

**THE HIGH COURT
JUDICIAL REVIEW**

[2022] IEHC 360
[2020/787 JR.]

BETWEEN

DEIRDRE MORGAN

APPLICANT

AND

MINISTER FOR EDUCATION AND SKILLS

RESPONDENT

AND

KILDARE AND WICKLOW EDUCATION AND TRAINING BOARD

NOTICE PARTY

JUDGMENT of Mr. Justice Cian Ferriter delivered on the 1st day of June 2022

1. This is an application for leave to apply for judicial review. By order of 23 November 2020, perfected on 24 November 2020, Meenan J. directed that the leave application proceed on notice to the respondent (“the Minister”) and the notice party (“KWETB” or “the Board”). The applicant believed that she had already been granted leave to apply for judicial review by that order but appeared to accept at the hearing, when the terms of the order were explained to her, that she had not yet been granted leave. In any event, the leave application was the subject of submissions by the applicant and the Minister at the hearing before me.
2. In her original initiating notice of motion, the applicant sought leave to apply for the following relief:

“an order of mandamus or a combination of orders to cause the Minister for Education and Skills to provide me with a lawful, fair and just opportunity, to reply to the submission made in January 2015 by [KWETB] to a non-statutory

ministerial enquiry, a copy of which has only recently been shared with me by the Minister's Department's, sent on 30 July 2020 and received by me on 7 August 2020."

3. The applicant was directed to provide a statement of grounds. The reliefs sought in the statement of grounds as delivered by her sought:

*"1. an order of certiorari quashing the order of the Minister for Education dated 15 June 2015,
2. an order of certiorari quashing the inquiry of the Minister for Education commenced in August 2014 and
3. a declaration by way of judicial review that the enquiry of the Minister and the order that has come out of it are unfair".*

4. The grounds on which the applicant that relief included that *"the refusal by the Minister for Education to reply to my request 24 September 2020 seeking a fair and lawful opportunity to reply to the submission made by KWETB to the Minister's enquiry in January 2015 that I only received on 7 August 2020"* and that the submission contained contents which were prejudicial to her.
5. I am satisfied that this application for leave to apply for judicial review is an abuse of process. It is an inappropriate attempt to seek to litigate once again the question of her removal from her position as an art teacher with the VEC, which removal occurred on 15 June 2020 and which has been the subject of final and binding determinations by the Labour Court and this Court, as explained in a separate judgment delivered by me today on foot of *Isaac Wunder* order and strike out order applications brought by the Minister and KWETB in these, and related, proceedings. It is not permissible for the applicant to seek to re-litigate that matter through yet another set of proceedings.
6. Even if I was not satisfied that this application was an abuse of process, the application is, in any event, hopelessly out of time. The applicant was on notice from 8 May 2015 of the fact that the Board provided a submission to the inquiry in question as the submission was specifically referenced in the report of the inspector of 8 May 2015 which was furnished to the applicant and her solicitors at that time.

7. Furthermore, and contrary to the position sought to be represented by the applicant to the Court, as was made clear in an affidavit of Claire Butler sworn on behalf of the Minister on 10 June 2021, the applicant was furnished with a copy of this submission by the Minister on 15 June 2017, in response to a Freedom of Information Act request to the Minister. She was accordingly on notice of the fact of the submission for some 5½ years before she issued these proceedings and had been in possession of the submission for well over 3 years before she issued these proceedings. She has not demonstrated any good and sufficient reason justifying her lengthy delay in seeking judicial review.
8. In any event, as the contents of her statement of grounds make clear, these proceedings are an attempt to re-litigate the question of her removal from her teaching position in June 2015 when the question of the lawfulness of that removal has already been the subject of final and binding determinations.
9. I accordingly refuse the applicant's application for leave to apply for judicial review.