

RWANDA / JUDGMENT

RWANDA WATER RESSOURCES BOARD v Dr NZABAMWITA

RADA 00078/2023/HC/KIG

COURT

High Court

DECIDED

11 October 2024

CASE / FILE NUMBER

RADA 00078/2023/HC/KIG

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RWANDA WATER RESSOURCES BOARD v Dr NZABAMWITA

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Text

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RWANDA WATER RESSOURCES BOARD v Dr NZABAMWITA [Rwanda URUKIKO RUKURU - RADA 00078/2023/HC/KIG (Htimana, P.J.) 11 Ukwakira 2024] Amategeko agenga imanza z'ubutegetsu - Ifatira bwishyu - Gufatira umutungo wimukanwa w'ugomba kwishyura uri mu maboko y'undi muntu - Kudafatira imishahara y'abakozi bakoreye ikigo gisabwa gufatira umutungo gifitiye uwishyuzwa - Mu gihe cy'ifatira ry'umutungo w'uwishyuzwa watsindiye isoko rya Leta, amafaranga y'imishahara abakozi bakoze mu gushyira mu bikorwa iryo soko batahembwe, aba ashinganye ku bw'itegeko; ntafatirwa ngo azishyurwe abandi bantu baberewemo umwenda. Incamake y'ikibazo: Nzabamwitwa yakoranye na Forestry Company Volcanoes Gorillas Ltd ari ko ntiyamwishyura, ayirega mu rukiko, rwemeza ko igomba kumwishyura umwenda ungana n'amadorari y'Amerika 11.000 \$ USD na Frw y'igihembo cya Avoka n'ikurikirana rubanza, urwo rubanza ruza kuba itegeko. Nyuma, Forestry Company Volcanoes Gorillas Ltd (FCVG) yaje kubona isoko muri RWANDA WATER RESSOURCES BOARD (RWB), umuhesha w'inkiko afatira umutungo wimukanwa wa FCVG wari mu maboko ya RWANDA WATER RESSOURCES BOARD aho

sosiyete yishyuzwa yari yaratsindiye isoko, afatira amafaranga angana na 2.383.674Frw, umuyobozi wa RWANDA WATER RESSOURCES BOARD witwa Ngabonziza Prime avanamo 1.687.618Frw ayahemba abakozi b'iyo sosiyete. Nzabamwita yatanze ikirego mu Rukikorwisumbuye rwa Nyarugenge arega RWANDA WATER RESSOURCES BOARD asaba ko yasubizwa amafaranga yose yari yaragwatijwe ndetse na 5% yo kwishyura umuhesha w'inkiko. Urukiko rwasanze ikirego gifite ishingiro, rutegeka RWANDA WATER RESSOURCES BOARD kwishyura Dr Nzabamwita Paul amafaranga yafatiriwe kandi yarekuwe angana na 1.687.618Frws ndetse n'izindi ndishyi. Uregwa yajuririyeye icyo cyemezo mu Rukiko Rukuru avuga ko asaba ko gikurwaho kuko yategetswe kwishyura amafaranga avugwa mu rubanza ataburanye. Urukiko rwasuzumye ikibazo cyo kumenya niba amafaranga 1.687.618 FRW yarafatiriwe akarekurwa na RWB nk'uko byemejwe mu rubanza rujuririrwa no kumenya niba RWB yaragombaga gutegekwa kwishyura Dr Nzabamwita Paul ayo mafanga. Uregwa asobanura ko hagendewe ku isoko yari afitanye na FCVG, umuhesha w'inkiko washatswe n'uregwa, yamwandikiye avuga ko afatiriye umutungo wimukanwa ufitwe n'undi muntu wa FCVG wari ufitwe na RWRB, asubizwa ko uwo mutungo ungana na Frw 518,958 FRW, maze ku wa 13/10/2020 uyu muhesha w'Inkiko ahita yandikira RWB ayimenyesha ko afatiriye ayo mafaranga anayigaragariza konti igomba kuyashyiraho ndetse aza no gushyirwaho. Akomeza avuga ko andi mafaranga urukiko rwisumbuye rwavuze ko yafatairiwe atigeze afatirwa bityo ko n'icyemezo rwafashe cyateshwa agaciro. Nzabamwita avuga ko umuhesha w'inkiko yafatiriye umutungo wose wimukanwa wa FCVG hanyuma uregwa akabirengaho akarekura 1.687.618 FRW aho yayishyuye abakozi ba FCVG bityo akaba agomba kugarura uwo mutungo kuko yawurekuye kandi wari warafatirwe.

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Incamake y'icyemezo: Mu gihe cy'ifatira ry'umutungo w'uwishyuzwa watsindiye isoko rya Leta, amafaranga y'imishahara abakozi bakoreye mu gushyira mu bikorwa iryo soko batahembwe, aba ashinganye ku bw'itegeko; ntafatirwa ngo azishyurwe abandi bantu baberewemo umwenda. Ubujurire bufite ishingiro. Amategeko yashingiye: Itegeko no 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 227. Amategeko yifashishijwe atagikoreshwa: Itegeko n° 62/2018 ryo ku wa 25/08/2018 rigenga amasoko ya Leta, ryakurikizwaga icyo gihe, ingingo ya 99. Nta manza zifashishijwe Urubanza I. IMITERERE Y'URUBANZA

[1] Dr Nzabamwita Paul avuga ko Forestry Company Volcanoes Gorillas Ltd bakoranye ariko iza kwanga kumwishyura umwenda imubereyemo ungana na 11.000\$, ubwo aza kumurega mu Rukiko Rwisumbuye rwa Nyarugenge, baburana imanza RSOC 00079/2018/TGI/NYGE na RSOCA 00255/2018/HC/KIG aho Urukikrwategetse Forestry Company Volcanoes Gorillas Ltd guha Dr Nzabamwita Paul ibihumbi cumi na kimwe cy'amadolari ya Amerika (11.000 \$ USD) ndetse na 1.010.000 frw y'igihembo cya Avoka n'ikurikirana rubanza, izo manza zabaye itegeko. Forest Company Volcanoes Gorillas Ltd (FCVG) yaje gutsindira isoko rya RWANDA WATER RESSOURCES BOARD. Ku wa 10/07/2020 Umuhesha w'inkiko yafatiriye umutungo wimukanwa wa Forest Company Volcanoes Gorillas Ltd (FCVG) wari mu maboko ya RWANDA WATER RESSOURCES BOARD aho sosiyete yishyuzwa yari yaratsindiye isoko,

afatira amafaranga angana na 2.383.674Frw, umuyobozi wa RWANDA WATER RESSOURCES BOARD witwa Ngabonziza Prime avanamo 1.687.618Frw ayahemba abakozi b'iyo sosiyete kandi yarafatiriwe, ubwo Dr Nzabamwita Paul yahisemo kurega Ngabonziza Prime na RWANDA WATER RESSOURCES BOARD asaba urukiko ko rwabatega kumwishyura amafaranga yari yafatiriwe ndetse na 5% y'igihembo cy'umuhesha w'inkiko n'amafaranga y'ikurikiranarubanza n'ay'igihembo cy'avoka. Nyuma Dr Nzabamwita Paul yahisemo kureka ikirego cye yari yarezemo Ngabonziza Prime, na Ngabonziza Prime yemera ukureka ikirego kwa Dr Nzabamwita Paul yari yamurezemo. [2] RWANDA WATER RESSOURCES BOARD ivuga ko itategakwa kwishyura amafaranga avugwa mu rubanza RSOCA 00255/2018/HC/KIG kuko RWANDA WATER RESSOURCES BOARD atariyo yatsinzwe urwo rubanza kuko Dr Nzabamwita Paul yahawe amafaranga 518,958 Frw ayandi yari ay'abakozi ba RWANDA WATER RESSOURCES BOARD angana na

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1.687.618Frw, bityo ikirego cya Dr Nzabamwita Paul nta shingiro cyahabwa ahubwo urega yategakwa kwishyura RWANDA WATER RESSOURCES BOARD igihembo cy'avoka bitewe no kuyishora mu rubanza nta mpamvu. [3] Uru rubanza rwaburanishijwe mu ruhame kuwa 19/01/2023 Dr Nzabamwita Paul yunganiwe na Me RUGEMINTWAZA Jean Marie Vianney naho Ngabonziza Prime yunganiwe na Me BAGABO Faustin, RWANDA WATER RESSOURCES BOARD ihagarariwe na Me KAYITESI Pétronille. [4] Kuwa 10/02/2023 Urukiko Rwisumbuye rwa Nyarugenge rwaciye urubanza rwemera ukureka ikirego kwa Dr Nzabamwita Paul kuri Ngabonziza Prime; rwemeza ko ikirego cya Dr Nzabamwita Paul gifite ishingiro kuri RWANDA WATER RESSOURCES BOARD; rutegeka RWANDA WATER RESSOURCES BOARD kwishyura Dr Nzabamwita Paul amafaranga yafatiriwe kandi yarekuwe angana na 1.687.618Frws; rutegeka RWANDA WATER RESSOURCES BOARD kwishyura igihembo cy'avoka wa Dr Nzabamwita Paul kingana n'ibihumbi maganarindwi (700.000Frws); rutegeka RWANDA WATER RESSOURCES BOARD gusubiza Dr Nzabamwita Paul amafaranga ibihumbi makumyabiri (20.000Frws) yatanzeho ingwate y'amagarama arega, ikabikora mu gihe kitarenze iminsi umunani (8jours) kuva umunsi uru rubanza rumaze kuba itegeko, atari byo igakurwa mu byayo ku ngufu za Leta. [5] RWANDA WATER RESSOURCES BOARD ntiyishimiye imikirize y'urubanza maze ijuririra Urukiko Rukuru rwa Kigali irusaba gusuzuma amafaranga 1.687.618 FRW yari afatiriwe akarekurwa na RWB nk'uko byemejwe mu rubanza rujuririrwa.

IBIBAZO BOZASUZUMWA - Gusuzuma Kumenya niba amafanga 1.687.618 FRW yarafatiriwe akarekurwa na RWB nk'uko byemejwe mu rubanza rujuririrwa; - Gusuzuma Kumenya niba RWB yaragombaga gutegekwa kwishyura Dr Nzabamwita Paul amafanga y'u Rwanda 1.687.618; - Gusuzuma Ku bijyanye no kumenya niba RWB yaragombaga gutegekwa kwishyura Dr Nzabamwita Paul 700,000 FRW y'igihembo cya Avoka na 20,000 FRW y'ingwate y'amagarama; - Gusuzuma Indishyi z'ikurikiranarubanza; - Gusuzuma Ubujurire bwuririye ku bundi bwa Dr Paul Nzabamwita: Kumenya umubare w'amafaranga yafatiriwe n'Umuhesha w'Inkiko yagombaga kuvamo ubwishyu.

ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

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A. Gusuzuma Kumenya niba amafanga 1.687.618 FRW yarafatiriwe akarekurwa na RWB nk'uko byemejwe mu rubanza rujuririrwa;

[6] Kuruhande rwa RWANDA WATER RESSOURCES BOARD, uyihagarariye avuga ko mu gika cya 16, cy'urubanza n° RAD 00013/2022/TGI/NYGE, Urukiko Rwisumbuye rwa Nyarugenge rwavuze ko hari 1.687.618 FRW yafatiriwe akarekurwa na RWB ariko ibi siko byagenze kuko aya mafaranga atigeze afatirwa n'Umuhesha w'Inkiko watanze na Dr NZAMWITA Paul. Uko ibintu byagenze ni uko nyuma y'uko Dr Paul NZAMWITA atsinze FCVG Ltd mu rubanza RSOCA 00255/2018/HC/KIG, yashatse Umuhesha w'Inkiko wo kumurangiriza urubanza. Kubera ko FCVG Ltd yari ifitanye amasezerano y'isoko na RWB, byatumye ku wa 10/07/2020 uyu muhesha w'inkiko ashyikiriza RWB inyandikomvugo y'ifatira ry'umutungo wimukanwa w'ugomba kwishyura uri mu maboko y'undi, maze muri icyo nyandikomvugo asobanura ko afatiriye amafaranga RWB ibikiye FCVG Ltd kugira ngo hakurweho ubwishyu bw'uwasinze bungana na 11,000 USD + 1,010,000 + 5 % y'igihembo cy'Umuhesha w'Inkiko. Ku wa 07/10/2020 RWB yandikiye uyu muhesha w'inkiko imugaragariza ko amafaranga ibikiye FCVG ari 518,958 FRW. Maze ku wa 13/10/2020 uyu muhesha w'Inkiko ahita yandikira RWB ayimenyesha ko afatiriye aya mafaranga 518,958 FRW anayigaragariza konti igomba kuyashyiraho. Ku wa 26/10/2020 RWB yashyize amafaranga 518,957 FRW kuri Konti yari yahawe n'Umuhesha w'Inkiko wayafatiriye, bityo RWB ntibona impamvu Urukiko Rwisumbuye rwa Nyarugenge rwavuze ko hari amafaranga 1.687.618 FRW yafatiriwe akarekurwa na RWB. Hashingiwe ku bimaze gusobanurwa, RWB irasaba urukiko kuzemeza ko nta 1.687.618 FRW yafatiriwe mu maboko yayo ngo nyuma iyarekure. [7] Kuruhande rwa Dr Paul Nzabamwita, avuga ko hashingiwe ku ngingo ya 221 y'itegeko rigenga imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, urega arasaba urukiko gutegeka abaregwa kugarura uriya mutungo wari warafatiriwe dore ko bemera ko bawukoresheje, bagaragaza uburyo bawukoresheje kandi warafatiriwe. Mu ibaruwa yo kuwa 07/10/2020 bagaragaza uburyo bakoresheje uwo mutungo kandi warafatiriwe taliki ya 10/07/2020 n'umuhesha w'inkiko INGABIRE Marie Claire, ibi bikaba ari ukwigomeka ku byemezo bw'inkiko kandi bigomba gushyirwa mu bikorwa n'uwo bireba wese. Turasaba urukiko kwemeza ko uwajuriye agarura uwo mutungo wagombaga kuvamo ubwishyu Forestry Company Volcanoes Gorillas Ltd yategetswe kwishyura Dr. Nzabamwita Paul

Uko Urukiko rubibona

- [8] Muri iyi ngingo y'ubujurire, icyo RWANDA WATER RESSOURCES BOARD inenga ku mikirize y'urubanza yajuririwe, ni ukuba Urukiko Rwisumbuye rwa Nyarugenge rwavuze ko hari 1.687.618 FRW yafatiriwe akarekurwa na RWB ariko ibi siko byagenze kuko aya mafaranga atigeze afatirwa n'Umuhesha w'Inkiko watanze na Dr NZAMWITA Paul. Dr NZAMWITA Paul we avuga ko aya mafaranga yari yafatiriwe n'umuhesha w'inkiko, RWANDA WATER RESSOURCES BOARD irayatanga, ariyo mpamvu yagombaga gutsindwa urubanza.

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- [9] Urukiko rurasanga ingingo ya 227, igika cya 2, y'itegeko no 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ariyo iteganya uko amafaranga ari mu maboko y'undi muntu afatirwa. Iteganya ko "Ubitse ibintu by'ugomba kwishyura byafatiriwe, akimara kubisabwa n'umuhesha w'inkiko, ategetswe kumugaragariza mu nyandiko umutungo wose w'ugomba kwishyura abitse, aho uri hose, uko uteye n'uko ungana". Ni ukuvuga ko amafaranga cyangwa umutungo uba ufatiriwe, si uwo ufatira akeka ko runaka awubikiye umurimo umwenda, ahubwo ubitse niwe ugaragaza mu nyandiko umutungo nyawo wose w'ugomba kwishyura abitse, aho uri hose, uko uteye n'uko ungana. RWM yagaragaje ko mu mafaranga 2.383.674 umuhesha w'inkiko yashakaga gufatira, ko hagomba kuvamo amafaranga 1.687.618, hashingiwe ku ngingo ya 99, igika cya 3, y'Itegeko n° 62/2018 ryo ku wa 25/08/2018 rigenga amasoko ya Leta, ryakurikizwaga icyo gihe, aho iyo ngingo iteganya ko iyo uwatsindiye isoko atishyuye abakozi, ibicuruzwa cyangwa ibigemurwa na serivisi yahawe n'undi muntu mu gihe cy'ishyirwa mu bikorwa ry'amasezerano y'isoko, urwego rutanga isoko rufatira amafaranga angana n'ubwo bwishyu ku nyemezabuguzi ye kugira ngo rwishyure abo abereyemo imyenda. Aha rero niho Urukiko Rwisumbuye rutumvise neza, kuko ntabwo umuhesha w'inkiko yashoboraga gufatira aya mafaranga, kandi itegeko riteganya ko imishahara y'abakozi bakoze mu gushyira mu bikorwa aribo baza mbere (priorité), abandi baberewemo imyenda bakaza nyuma. Niyo mpamvu amafaranga 1.687.618 atagombaga kubarwa mu mafaranga RWB ibikiye FCVG Ltd, ahubwo ayo yari iyibikiye ni amafaranga yari asigaye, ni ukuvuga amafaranga 518,958 FRW. Ibi RWB yarabisobanuye mu ibaruwa yandikiye umuhesha w'inkiko, amugaragariza uburyo amafaranga asigaranye abikiye FCVG ari 518,958 FRW. Umuhesha w'Inkiko nawe, ashingiye ku kuri ayo makuru yari ahawe, yarabyemeye afatira amafaranga 518,958 kandi aya RWB yayashyize kuri konti umuhesha w'inkiko yari yamubwiye. Ntabwo rero Dr Nzabamwita Paul yavugaga ko n'aya mafaranga 1.687.618 yari yafatiriwe, kandi RWB itarigeze yemera ko aya mafaranga iyabikiye FCVG, n'umuhesha w'inkiko akaba atariyo yafatiriye kuko atagaragajwe mu yo RWB ibikiye FCVG Ltd, cyane cyane ko nawe mu ibaruwa isaba RWB kugaragaza amafaranga ibikiye FCVG, yibukije ingingo ya 99, igika cya 3, y'Itegeko n° 62/2018 ryo ku wa 25/08/2018 rigenga amasoko ya Leta, iteganya ko mbere yo kwishyura rwiyezimirimo, hagomba kuvanwamo amafaranga afitiye abakozi n'abandi bamuhaye ibyamufashije gukora isoko yatsindiye. Bityo mu maso y'itegeko no mu nyandiko ifatira y'umuhesha w'inkiko, aya mafaranga 1.687.618 akaba atarafatiriwe.

[10] Kubera impamvu zimaze gusobanurwa, ubujurire bwa RWB bufite ishingiro, bityo 1.687.618 RWB yari yategetswe kwishyura Dr Nzabamwita Paul ntayo igomba kumuha.

B. Gusuzuma niba RWB yaragombaga gutegekwa kwishyura Dr Nzabamwita Paul amafaranga y'u Rwanda 1.687.618

[11] Kuruhande rwa RWANDA WATER RESSOURCES BOARD, uyihagarariye avuga ko mu cyemezo cy'Urukiko mu rubanza rujuririrwa, urukiko rwavuze ko rutegetse RWB kwishyura Dr Nzabamwita Paul amafaranga yafatiriwe kandi yarekuwe angana na 1.687.618 FRW. Nk'uko RWB yabisobanuye mu buryo burambuye ku kibazo cya 1, aya mafaranga ntabwo yari yarigeze afatirwa.

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[12] Kuruhande rwa Dr Paul Nzabamwita, avuga ko hashingiwe ku ngingo ya 227 na 228 z'itegeko rigenga imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ndetse n'ingingo ya 99 y'itegeko No 62/2018 rigenga amasoko ya Leta; Dr. Nzabamwita Paul ashingiye kuri izi ngingo z'amategeko arasaba urukiko gutegeka abaregwa kwishyura amafaranga yose avugwa mu cyemezo cy'urubanza RSOCA 00255/2018/HC/KIG hiyongeyeho igihembo cy'umuhesha w'inkiko kingana na 5% yayo. Ntabwo bishidikanywaho ko bagize uruhare rukomeye bakingira ikibaba Forestry Company Volcanoes Gorillas Ltd kugeza ubwo umutungo wose wagombaga kuvamo ubwishyu urigita, maze Dr. Nzabamwita Paul akabura ubwishyu. Urukiko ruzashingire kandi ku ngingo ya 221 y'itegeko rigenga imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.

Uko Urukiko rubibona

[13] Urukiko rurasanga impamvu Urukiko Rwisumbuye rwari rwategetse ko RWB isubiza amafaranga 1.687.618 rwari rubishingiye ku kuba rwari rusanze aya mafaranga yari yafatiriwe, rutegeka ko RWB yakoze amakosa yo kuyatanga kandi yafatiriwe iyasubiza. Ibyo kuba aya mafaranga yaba yari yafatiriwe, nibyo byasuzumwe mu ngingo y'ubujurire yabanjirije iyi, kandi byemejwe ko aya mafaranga atafatiriwe. Bityo nta mpamvu yo kugaruka ku byo kumenya niba amafaranga yaragombaga gusubizwa, kuko kuva atarafatiriwe, RWB ntiyagombaga no gutegekwa kuyasubiza.

B. Gusuzuma Ku bijyanye no kumenya niba RWB yaragombaga gutegekwa kwishyura Dr Nzabamwita Paul 700,000 FRW y'igihembo cya Avoka na 20,000 FRW y'ingwate y'amagarama.

[14] Kuruhande rwa RWANDA WATER RESSOURCES BOARD RWB isanga nta kosa yakoreye Dr Nzabamwita Paul ryari gutuma itegekwa kumusubiza igihembo cya Avoka ndetse n'ingwate y'amagarama, bityo Urukiko ruzemeze ko izi ndishyi zikuweho.

[15] Kuruhande rwa Dr Paul Nzabamwita Urukiko rutegeka ko Nzabamwita yahabwa indisyi z'igihembo cya Avoka ndetse no gusubizwa igarama, nta makosa rwakoze kuko yareganyijwe n'uhamuteje kujya mu manza! Bityo indishyi ahubwo zikwiye kongerwa no

mu rwego rw'ubujurire. akaba atanze ubujurire bwuririye ku bundi Hashingiwe ku ngingo ya 110 y'itegeko rigenga imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, Dr. Nzabamwita Paul arasaba urukiko gutegeka abaregwa kumuha amafaranga y'ikurikiranarubanza angana na 1.000.000Frw hamwe n'igihembo cya Avoka cya 1.000.000Frw.

Uko Urukiko rubibona

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16. Urukiko rurasanga amafaranga 700.000 y'igihembo cya Avoka, n'amafaranga 20.000 yatanzweho ingwate y'amagarama, RWB yategetswe guha Dr Nzabamwita Paul ntayo igomba gutanga, kuko nk'uko uyihagarariye abivuga kandi nk'uko byasobanuwe, ikirego cya Dr Nzabamwita Paul nta shingiro cyagombaga guhabwa.

C. Gusuzuma Indishyi z'ikurikiranarubanza.

- [16] Kuruhande rwa RWANDA WATER RESSOURCES BOARD RWB irasaba Urukiko Rukuru gutegeka Dr Nzabamwita Paul kuyiha indishyi zingana n'amafaranga y'u Rwanda 1,000,000 FRW y'agaciro k'ibyo yakoresheje ikurikirana uru rubanza. [17] Kuruhande rwa Dr Paul Nzabamwita avuga ko izi ndishyi ntazo RWANDA WATER BOARD ikwiye guhabwa kuko ariyo yakozwe amakosa, ikaba itashingira ku makosa yayo ngo iyabyaze inyungu.

Uko Urukiko rubibona

- [18] Urukiko rurasanga amafaranga 1,000,000 y'ikurikiranarubanza n'igihembo cya Avoka uhagarariye RWB ayisabira, ntiyayahabwa yose kubera ko ari menshi, ikaba igenewe amafaranga 750.000 y'ibyo yakoresheje ikurikirana urubanza.

E. Gusuzuma Ubujurire bwuririye ku bundi bwa Dr Paul Nzabamwita: Kumenya umubare w'amafaranga yafatiriwe n'Umuhesha w'Inkiko yagombaga kuvamo ubwishyu.

- [19] Dr Paul Nzabamwita n'umwunganira bavuga Nyuma yuko urubanza ruciriwe n'Urukiko Rwisumbuye Dr. Nzabamwita Paul yaje kubona ibaruwa yanditswe n'Umuyobozi wa Rwanda Water Board yo kuwa 09/09/2020 Bwana Ngabonziza Prime yandikira Managing Director wa Forestry Company Volcanoes Gorillas Ltd amumenyesha ko amafaranga angana na 39.930.603Rwf yari amusigayemo havuyemo 17.709.882Rwf y'imirimo itarakorwa hasigara 22.220.721Rwf. Ayo mafaranga akaba ariyo yari yarafatiriwe n'Umuhesha w'Inkiko Me INGABIRE Marie Claire kuwa 10/07/2020 ari nayo yagombaga kuvamo ubwishyu bwa Dr. Nzabamwita Paul. Taliki ya 10/07/2020, umuhesha w'inkiko mu kurangiza urubanza yakozwe inyandiko y'ifatira ry'umutungo wimukanwa wa Forestry Company Volcanoes Gorillas Ltd wari mu maboko ya Rwanda Water Board ashingiye ku ngingo ya 228 y'itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ndetse n'ingingo ya 99 y'itegeko N° 62/2018 rigenga amasoko ya Leta. Taliki ya 09/09/2020 umuyobozi mukuru wa Rwanda Water Board yandikiye umuyobozi wa Forestry Company Volcanoes Gorillas Ltd amumenyesha ko bamusigayemo

39.930.603Rwf havuyemo 17.709.882Rwf y'imirimo itarakorwa hasigara 22.220.721Rwf. Aya mafaranga niyo yagombaga guhabwa umuhesha w'inkiko akavanwamo ubwishyu asigaye agahabwa Forestry Company

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Volcanoes Gorillas Ltd, ariko bitewe n'uburiganya bw'abayobozi b'ibi bigo byombi ntabwo ari ko byagenze. Umuyobozi wa Rwanda Water Board yafashe icyemezo cyo kuvana amafaranga yafatiriwe azahembwa ba nyakabyizi. Nta lisiti ya ba nyakabyizi igaragara kandi niyo yaba ihari sibo bagombaga guhembwa mbere ku mafaranga yafatiriwe n'umuhesha w'inkiko. Bamaze kurigisa umutungo wafatiriwe umuhesha w'inkiko yahawe 518.958 kuri 2.383.674 bari bagaragaje ko asigaye bavuga ko azahembwa abakozi ba Forestry Company Volcanoes Gorillas Ltd bakora mu biro. Turasaba rero urukiko gutegeka ko amafaranga yafatiriwe yishyurwa Dr. Paul Nzabamwita havanywemo 518.958Rwf na 1.687.618Rwf yatsindiye mu rundi rubanza. [20]

Kuruhande rwa RWANDA WATER RESSOURCES BOARD RWB, uyihagarariye avuga ko muri ubu bujurire bwuririye ku bundi, Dr. Paul Nzabamwita asobanura ko agamije kugaragaza umubare w'amafaranga yafatiriwe n'Umuhesha w'Inkiko yagombaga kuvamo ubwishyu, nyamara mu byo yasobanuye ntiyigeze agaragaza uwo mubare w'amafaranga yafatiriwe, kuko hamwe avuga ko hafatiriwe 2.383.674 FRW ahandi akavuga ko amafaranga 22.220.721 FRW ariyo yari yarafatiriwe n'Umuhesha w'Inkiko ku wa 10/07/2020, ngo akaba ari nayo yagombaga kuvamo ubwishyu; akanavuga ko aya mafaranga aboneka mu ibaruwa yo ku wa 09/09/2020 Umuyobozi Mukuru wa Rwanda Water Board yandikiye umuyobozi wa Forestry Company Volcanoes Gorillas Ltd, kandi ko iyi baruwa yayibonye nyuma y'icibwa ry'urubanza no RAD 00013/2022/TGI/NYGE. RWB ibona izi mvugo za Dr. Paul Nzabamwita nta kuri kurimo, kuko niba avuga ko ibaruwa yo ku wa 09/09/2020 ivugwamo amafaranga 2.383.674 FRW yayimenye nyuma y'icibwa ry'urubanza no RAD 00013/2022/TGI/NYGE, ntabwo yahindukira ngo avuge ko amafaranga ayivugwamo ariyo yari yarafatiriwe ku wa 10/07/2020 kuko umuhesha w'inkiko atari kuyafatira muri RWB kandi atazi ko ahari. Ikindi iyi baruwa yo ku wa 09/09/2020 Dr. Paul Nzabamwita ayivugira ibyo itavugaga, kuko muri iyi baruwa havugwamo ko amafaranga RWB yagombaga kwishyura Forestry Company Volcanoes Gorillas Ltd ari 2,383,674 FRW kandi ko azakoreshe mu kwishyura abakozi iyi sosiyeti yari yakoresheje muri iri soko. Ibi iyi baruwa ivuga ntaho bitandukaniye n'ibyo RWB yasobanuriye Umuhesha w'Inkiko woherejwe na Dr. Paul Nzabamwita mu ibaruwa yo ku wa 07/10/2020, aho muri iyi baruwa umuhesha w'Inkiko yasobanuriye ko amafaranga FCVG Ltd isigaje kwishyurwa ari 2,383,674 FRW, ko muri ayo mafaranga hakuwemo 1,687,618 FRW yishyurwe ibirarane by'imishahara FCVG Ltd yari ibereyemo abakozi yakoresheje mu ishyirwamubikorwa ry'amasezerano y'isoko yari ifite muri RWB, hamwe na amande angana na 177,098 FRW, hakaba hasigaye 518,958 FRW. Umuhesha w'inkiko amaze kumenyeshwa aya mafaranga asigaye niyo yahise afatira mu ibaruwa yo ku wa 13/10/2020 kandi RWB yahise iyashyira kuri compte yatanzwe n'uyu muheshu w'inkiko ku wa 26/10/2020. Nta yindi nyandiko Dr. Paul Nzabamwita ashobora kugaragaza ifatira umubare runaka w'amafaranga muri RWB uretse iyi yo ku wa 13/10/2020 ifatira 518,958 FRW. Inyandiko y'ifatira Umuhesha w'Inkiko yanditse ku wa 07/10/2020, ntabwo yigeze ivuga umubare w'amafaranga ufatiriwe cyane ko ari

Umuhesha w'Inkiko, ari na Dr. Paul Nzabamwita batari bazi umubare w'amafaranga RWB yagombaga kwishyura FCVG Ltd; ahubwo icyo Umuhesha w'Inkiko yavuze muri iyo nyandiko ni uko afatiriye amafaranga ikigo RWB kibikiye FCVG Ltd, ayo mafaranga rero nyuma yo gukora decempte final byagaragaye ko ari 518,958 FRW. Aya mafaranga 518,958 FRW niyo yaje gufatirwa n'Umuhesha w'Inkiko anashyirwa kuri konti ye nk'uko byasobanuwe. Hashingiwe ku bimaze gusobanurwa, Urukiko ruzemeze ko ubu bujuriye bwuririye ku bundi bwatanzwe na Dr. Paul Nzabamwita nta shingiro bufite.

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Uko Urukiko rubibona

- [21] Muri iyi ngingo y'ubujuriye bwuririye ku bundi, icyo Dr Paul Nzabamwita n'umwunganira bavugaga ni uko Nyuma yuko urubanza ruciriye n'Urukiko Rwisumbuye Dr. Nzabamwita Paul yaje kubona ibaruwa yanditswe n'Umuyobozi wa Rwanda Water Board yo kuwa 09/09/2020 Bwana Ngabonziza Prime yandikira Managing Director wa Forestry Company Volcanoes Gorillas Ltd amumenyesha ko amafaranga angana na 39.930.603Rwf yari amusigayemo havuyemo 17.709.882Rwf y'imirimo itarakorwa hasigara 22.220.721Rwf. Ayo mafaranga akaba ariyo yari yafatiriye n'Umuhesha w'Inkiko Me INGABIRE Marie Claire kuwa 10/07/2020 ari nayo yagombaga kuvamo ubwishyu bwa Dr. Nzabamwita Paul.
- [22] Urukiko rurasanga ikibazo cyo kumenya ingano y'amafaranga yafatiriye n'Umuhesha w'Inkiko Me INGABIRE Marie Claire kuwa 10/07/2020, cyasuzumwe hasuzumwa ingingo ya mbere y'ubujuriye, bityo ntabwo ari ngombwa kugaruka, muri iyi ngingo y'ubujuriye bwuririye ku bundi, ku ngano y'amafaranga yafatiriye, kandi byasobanuwe neza ko amafaranga nyayo umuhesha w'inkiko yafatiriye ari amafaranga 518,958. Ahubwo icyo umuhesha w'inkiko aza kutemeranywa na RWB ku mafaranga ifitiye FCVG Ltd, bari kubiregera bagaragaza amafaranga nyayo, akaba ariyo afatirwa, ariko ntabwo yabivugaga bwa mbere kuri uru rwego. Kuba RWB yaramenyeshye umuhesha w'inkiko amafaranga ibikiye FCVG Ltd, bakayemeranywaho akaba ariyo afatirwa, kandi agahabwa umuhesha w'inkiko nk'uko yabisabye, nta handi uru rukiko rwashingira rwemeza ko hari andi mafaranga yahatiriye, kandi ingano y'amafaranga aba afatiriye atari ayo umuhesha w'inkiko cyangwa ubereyemo umwenda yakekaga, ahubwo ni ayo ubitse umutungo yemeye ko ariyo abereyemo uwishyuzwa. Kubera impamvu zimaze gusobanurwa, ubu bujuriye bwuririye ku bundi bufite.

III. ICYEMEZO CY'URUKIKO

- [23] Rwemeje ko ubujuriye bwa Rwanda Water Resources Board (RWB) bufite ishingiro. [24] Rwemeje ko ubujuriye bwuririye ku bundi bwa Dr Paul Nzabamwita nta shingiro bufite. [25] Rwemeje ko imikirize y'urubanza rwajuririye ihindutse kuri byose. [26] Rwemeje ko ikirego cya Dr Paul Nzabamwita gisaba Urukiko gutegeka abaregwa kwishyura amafaranga yagombaga kuvanwa kuri compte ya Forestry Company Volcanoes Gorillas Ltd banze gutanga, kugarura amafaranga yafatiriye n'umuhesha w'inkiko agakoreshwa, Indishyi, nta

shingiro gifite. [27] Rwemeje ko amafaranga amafaranga 1.687.618 RWANDA WATER RESSOURCES BOARD yari yategetswe Dr Paul Nzabamwita nk'amafaranga yari yafatiriwe, amafaranga 700.000 y'igihembo cya Avoka, n'amafaranga ibihumbi makumyabiri (20.000Frws) RWANDA WATER RESSOURCES BOARD yari yategetswe guha Dr Paul Nzabamwita ntayo igomba kumuha.

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[28] Rutegetse Dr Paul Nzabamwita guha RWANDA WATER RESSOURCES BOARD amafaranga 750.000 y'ikurikiranarubanza n'igihembo cya Avoka, kuri uru rwego n'urwarubanjirije. [29] Rutegetse ko amafaranga yatanzweho ingwate y'amagarama ahwanye n'ibyakozwe mu rubanza.

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