ma jintlaħqux;*
>
> *(f) jissorvelja l-immanġġjar u l-ħlasijiet tal-għotjiet tal-manteniment għall-istudenti u jieħu kull azzjoni neċessarja biex jiġbor lura kull għotja li ngħatat aktar milli kemm suppost;*
>
> *(g) jippjana u jimplimenta b'mod effettiv meta paragunat mal-ispiża involuta kull skema ta' esperjenza ta' xogħol tal-istudenti li l-Ministru jista', minn żmien għal żmien, jiddeċiedi li jipprovdi;*
>
> *(h) jirrakkomanda bidiliet għal l-politika nazzjonali dwar l-għajnuna finanzjarja għal edukazzjoni avvanzata u ogħla.*

Jirrizulta illi, fit-30 ta' Settembru 2013 (13.12pm), Tonio Briguglio kiteb lir-rikorrent, bhala Ministru u gharrfu b'dan li gej: (fol 125)

Minister

During a meeting held with MCAST and the Maintenance Grants Section this morning, I was informed of certain concessions and decisions, which were taken by the Chairperson, and about which the current Board was not informed. It appears that such decisions/concessions were not only taken by the previous Chairperson, without consultation with the Board, but in certain cases they were taken ultra vires.

One particular case was that relating to students who either resign/abandon courses and pursue others courses at the same level with the same academic institution or different institution. Clause 12 of the Legal Notice 72/2005 clearly states that Students pursuing a second or subsequent course after having completed or partially followed another course at the same level shall not be entitled to receive a maintenance grant for that period of time that is equivalent to the period spent in the previous course if for that previous course they were in receipt of a maintenance grant. Such students shall only be entitled to a maintenance grant for the remaining period of time after termination of the first period without a maintenance grant

The previous Chairman had informed MCAST and the Maintenance Grant Section that such students should be granted a stipend and smart card top up in full even if they pursue another course at the same level, but this concession was to be granted for a one time only. The present Board is of the opinion that such concession goes against the provision of the Legal Notice. However, the students attending MCAST courses had already been informed of this concession and MCAST has been applying it.

If the Clause 12 is to be applied, and therefore the concession retracted, it will definitely effect a considerable number of students attending MCAST. MCAST has informed the Board that if the concession is not applied, it would effect hundreds of students. Besides, there is also the political aspect of the decision since it would definitely attract criticism on government.

MCAST is requesting that such particular concession remains applicable in these circumstances.

You may wish to consider the above recommendation from MCAST.

Jirrizulta illi l-ghada, 1 ta' Ottubru 2013 (07.20am), l-intimat irrisponda billi ta s-segwenti struzzjonijiet:

find it and quantify how many students fall in this category and what the financial implications are and then we will discuss

but please get the statistics

We need it

thanks

Jirrizulta illi, dakinhar stess, fil 08.40 am, (fol 124) Tonio Briguglio kiteb lill persuna responsabbli tal-MCAST, Chris Agius kif ukoll lill Diane D'Alessandro, illi kienet is-Segretarja tal-Bord u kienet ilha hemm ghal hafna snin qabel, u gharrafhom dan li gej:

Further to yesterday's meeting with MCAST, as agreed I have referred the atter re students pursuing a second course at the same level, the Minister would like to have the actual number of students who change course and are granted a stipend for a one time only.

Jirrizulta illi ftit minuti wara, fil 8.57, Diane D'Alessandro kitbet lill Tonio Briguglio u staqsietu s-segwenti:

Mr Briguglio,

With regards to the student who are following a revision course at Higher Secondary, are these going to receive a stipend please?

Jirrizulta illi, ghal dina r-rikjesta, Tonio Briguglio fl-10.05am irrisponda lill Diane D'Alessandro billi qalilha s-segwenti:

Diane,

Please note that the Legal Notice 372/2005 has been amended in the year 2012 and by these amendments, no stipend is to be paid to SEC/O Level Revision Course.

The Board will abide by such an amendment.

Jirrizulta illi sussegwentement, dakinhar stess, fil 14.59 pm, Diane D'Alessandro kitbet lill Tonio Briguglio fejn, filwaqt illi ghaddiet kopja tad-decizjoni tal-Bord precedentement kompost datat 23 ta' Lulju 2007 (fol 121), gharrfitu b'dan li gej:

I have just confirmed with Mr Schiavone that, as per attached, it was decided that the concession was not given ONLY to Mcast students.

Jirrizulta illi sussegwentement, fit 15.10pm, (fol 120) Tonio Briguglio irrisponda ghall email ta' Diane D'Alessandro billi qalilha s-segwenti:

... Mr Mario Schiavone had no power to give instruction or issue directives, make concessions which are indirect contrast to the provisions of the legal notice. Clause 12 clearly stipulates the contrary what Mr Schiavone had advised. Until the Board clarifies the matter, the Board will abide with the provisions of the Legal Notice.

Jirrizulta illi, ghal dan, fis-17.29pm, Diane D'Alessandro irrispondiet billi qalet: (fol 120)

I would like to point out that we only followed the instruction by the Chairman at the time. Since you are the new Chairman of the Board, we will definitely abide with your instructions.

Jirrizulta illi sussegwentement, dina d-decizjoni giet kkomunikata lill Awtoritajiet tal-Higher Secondary.

Jirrizulta illi l-ghada, 2 ta' Ottubru 2013, id-Dipartiment tal-Informazzjoni hareg **Press Release** Nru PR 2135 fejn gharraf is-segwenti:

Ic-cirkolari li nharget dwar stipendji, datata l-1 ta' Ottubru 2013, saret minn wara dahar il-Ministeru tal-Edukazzjoni u x-Xoghol u minghajr ebda approvazzjoni politika.

Dina giet irtirata immedjatament hekk kif giet ghall-attenzjoni tal-Ministeru ghall-Edukazzjoni u x-Xoghol.

Il-Ministeru qatt ma awtorizza, jew intalab jawtorizza, tnaqqis jew tnehhija ta' xi forom ta' stupendji fil-Higher Secondary tan-Naxxar jew fis-Sixth Form ta' Ghawdex. L-istess jghodd ukoll ghal dawk l-istudenti li qed isegwu xi kors fl-MCAST, Junior College,Higher Secondary jew Sixth Form ta' Ghawdex. Dan jghodd ghal kull istituzzjoni edukattiva fejn l-istudenti jircievu stipendju.

Il-Ministeru ghall-Edukazzjoni u x-Xoghol qieghed jinvestiga x'wassal biex tinhareg din ic-cirkolari li ma kellha ebda forma ta' approvazzjoni Ministerjali.

Il-politika tal-Gvern dwar l-istipendji hi li dawn jissahhu, kif fil-fatt dab il-Gvern inghata l-mandat li jaghmel.

Jirrizulta illi, sussegwentement, fl-4 ta' Ottubru 2013, ir-rikorrent appunta Bord ad hoc sabiex jinvestiga tali kaz, liema Bord, li kien immexxi minn Paul Bonello bhala Chairperson, ippresenta r-rapport finali tieghu fis 17 ta' Ottubru 2013.

Jirrizulta illi f'tali rapport (fol 18-27), il-Bord ha nota tal-fatti kollha tal-kaz u tad-dokumentazzjoni relattiva, u fil-"Konkluzjonijiet ta' Fatti" (fol 23), jghid is-segwenti:

i. *Huwa evidenti mid-dokumenti kollha li gabar u kkonsidra l-Bord, kif ukoll mill-Minuti tal-Bord tal-Istipendji, li ma kienx il-Bord tal-Istipendji li ddecieda li jwaqqaf l-istipendju lill istudenti li kienu qed jaghmlu l-kors ta' revizjoni tal-O levels fl-iskejjel sekondarji. Id-decizjoni hadha ic-Chairman tal-Bord wahdu u minkejja l-attentati u l-pariri tas-Sinjura D'Alessandro, Kap tat-Taqsima tal-Istipendji u tac-Chairman ta' qabel, is-Sur Schiavone. Il-Bord tal-Istipendji qatt ma kkonsidra jew iddiskuta dan it-tip ta' stipendju. Din il-konkluzjoni issib il-konferma mis-Sur Briguglio stess.*

ii. *Huwa evidenti u minghajr dubju mill-evidenza li ngabret li l-Ministru qatt ma gie ikkonsultat dwar it-tnehhija tal-istipendju suggett ta' dan il-Bord ta' Investigazzjoni. Dan gie konfermat mis-Sur Briguglio inniffsu*

    Anzi, f'cirkostanzi analogi li gew riferuti lill-Ministru ghall-interpretazzjoni anqas favorevoli ta' stipendji ohra eziztenti, u dana fil-granet u l-gimghat ta' qabel ma' qam dan l-incident, id-direzzjoni tal-Ministru kienet cara li l-ebda tnaqqis fl-applikazzjoni tal-istipendji eziztenti ma tigi approvata.

Jirrizulta, ghalhekk, kemm mid-dokumentazzjoni esebita quddiem dina l-Qorti waqt il-provi migbura, kif ukoll skond il-konkluzjoni tar-rapport hawn fuq citat, illi r-rikorrent, bhala Ministru tal-Edukazzjoni, qatt ma gie involut f'ebda decizjoni illi b'xi mod wasslet ghat-tnehhija ta' stipendju lill studenti ghal certa zmien, liema decizjoni giet irtirata minnufih.

Ikkunsidrat

Jirrizulta illi fl-artikolu illi tieghu qieghed jilmenta ir-rikorrent, l-artikolist Charles Muscat f'artikolu intitolat '***Haddiema fis-servizz pubbliku jpattu qaes ghal decizjonijiet zbaljati ta' Ministri Laburisti***' jaghmel kummenti dwar l-operat ta' varji Ministri, fosthom ir-rikorrent.

Jirrizulta illi, fl-istess artikolu, hemm sub-artikolu intitlat 'L-izbalji tal-Ministru Evarist Bartolo u l-isforzi biex jonqsu l-istipendji' fejn l-artikolist jaghmel referenza ghac-cirkolari illi kienet harget fl-1 ta' Ottubru 2013 illi fiha kien jinghad is-segwenti: "*I would like to inform students who are taking 'O' level Revision Course that as from this year they will not be receiving a stipend. Please discuss with your parents if you are entitled to any other remuneration from Social Services.*"

Jirrizulta illi l-artikolist ghadda biex jikkummenta dwar l-akkadut u, filwaqt illi allega illi ghal zball li ghamel ir-rikorrent, kien ser ihallas xi hadd iehor, tant illi stqarr is-segwenti:

> *Kollox jindika, anki bi pressjoni interna mill-Partit Laburista u mill-Ministeru, jidher li se jkun Tonio Briguglio, ic-Chairman tal-Bord tal-Maintenance Grants li, bhala impjegat tac-Civil, se jehel u jpatti qares ghad-decizjonijiet zbaljati tal-Gvern Laburista u se jkun il-haruf tas-sagrificcju ghall-izbalji tal-Ministru Evarist Bartolo.*

Jirrizulta illi l-artikolu ikompli biex jghamel varji allegazzjonijiet dwar nuqqasijiet li kien ghamel ir-rikorrent filwaqt illi sussegwentement jghaddi biex jaghmel allegazzjoni ohra dwar kas differenti, u dana meta jghid is-segwenti:

> *"Il-Ministeru li jmexxi Evarist Bartolo kien involut ukoll f'kontroversja ohra marbuta ma' tentattiv biex jitnaqqsu l-istipendji. Dan hekk kif il-Ministeru ta' Evarist Bartolo nqeda b'Erik Flask, id-Direttur tal-Istitut tal-ICT fl-MCAST meta laqqa' l-ghalliema ta' dana l-istitut dwar tibdil sostanzjali li kien qieghed jinhema fil-kors tal-ICT b'tali mod li kien se jkollu impatt biex tonqos l-ispiza b'10 fil-mija ta' dan l-istitut partikolari u sussegwentement dan kien se jkun rifless ukoll f'nefqa inqas fl-istipendji. Dan il-pjan, li kien se jitwettaq bi prova, tharbat wara li kienu zvelati d-dettalji minn din il-gazzetta f'Gunju li ghadda."*

Jirrizulta, izda, li tul il-provi kollha prodotti mill-intimat, fl-ebda mument ma ngabet xi tip ta' prova dwar it-tieni allegazzjoni illi ghamel l-artikolist fil-konfront tar-rikorrent.

Ikkunsidrat

Jirrizulta illi, l-intimat, fid-difiza tieghu, qajjem l-argument illi dak illi intqal kien "fair comment" ibbazat fuq fatti verifikabbli.

Fuq tali difiza, **Gatley on Libel and Slander** jghid is-segwenti,:

> *To succeed in a defence of fair comment the defendant must show that the words are comment, and not a statement of fact. He must also show that there is a basis of fact for the comment, contained or referred to in the matter complained of. Finally, he must show that the comment is on a matter of public interest, one which has expressly or implicitly put before the public for judgment or is otherwise a matter with which the public has a legitimate concern. If, however, the plaintiff can show that the comment was not made honestly or was actuated by malice, he will defeat the plea.*

Mill-banda l-ohra, ghandu jigi osservat ukoll illi, kif intqal fis-sentenza **Ligens vs Austria**, mhaddna mill-Qorti Maltin ukoll:-

> *Freedom of the press furthermore affords the public one of the best means of discovering and forming an opinion of the ideas and attitudes of political leaders. More*

generally, freedom of political debate is at the very core of the concept of a democratic society which prevails throughout the Convention.

The limits of acceptable criticism are accordingly wider as regards a politician as such than as regards a private individual. Unlike the latter, the former inevitably and knowingly lays himself open to close scrutiny of his every word and deed by both journalists and the public at large, and he must consequently display a greater degree of tolerance. No doubt Article 10 para. 2 (art. 10-2) enables the reputation of others - that is to say, of all individuals - to be protected, and this protection extends to politicians too, even when they are not acting in their private capacity; but in such cases the requirements of such protection have to be weighed in relation to the interests of open discussion of political issues.

Lokalment, il-Qrati taghna dejjem hadu linja cara dwar id-difiza ta' kumment gust, liema difiza hija carament rrapurtata fis-sentenza **Dr Louis Galea vs Etienne St John u Felix Agius** deciza fit 30 ta' April 2015, fejn intqal is-segwenti:

dwar l-aspett tad-difiża tal-kumment ġust ilu żmien jingħad mill-Qrati tagħna li, biex id-difiża tal-kumment ġust tkun tgħodd, jeħtieġ li min jistrieħ fuqha jseħħlu juri li (a) l-kumment kien imsejjes fuq fatt li jkun issemma fil-pubblikazzjoni li minnha jitressaq l-ilment; (b) il-fatt imsemmi jrid ikun sostanzjalment minnu; (ċ) il-kumment irid jintwera li jkun ġustifikabbli jew mistħoqq; (d) il-kumment irid ikun tali li jikkwalifika bħala kritika u mhux żebliħ, tgħajjir jew insolenza; u (e) irid jagħti l-fehma onesta tal-kummentatur u li l-pubblikazzjoni ta' dik il-fehma ma saritx b'ħażen jew bil-ħsieb preċiż li jweġġa' lil dak li jkun.

Applikati tali principji ghall-kaz odjern w il-kummenti illi dwaru hass ruhu aggravat ir-rikorrent, il-Qorti ma tistax ma tinnutax illi, abbazi tad-dokumentazzjoni pprovduta lill dina l-Qorti, kif ukoll ir-rapport redatt fuq istruzzjoni tar-rikorrent stess tal-'*Bord ta' Investigazzjoni dwar Stipendji ghal Studenti li jsegwu kors ta' revizjoni fil-livell Ordinarju fi Skejjel post-Sekondarji*', hareg car illi r-rikorrent, bhala Ministru, qatt ma kien a korrent tad-decizjoni li ttiehdet li jitnehhew xi stipendji ghal xi studenti. Ghalhekk, il-kumment li ghamel l-artikolist fejn, sarkastikament, ta' x'jifhem li kienet skuza tar-rikorrent meta qal li d-decizjoni saret minn wara daru, ma kienx kumment gust fil-konfront tar-rikorrent.

Apparti minn hekk, il-Qorti ma tistax ma tosservax illi, apparti tali kummenti tal-artikolist, l-istess artikolist sussegwentement ghadda biex jaghmel allegazzjoni ohra dwar r-rikorrent, din id-darba b'konnessjoni mal-Istitut tal-ICT fi hdan l-MCAST, liema aallegazzjoni, madanakollu, ma jsib ebda bazi fattwali u ma ngiebu ebda provi sabiex jissustanzjaw tali allegazzjoni.

Il-Qorti, fl-ahhar nett, ma tistax ma tosservax illi l-intimat kien ben a korrent tal-fatt illi fis 17 ta' Ottubru 2013 kien hemm rapport ta' Investigazzjoni li wera bic-car li r-rikorrent ma kien involut bl-ebda mod, u seta facilment, waqt il-mori tal-kawza, jippubblika kjarifika ta' l-allegazzjonijiet maghmulha mill-artikolist, sabiex itaffi l-hsara illi kienet saret lir-rikorrent – madanakollu, dana qatt ma sar u issa, erbgha snin wara l-pubblikazzjoni, dina l-Qorti ser ikollha taghti r-rimedji opportuni lir-rikorrent.

Din il-Qorti ma tistax ma taghmilx referenza ghal dak li gie osservat mill-Qorti tal-Appell (Sede Inferjuri) fis-sentenza '**Sylvana Debono vs Alexander Farrugia**', deciza fis-27 ta' Jannar, 2016.

Id-dritt tal-liberta tal-espressjoni m'huwiex licenzja biex thammeg ir-reputazzjoni ta' haddiehor u mbaghad tipprova tistahba wara dan id- dritt.

Konkluzjoni

Wara illi rat il-provi kollha prodotti quddiemha,

Wara illi rat is-sottomissjonijiet ta' l-abbli difensuri tal-partijiet,

Tghaddi biex taqta u tiddeciedi l-kaz billi

Tichad l-eccezzjonijiet kollha ta' l-intimat,

Tilqa it-talbiet attrici, u ghalhekk, filwaqt illi

Tiddikjara il-kontenut tal-artikolu illi deher fil-harga ta' **Il Mument** tal-Hadd 20 ta' Ottubru 2013 intitolat '***Haddiema fis-servizz pubbliku jpattu qares ghal decizjonijiet zbaljati ta' Ministri Laburisti***', bhala libelluz u malafamanti fil-konfront tar-rikorrenti.

Tikkundanna lill-intimat ihallas lir-rikorrenti bhala danni a tenur tal-Artikolu 28 tal-Kap 248 is-somma ta' elfejn Euro (€2,000).

Spejjez u Imghax fuq is-sorte mid-data tas-sentenza sad-data tal-pagament effettiv a karigu ta' l-intimat.

Magistrat Francesco Depasquale

Marisa Bugeja
Deputat Registratur