

RWANDA / JUDGMENT

VICTORIA MOTORS RWANDA Ltd v RWANDA UTILITIES REGULATORY AUTHORITY (RURA)

RADA 000115/2023/HC/KIG

COURT

High Court

DECIDED

1 November 2024

CASE / FILE NUMBER

RADA 000115/2023/HC/KIG

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VICTORIA MOTORS RWANDA Ltd v RWANDA UTILITIES REGULATORY AUTHORITY (RURA)

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- Date: 2024-11-01
- Case/document no.: RADA 000115/2023/HC/KIG
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Text

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VICTORIA MOTORS RWANDA Ltd v RWANDA UTILITIES REGULATORY AUTHORITY (RURA)
[Rwanda URUKIKO RUKURU - RADA 000115/2023/HC/KIG (Hitimana, P.J.) 01 Ugushyingo 2024]
Amategeko agenga imanza z'imbonezamubano – Amasezerano – Ikodeshagurisha n'ikodesha risanzwe - Ikodeshagurisha n'ikodesha risanzwe bitandukaniye ku kuba ukodesheje mu ikodeshagurisha aba afite igihe kirekire cyo gukoresha umutungo yakodesheje ku buryo bimuha umutekano mu mikorere ye. Amategeko agenga imanza z'imbonezamubano – Amasezerano y'ikodeshagurisha - Amasezerano y'ikodeshagurisha ntagaragazwa no kwegukana umutungo urebwa n'ayo masezerano igihe arangiye kuko uwahawe ikodeshagurisha, ashobora kugura uwo mutungo ku gaciro gasigaye, bitashoboka akawusubiza uwatanze ikodeshagurisha. Inshamake y'ikibazo: Ku wa 28 Mata 2022 Victoria Motors Rwanda Ltd (VMRL) yagiranye amasezerano na Rwanda Broadcasting Agency (RBA) yo gukodesha imodoka 9 mu gihe cy'imyaka ine, RBA

ikazajya izikoresha mu gutwara abakoze bayo nayo ikamwishyura amafaranga bumvikanye. Ku wa 27 Nyakanga 2022, RURA yandikiye yandikiye VICTORIA MOTORS RWANDA Ltd iyimenyesha ko igomba kwishyura amande ya 2,200,000 Frw y'uko atanga service yo gukodesha imodoka zikoresha mu bwikorezi rusange/gutwara abantu mu buryo rusange kandi nta ruhushya yabihereye, ndetse inatega urega kubanza kwaka urwo ruhushya kugira ngo akomeze imirimo ye. VICTORIA MOTORS RWANDA Ltd yatanze ikirego mu Rukiko Rwisumbuye rwa Nyarugenge, ivuga ko idakora imirimo yo gutwara abantu muri rusange, ko icyemezo cyafashwe kiyitegeka kwishyura amande ya 2.200.000Frws cyakurwaho ndetse ntinasabwe kwaka uruhushya yasabwe. Urukiko rwasanze ikirego nta shingiro gifite rwemeza ko icyemezo cya RURA kigumaho. Urega yajuririyeye icyo cyemezo mu Rukiko Rukuru, uru rukiko rusuzuma ikibazo cyo kumenya niba urukiko rwariyengagije ibyo amatega ateganya rukemeza ko amasezerano yabaye hagati ya VMRL na RBA ari amasezerano yo gukodesha nyamara ntacyo rushyigiyeho. Urega asobanura ko Urukiko Rwisumbuye rutasesenguye neza amasezerano yagiranye na RBA kuko ari amasezerano y'ikodeshagurisha ahubwo rwo rukaba rwaremeje ko ari amasezerano yo gukodesha gusa. Akomeza avuga ko adatatwara abantu mu buryo bwa rusange nk'uko uregwa abivugaga ko ahubwo VMRL ari sosiyete y'ubucuruzi ihagarariye mu Rwanda uruganda rukora imodoka za MITSUBISHI; ubucuruzi bwayo bw'ibanze ni ukugurisha imodoka nshyashya zitarakoresha, ariko ikaba yanazitanga mu ikodeshagurisha ku bantu bazishakaga, wenda batiteguye guhita bazigurira ariko bashobora no kuzigurira mu gihe babyifuzaga, haba mu gihe cy'ikodeshagurisha cyangwa haba na nyuma yayo. RURA ivuga ko izingiro ry'ikibazo kiri muri uru rubanza ari ukumenya niba urega yarakoze amasezerano y'ikodesha gusa cyangwa se niba ari amasezerano y'ikodeshagurisha. Mu masezerano urega yagiranye na RBA, nta ngingo n'imwe igaragaza ko hazabaho kwegukana cyangwa kugura imodoka zikodeshwa bityo ayo masezerano akaba agamije ikodeshwa ry'imodoka (rental vehicles).

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Inshamake y'icyemezo: 1. Ikodeshagurisha n'ikodesha risanzwe bitandukaniye ku kuba ukodesheje mu ikodeshagurisha aba afite igihe kirekire cyo gukoresha umutungo yakodesheje ku buryo bimuha umutekano mu mikorere ye;

2. Amasezerano y'ikodeshagurisha ntagaragazwa no kwegukana umutungo urebwa n'ayo masezerano igihe arangiye kuko Uwahawe ikodeshagurisha, ashobora kugura uwo mutungo ku gaciro gasigaye, bitashoboka akawusubiza uwatanze ikodeshagurisha. Ubujurire bufite ishingiro. Amatega yashyigiyeho: Itegeko N° 41 bis/2014 ryo ku wa 17/01/2015 rigenga ibikorwa by'ikodeshagurisha mu Rwanda, ingingo ya 2, 4, 13. Nta manza zifashishijwe: I. IMITERERE Y'URUBANZA

[1] Ku wa 28 Mata 2022, VICTORIA MOTORS RWANDA Ltd yagiranye amasezerano y'ubukode na Rwanda Broadcasting Agency (RBA). Muri aya masezerano, icyari kigamijwe ni uko urega akodesha imodoka icyenda (9) RBA ikajya izikoresha mu mirimo yayo ya buri munsu, nayo ikishyura urega amafaranga bumvikanye. Aya masezerano ateganya ko RBA ishikurizwa izo modoka, igahabwa ububasha busesuye bwo kuzikoresha no kuzigenzura mu gihe cy'imyaka

ine (4). Kuwa 27 Nyakanga 2022, Rwanda Utilities Regulatory Authority (RURA) yandikiye VICTORIA MOTORS RWANDA Ltd iyimenyesha ko igomba kwishyura amande ya 2,200,000 Frw y'uko atanga service yo gukodesha imodoka zikoreshwa mu bwikorezi rusange/gutwara abantu mu buryo rusange kandi nta ruhushya yabihereye, ndetse inatega urega kubanza kwaka urwo ruhushya kugira ngo akomeze imirimo ye, mu gufata icyo cyemezo, Rwanda Utilities Regulatory Authority (RURA) yashingiye ku ngingo ya 5 n'ya 6 z'amabwiriza N°007/TRANS/RT/RURA/2015 yo kuwa 01/06/2015 agenga abagenzi mu bwikorezi bwo mu muhanda (Passengers Road Transport Regulations N°007/TRANS/RT/RURA/2015 of 01/06/2015). [2] VICTORIA MOTORS RWANDA Ltd yatanze ikirego mu Rukiko Rwisumbuye, ivuga ko idakora imirimo yo gutwara abantu muri rusange, ko amabwiriza uregwa yashingiyeho atareba VICTORIA MOTORS RWANDA Ltd, ko icyemezo cyafashwe kiyitegeka kwishyura amande ya 2.200.000Frws cyakurwaho no kwaka uruhushya rwo gukodesha imodoka zikoreshwa mu bwikorezi rusange cyakurwaho kandi uregwa akishyura VICTORIA MOTORS RWANDA Ltd amafaranga y'ikurikiranarubanza n'ay'igihembo cy'avoka. [3] Rwanda Utilities Regulatory Authority (RURA) mu kwiregura yasobanuye ko ikirego cya VICTORIA MOTORS RWANDA Ltd nta shingiro cyahabwa kuko RURA yasanze ko n'ubwo aya masezerano yitwa "lease agreement", ariko mu byukuri agamije ikodesha gusa aho kuba ikodeshagurisha. Aha Itegeko N° 41 bis/2014 ryo ku wa 17/01/2015 rigenga ibikorwa by'ikodeshagurisha mu Rwanda ritanga umucyo ku gisobanura cya "lease: ikodeshagurisha", mu

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bisobanuro by'amagambo (definitions) no. 5. ko VICTORIA MOTORS RWANDA Ltd na RBA, Rwanda Utilities Regulatory Authority (RURA) yasanze amasezerano bagiranye agamije ikodesha gusa (rent), aho kuba ikodeshagurisha (lease). Bivuze ko amasezerano hagati ya VICTORIA MOTORS RWANDA Ltd na RBA ari mu rwego rwo gukodesha imodoka zisabirwa uruhushya nk'uko biteganywa mu ngingo ya 5.6° ya Passengers Road transport Regulations N°007/TRANS/RT/RURA/2015 of 01/06/2015. Ni yo mpamvu Rwanda Utilities Regulatory Authority (RURA) yagumishijeho amande n'icyemezo gitegeka VICTORIA MOTORS RWANDA Ltd kubanza kubona uruhushya (rental vehicle license) kugira ngo yemererwe gukora uyu murimo.

[4] Uru rubanza rwaburanishijwe mu ruhame kuwa 01/06/2023 VICTORIA MOTORS RWANDA Ltd ihagarariwe na Me MATSIKO Chris afatanyije na Me MUGABONABANDI Jean Maurice naho Rwanda Utilities Regulatory Authority (RURA) ihagarariwe na Me KABIRU Jacques afatanyije na Me RUDASESWA Timothée.

[5] Ururukiko Rwisumbuye rwaciye urubanza, rwemeza ko ikirego cya VICTORIA MOTORS RWANDA Ltd nta shingiro gifite; rwemeza ko icyemezo cya RURA cyo kuwa 27/07/2022 cyafatiwe VICTORIA MOTORS RWANDA Ltd cyo kwishyura amande yaciye ya 2.200.000Frws kigumyeho ko kandi na VICTORIA MOTORS RWANDA Ltd igomba gusaba uruhushya rwo gukodesha imodoka zikoreshwa mu bwikorezi rusange cyakurwaho; rutegeka VICTORIA MOTORS RWANDA Ltd kwishyura igihembo cy'abavoka ba Rwanda Utilities Regulatory Authority (RURA) kingana n'ibihumbi maganatandatu (600.000frws) kuri buri wese, yose

hamwe akaba amafaranga miliyoni n'ibihumbi maganabiri (1.200.000frws); rutegeka ko amafaranga ibihumbi makumyabiri (20.000Frws) VICTORIA MOTORS RWANDA Ltd yatanzeho ingwate y'amagarama irega muri uru rubanza ahwanye n'ibyarukozwemo.

- [6] VICTORIA MOTORS RWANDA (VMRL) Ltd ntiyishimiye imikirize y'uru rubanza, irajurira ivuga ko iyo usomye icyo urukiko rwashingiye ho mu gika cya 9 cy'urubanza rwajuririwe, usanga ruvuga ibintu bibiri byatumye rwemeza ko amasezerano hagati ya RBA na VMRL ari ay'ikodesha aho kuba ikodeshagurisha, icya mbere rwashingiye ngo nuko RBA itwara abantu mu ma bus cyangwa mu mamodoka atwara abantu, icyakabiri ngo ibikora mu rwego rwo gukodesha gusa aho kuba ikodeshagurisha. Uhagarariye VMRL Ltd avuga ko iri sesengura ryakozwe n'urukiko nta shingiro rifite kubera ko Urukiko rwashyikirijwe amasezerano yabaye hagati ya RBA na VMRL, ayo masezerano akaba ari ay'ikodeshagurisha nta na hamwe agaragaza ko ari ay'ikodesha.
- [7] RURA ivuga ko amasezerano VMRL Ltd yagiranye na RBA ari amasezerano y'ubukode (rent), aho kuba amasezerano y'ikodeshagurisha (lease) nk'uko bayise.
- [8] Urubanza rwaburanishijwe VMRL Ltd ihagarariwe na Me Matsiko Chris na Me Ngarambe John, Rwanda Utilities Regulatory Authority (RURA) ihagarariwe na Me Rudaseswa Thimothee.

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II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

1. Kumenya niba urukiko rwarirengagije ibyo amategeko ateganya rukemeza ko amasezerano yabaye hagati ya VMRL na RBA ari amasezerano yo gukodesha nyamara ntacyo rushingiyeho.
- [9] Abahagarariye VICTORIA MOTORS RWANDA Ltd (VMRL) bavuga ko mu gika cya 09 cy'urubanza rujuririrwa Urukiko Rwisumbuye rwa Nyarugenge ruvuga ko rurasanga iyo urebye amasezerano yabaye hagati ya VICTORIA MOTORS RWANDA Ltd na Rwanda Broadcasting Agency (RBA) yiswe "lease agreement" yo ku wa 28/02/2018 ngo usanga ayo masezerano agamije gutwara abakozi ba Rwanda Broadcasting Agency (RBA) mu mamodoka yayo mu buryo bwa rusange kuko itwara abantu mu ma bus cyangwa mu mamodoka atwara abantu mu rwego rwo gukodesha gusa aho kuba ikodeshagurisha. Bavuga ko iyo usomye icyo urukiko rwashingiye ho mu gika cya 9, usanga ruvuga ibintu bibiri byatumye rwemeza ko amasezerano hagati ya RBA na VMRL ari ay'ikodesha aho kuba ikodeshagurisha, icya mbere rwashingiye ngo nuko RBA itwara abantu mu ma bus cyangwa mu mamodoka atwara abantu, icya kabiri ngo ibikora mu rwego rwo gukodesha gusa aho kuba ikodeshagurisha. Iri sesengura ryakozwe n'Urukiko, bavuga ko nta shingiro rifite, kubera ko Urukiko rwashyikirijwe amasezerano yabaye hagati ya RBA na VMRL, ayo masezerano akaba ari ay'ikodeshagurisha nta na hamwe agaragaza ko ari ay'ikodesha. Kuri iyi ngingo aho urukiko ruvuga ko mu busanzwe RBA itwara abantu mu modoka atwara abantu sibyo kuko RBA idatwara abantu ahubwo ikoresha imodoka zitandukanye mu gutwara abakozi bayo gusa mu

kazi. Ku ngingo ya kabiri, uburyo RBA itwara mu abakozi bayo bushobora kuba mu modoka zayo ku giti cyayo, cyangwa izo ikoresha kubw'ikodeshagurisha. Urukiko rero ntibabona aho rwakuye impamvu yo kwemeza ko itwara abantu mu buryo bwa rusange ndetse ikabatwara ikodesheje gusa; usibye kubivuga gutya gusa ariko ntanicyo rwashingiyeho rubivuga, kuko rwagombaga gusesengura amasezerano yabaye hagati y'impande zombi rukayahuza n'ibiranga/ibigize amasezerano y'ikodeshagurisha biteganyijwe mu itegeko n° 41 bis/2014 ryo ku wa 17/01/2015 rigenga ibikorwa by'ikodeshagurisha mu Rwanda, aha akaba ariho hagombaga kuva umwanzuro wo kumenya koko niba amasezerano yabaye ari amasezerano yo gukodesha cyangwa ari amasezerano y'ikodeshagurisha. Nta mpaka zari zikwiye kubaho mu kwibaza niba amasezerano hagati ya RBA na VMRL ari ikodeshagurisha cyangwa ikodesha ko ubwayo agaragaza icyo ayo masezerano yari agamije. Aha basobanura neza ko yaba RBA yaba na VMRL ari ibigo binini, bifite inshingano nini kandi byose bifite abanyamategeko ku buryo bitari gushoboka ku ubwoko bw'amasezerano y'impande zombi yakwitwaga ikodeshagurisha kandi agamije ikodesha. Mu gushimangira ibi, Urukiko rwanamenye ubucuruzi Victoria Motors ikora mu Rwanda n'impamvu za business yayo mu Rwanda. VMRL ni sosiyete y'ubucuruzi ihagarariye mu Rwanda uruganda rukora imodoka za MITSUBISHI; ubucuruzi bwayo bw'ibanze ni ukugurisha imodoka nshyashya zitarakoreshwa, ariko ikaba yanazitanga mu ikodeshagurisha ku bantu bazishaka, wenda batiteguye guhita bazigura ariko bashobora no kuzigura mu gihe babyifuza, haba mu gihe cy'ikodeshagurisha cyangwa haba na nyuma yaryo. Mu gusobanura ko amasezerano RBA yagiranye na VMRL atarebwa no gusaba uruhushya rwo gukora, (License), Urukiko rwasuzuma ingingo ya 5 y'amabwiriza N°007/TRANS/RT/RURA/2015 yo kuwa 01/06/2015 agenga abagenzi mu bwikorezi bwo mu muhanda, ari nayo igaragaza service

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z'ubwikorezi rusange zisabirwa uruhushya muri RURA. Iyo usomye iyi ngingo usanga ibyo RURA itangira License ari services z'ubwikorezi rusange (Public Transport), bivuga ko kugira ngo usabe License muri RURA ugomba kuba ukora kimwe mu bikorwa bigaragazwa n'ingingo ya 5 y'aya mabwiriza kandi buri category ikaba ijyanye na public Transport. Basaba Urukiko kwemeza ko urubanza rujuririrwa ruvanyweho mu ngingo zarwo zose, ndetse n'icyemezo cya RURA gitegeka VMRL gusaba icyangombwa cyo gukodesha imodoka no gutanga amande ya 2,200,000 FRW kikavaho kuko kinyuranyije n'amategeko nkuko twabisobanuye haruguru. [10] Uhagarariye Rwanda Utilities Regulatory Authority (RURA) mu izina ry'Umuyobozi wayo, avuga ko izingiro ry'impaka zabaye kandi ziri muri uru rubanza ni izo kumenya niba amasezeramo ari hagati ya VICTORIA MOTORS RWANDA Ltd na Rwanda Broadcasting Agency (RBA) ari ay'ikodeshagurisha cyangwa se niba ari ay'ikodesha gusa. RURA yagaragariye Urukiko ko aya masezerano ari ay'iyikodesha gusa, aho kuba ay'ikodeshagurisha, ishingiye ku busesenguzi bw'ingingo z'amasezerano ari hagati ya VICTORIA MOTORS RWANDA Ltd na Rwanda Broadcasting Agency (RBA) no ku ngingo z'itegeko rigenga Itegeko N° 41 bis/2014 ryo ku wa 17/01/2015 rigenga ibikorwa by'ikodeshagurisha mu Rwanda. RURA isanga serivisi Victoria Motors iha RBA ari serivisi zo gukodesha gusa, ari na byo bitangirwa uruhushya; aho kuba ikodeshagurisha

risonurwa mu buryo bukurikira: Ingingo ya 2 y'Itegeko N° 41 bis/2014 ryo ku wa 17/01/2015 rigenga ibikorwa by'ikodeshagurisha mu Rwanda ritanga umucyo ku gisobanura cya "lease: ikodeshagurisha", mu bisobanuro by'amagambo (definitions) no. 5: lease: type of loan through which a nonmonetary asset is given for a specific period of time to the lessee who pays the agreed upon lease rental and may acquire permanent possession of it at the end of the agreement; ikodeshagurisha: ubwoko bw'inguzanyo bukorwa hatangwa umutungo utari amafaranga ukoresheya mu gihe runaka, uwuhawe akishyura ubukode bwumvikanweho kandi akaba ashobora kuwegukana amasezerano arangiyeye. icyemezo cyo gutegeka Victoria Motors gusaba uruhushya rujyanye no gukodesha imodoka (Rental vehicle license), cyafashwe nyuma y'uko RURA isuzumye amasezerano Victoria Motors yagiranye na RBA igasanga ntaho iteganya ikodeshagurisha (nta option d'achat irimo, ahubwo agamije ikodesha (rent) gusa. Kuba Victoria Motors iha imodoka zayo ngo izikodeshe, bituma iyo serivisi iba muri zirivisi zisabirwa uruhushya nk'uko biteganywa mu ngingo ya ya 5 y'aya Mabwiriza (Passengers Road transport regulations N°007/TRANS/RT/RURA/2015 Of 01/06/2015) zisobanuye mu buryo bukurikira: These regulations focus on six (6) classes of public transport vehicles, namely: 1. Buses and mini buses; 2. School buses; 3. Taxi cabs; 4. Motorcycles; 5. Tourism Vehicles; 6. Rental Vehicles. RURA ikaba isanga bidakwiye ko Victoria Motors yemererwa gukora imirimo yo gukodesha imodoka (Rental Vehicles) itabanje ku biherwa uruhushya (License). Bitabaye ibi yaba itwara isoko abandi bari ku isoko rimwe, kandi babifitiye uruhushya (license). Ibi byabangamira bikomeye ihame ry'ihiganwa (fair competition) mu gutanga izo serivisi rikorwa rikurikije amategeko n'amabwiriza ariho. RURA ikaba isaba Urukiko kwemeza ko Victoria Motors iha RBA zerivisi zishyurwa zo gukodesha imodoka, hashingiwe ku masezerano bafitanye, aho kuba ikodeshagurisha, hanyuma rukemeza ibi bukurikira: 1) ko ubusabe bwa Victoria Motors bw'uko urubanza rujuriyirwa rwavanyweho mu ngingo zarwo zose nta shingiro bufite; 2) ko Urubanza rwajuririye rugumyehe mu ngingo za rwo zose; 3) Gutegeka Victoria Motors kwishyurwa RURA amande ya miliyoni ebyiri n'ibihumbi Magana abiri (FRW2,200,000) y'uko atanga serivisi yo gukodesha imodoka kandi nta ruhushya yabihereye; 4) Gutegeka Victoria Motors gusaba uruhushya rwo gutanga serivisi zo gukodesha imodoka (rental vehicle license) mu gihe yaba yifuza gukomeza gutanga izo serivisi.

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Uko Urukiko rubibona

- [11] Urukiko rurasanga icyo VMRL Ltd inenga ku mikirize y'urubanza rwajuririye, ni uko rwemeje ko amasezerano yagiranye na RBA ari amasezerano y'ubukode gusa, kandi nk'uko n'abayagiranye ubwabo bayita kandi bayemeranwaho ari amasezerano y'ikodeshagurisha (Lease). Ikigaragara RURA yo ishingiraho yemeza ko aya masezerano yabaye hagati ya VMRL Ltd atari amasezerano y'ikodeshagurisha, ni uko nyuma y'igihe cy'amasezerano, ntaho biteganyijwe ko RURA izegukana izi modoka, cyangwa ko ntaho biteganyijwe ko izazigura. Ibi uyihagarariye avuga ko bishingiye ku ngingo ya 2 y'Itegeko N° 41 bis/2014 ryo ku wa 17/01/2015 rigenga ibikorwa by'ikodeshagurisha mu Rwanda, kuko isobanura icyo "lease" cyangwa ikodeshagurisha aricyo. [12] Urukiko rurasanga ingingo ya 2, 5° y'Itegeko N° 41 bis/2014 ryo ku wa 17/01/2015 rigenga ibikorwa by'ikodeshagurisha mu Rwanda koko

isobanura ikodeshagurisha ko ari “ubwoko bw’inguzanyo bukorwa hatangwa umutungo utari amafaranga ukoreshwa mu gihe runaka, uwuhawe akishyura ubukode bwumvikanweho kandi akaba ashobora kuwegukana amasezerano arangiye”. N’ubwo uhagarariye RURA yibanda ku kuvuga ko iyo amasezerano y’ikodeshagurisha arangiye, ukodesha ashobora kwegukana umutungo yakodeshaga, ntabwo aricyo kiranga aya masezerano, kuko ingingo ivuga ko uyu ukodesha ashobora kwegukana umutungo, bivuze ko bashobora no gukodesha bikarangira, ntihabeho kwegukana. Ni nabyo ingingo ya 4 y’itegeko ryavuze iteganya, ko “Uhabwa ikodeshagurisha ashobora kugura uwo mutungo ku gaciro gasigaye cyangwa kuwusubiza utanga ikodeshagurisha”, ndetse n’ingingo ya 13, 8° y’itegeko ryavuzwe, iteganya ko uhabwa ikodeshagurisha afite inshingano zikurikira: “8° gusubiza umutungo iyo amasezerano y’ikodeshagurisha arangiye, keretse iyo ayo masezerano yongerewe igihe cyangwa uhabwa ikodeshagurisha yemeye kugura uwo mutungo”. Izi ngingo nazo ziteganya ko mu gihe amasezerano y’ikodeshagurisha arangiye, ukodesha ashobora kwegukana umutungo cyangwa akawusubiza. RURA ivuga ko ishingira ku kuba VMRL Ltd na RURA batarameranyijwe ko RBA izegukana imodoka ikodesha, bigatuma yemeza ko ayo masezerano atari amasezerano y’ikodesha gurisha, ntacyo ishingiraho giteganyijwe n’itegeko, cyemeza ko kuba RBA itarumvikanye na VMRL Ltd ko amasezerano y’ubukode narangira izegukana izi modoka yakodesheje, bivuze ko ari amasezerano y’ubukode busanzwe, kandi na lease nayo ari ubukode, bushobora kurangira ukodesha yegukana ubukode cyangwa asubiza ibyo yakodeshaga, ahubwo ikodeshagurisha n’ikodesha bitandukaniye ku kuba ukodesheje mu ikodeshagurisha aba afite igihe kirekire cyo gukoresha umutungo yakodeshe, ku buryo bimuha umutekano mu mikorere ye. RURA yagombye kuba yararebye ibyo abagiranye amasezerano bashyizemo (terms of contract), igihe amasezerano azamara (imyaka 2), n’imirimo VMRL Ltd ikora, ikabona ko koko ari amasezerano y’ikodeshagurisha, aho kumva ibindi bidateganyijwe n’itegeko, bitanahura n’ibyo abagiranye amasezerano bumvikanye. Bityo nk’uko uhagarariye VMRL Ltd abivuga, Urukiko Rwisumbuye rwirengagije ibyo amategako ateganya mu kwemeza ko amasezerano yabaye hagati ya VMRL na RBA ari amasezerano yo gukodesha, kandi ari amasezerano y’ikodeshagurisha. [13] Urukiko rurasanga nk’uko uhagarariye VMRL Ltd abivuga, amafaranga 2,200,000 y’amande yaciwe na RURA ivuga ko yakodesheje imodoka (rent) itabiherewe uburenganzira (licence) zikwiye kuvanwaho.

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2. Kumenya niba VMRL yahabwa amafaranga y’ikurikiranarubanza n’igihembo cya Avoka angana na 4,000,000 FRW ku nzego zombi.
- [14] Me Matsiko Chris afatanyije na Me Ngarambe John bahagarariye VICTORIA MOTORS RWANDA Ltd (VMRL) bavuga ko VMRL yashowe mu manza zitari ngombwa kubera kwibeshya ku mategeko Uregwa agafata icyemezo kidakurikije amategako yanabigaragarizwa akanga kugihindura. ibi byatumye atakaza amafaranga mu ikurikiranarubanza angana na 2,000,000 Frw mu rukiko rwisumbuye, ndetse ajuririra urukiko rukuru yishyura abayihagarariye mu rukiko andi 2,000,000 Frw. 25. VMRL igasaba

Urukiko gutegeka RURA kwishyura amafaranga y' ikurikiranarubanza n'igihembo cya avoka angana na 4,000,000 Frw kunzeho zombi kuko yashowe mu manza z'amaherere.

Bakabishingira ku Ingingo ya 111 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko umuburanyi afite uburenganzira bwo kwishyurwa ibyakoreshejwe mu rubanza.

26. Barashingira kandi ku ngingo ya 26 y'Amabwiriza y'Urugaga rw'Abavoka mu Rwanda N0 01/2014 akena ibihembo mbonera by'Abavoka, aho iteganya ko igihembo fatizo cy'Avoka w'urega kigomba kuba hagati ya 500,000 Frw na 5,000,000 Frw. Bityo, bagasaba urukiko gutegeka Uregwa kwishyura 4,000,000 Frw y' igihembo cya avoka ku rukiko rwisumbuye no ku rukiko rukuru. 27. Urukiko kandi ruzategeke RURA gusubiza ingwate y'amagarama yatanze mu gutanga ibirego no gusubiza amafaranga yose yishyurwa imirimo y'abahesha b'inkiko irebana n'izi manza; ruzashingire kubiteganywa n'iteka rya Minisitiri n° 17/moj/ag/20 ryo ku wa 30/10/2020 rigena amafaranga atangwa mu manza z'imbonezamubano, iz'ubucuruzi, iz'umurimo, iz'ubutegetsi n'iz'inshinjabyaha mu ngingo ya 3 ivuga ingano y'ingwate y'amagarama itangwa mu nkiko ndetse n'ingingo ya 4 ivuga ko umuburanyi watsinzwe asubiza ingwate y'amagarama umuburanyi watsinze. [15] Me Rudaseswa Timothée Uhagarariye Rwanda Utilities Regulatory Authority (RURA) mu izina ry'Umuyobozi wayo, avuga ko VICTORIA MOTORS RWANDA Ltd (VMRL) itashowe mu manza na RURA, kuko RURA ntiyigeze iyirega. Ahubwo ni yo yahisemo kujya mu Rukiko aho kubahiriza ibyo yari yasabwe na RURA, kandi bishingiye ku mategeko n'Amabwiriza, bijyanye no gusaba uruhushya (License). Victoria kandi ni nayo yishakiye umwavoka muri ayo mahitamo yayo yo kuregera Urukiko, mu gihe RURA yo yari yasabye Victoria Motors gusaba license yishyurwa ibihumbi magana ane (FRW 400,000), bityo Victoria Motors ikaba igomba no kwirengera ikiguzi cy'abunganizi bayo mu Rukiko, RURA ikaba isanga izi ndishyi zose Victoria Motors Rwanda Ltd isaba nta shingiro zifite.

Uko Urukiko rubibona

[16] Amafaranga 4.000.000 y'ikurikiranarubanza n'igihembo cya Avoka VICTORIA MOTORS RWANDA Ltd (VMRL) isaba, kuri uru rwego n'urwarubanjirije, ntiyayahabwa yose kubera ko ari menshi, ikaba igenewe amafaranga 1.000.000 y'igihembo cya Avoka n'ikurikiranarubanza, kuri uru rwego n'urwarubanjirije.

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2. Kumenya niba RURA ikwiye guhabwa igihembo cya Avoka

[17] Me Rudaseswa Timothée. Rwanda Utilities Regulatory Authority (RURA) mu izina ry'Umuyobozi wayo, arasaba Urukiko gutegeka Victoria Rwanda Ltd Ltd kuyishyura amafaranga angana na Miliyoni ebyiri ibihumbi Magana atatu (FRW 2,300,000) ajyanye n'igihembo cy'abunganizi n'ibyatanze kuri uru rubanza kuva rutangiye, kuko aho kubahiriza inama za RURA zo gusaba uruhushya (License), itari kwimwa mu gihe yari kuba yujuje ibisabwa, ahubwo yo yahisemo gujyana RURA mu Rukiko. [18] Me Matsiko Chris afatanyije na Me Ngarambe John bahagarariye VICTORIA MOTORS RWANDA Ltd (VMRL)

bavuga ko indishyi zisabwa nta shingiro zifite.

Uko urukiko rubibona

[19] Urukiko rurasanga amafaranga 2,300,000 ajyanye n'igihembo cy'abunganizi n'ibyatanzwe kuri uru rubanza kuva rutangiye, uhagarariye RURA asaba, ntazo yahabwa kubera ko ubujurire bwa VMRL Ltd bufite ishingiro, byumvikana ko itayishoye mu rubanza rw'amaherere.

III. ICYEMEZO CY'URUKIKO

[20] Rwemeje ko ubujurire bwa VICTORIA MOTORS RWANDA (VMRL) Ltd bufite ishingiro. [21] Rwemeje ko ubujurire bwuririye ku bundi bwa Rwanda Utilities Regulatory Authority (RURA) nta shingiro bufite. [22] Rwemeje ko imikirize y'urubanza rwajuririwe ihindutse kuri byose. [23] Rutesheje agaciro icyemezo cya Rwanda Utilities Regulatory Authority (RURA) cyo kuwa 27/07/2022 gitegeka VICTORIA MOTORS RWANDA (VMRL) Ltd kwishyura amande ya 2,200,000 FRW. [24] Rutegetse Rwanda Utilities Regulatory Authority (RURA) guha VICTORIA MOTORS RWANDA Ltd amafaranga 1.000.000 y'igihembo cya Avoka n'ikurikirana. [25] Rutegetse ko amafaranga yatanzweho ingwate y'amagarama ahwanye n'ibyakozwe mu rubanza.

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Prepared on 14 October 2026 · Esheria