IN THE SUPREME COURT OF NIGERIA

HOLDEN AT ABUJA

ON FRIDAY 27TH DAY OF MAY 2022

BEFORE THEIR LORDSHIPS

OLUKAYODE ARIWOOLA	**JUSTICE, SUPREME COURT**
AMINA ADAMU AUGIE	**JUSTICE, SUPREME COURT**
UWANI MUSA ABBA AJI	**JUSTICE, SUPREME COURT**
MOHAMMED GARBA LAWAL	**JUSTICE, SUPREME COURT**
ABDU ABOKI	**JUSTICE, SUPREME COURT**
ADAMU JAURO	**JUSTICE, SUPREME COURT**
EMMANUEL AKOMAYE AGIM	**JUSTICE, SUPREME COURT**

SC/911/2017

BETWEEN:

RT. HON. CHIBUIKE ROTIMI AMAECHI == APPELLANT

AND

1. **THE GOVERNOR OF RIVERS STATE**
2. **ATTORNEY GENERAL OF RIVERS STATE**
3. **JUDICIAL COMMISSION OF INQUIRY**
   (To Investigate the Administration of Rt. Hon. Chibuike Rotimi Amaechi)
4. **HON. JUSTICE GEORGE OMEREJI**
5. **BARR. QUEEN GODWILL**
6. **DR. ZACHEAUS ADANGO**
7. **DR. EDITH CHUKWU**
8. **CHIEF MONNDAY EKERENTA**
9. **REV. CAN. ALEX USIFO**
10. **ELDER IGNATIUS PIEGBARA**
    (4th – 10th Respondents are the chairman and members of the Judicial Commission of Inquiry)

RESPONDENTS

JUDGMENT

(DELIVERED BY EMMANUEL AKOMAYE AGIM, JSC)

This appeal No. SC. 911/2017 was commenced on 7-8-2017 when the appellant herein filed a notice of appeal against the judgment of the Court of Appeal delivered on 8-5-2017 in Appeal No. CA/PH/342/2015 affirming the judgment of the High Court of River State delivered on 20-8-2015 in Suit No. PHC/189/2015 dismissing the appellant's claim. The appellant, by motion on notice filed on 25-6-2018 applied for extension of time to seek leave to appeal against the above mentioned judgment of Court Appeal, leave to so appeal, extension of time to so appeal and leave to rely on the record of appeal compiled and transmitted on the basis of the initial notice of appeal filed on 7-8-2017. On 16-3-2021 this application was granted. Pursuant to the grant of this application, the appellant filed another notice of appeal on 29-3-2021.

All the parties filed, exchanged and adopted their respective briefs as follows – appellant's brief, 1st and 2nd respondent's brief, 3rd respondent's brief, 4th to 10th respondent's brief, 4th to 10th respondent's brief, appellant's reply brief to 1st and 2nd respondent's brief, the appellant's reply brief to the 3rd

respondent's brief and appellant's reply brief to the 4th to 10th respondent's brief. The 1st and 2nd respondents' filed reply on points of law in response to the appellant's argument against their preliminary objection.

The appellant's brief raised the following issues for determination –

> "**ISSUE ONE**
>
> **Whether the Court of Appeal was right to hold that there is no distinction between a judicial commission of inquiry and a commission of inquiry? (Ground one).**
>
> **ISSUE TWO**
>
> **Whether the 30-day time limit given to the 3rd respondent by the 1st respondent to conduct and conclude its inquiry was rightly adjudged by the Court of Appeal and did not implicate a denial of the appellants right to fair hearing within a reasonable time as guaranteed under section 36 of the Constitution of the Federal Republic of Nigeria, 1999 (As amended)? (Ground two).**
>
> **ISSUE THREE**

Whether the Court of Appeal correctly construed and applied section 2(1) of the Commission of Inquiry Law (Cap. 30), Laws of the Rivers State Regardless of the overriding specific provision of the Constitution as to how a Governor can be investigated in his official capacity? (Grounds three, four and five)

ISSUE FOUR

Whether the Court of Appeal rightly held that 3rd respondent can competently investigate and probe the appellant who is no longer in the public service of the Rivers state Government because of his official executive decisions as Governor of the State? (Ground Six & Seven)

ISSUE FIVE

Whether the Court of Appeal rightly held that the adverse and injurious pronouncements made by the trial Judge against appellant in respect of the claim in litigation constituted a mere obiter dicta and therefore could not be appealed against? (Ground eight)

ISSUE SIX

Whether the appeal to the Court of Appeal was wrongly dismissed because the appellant has not made out a case for him to warrant the grant of the reliefs sought in the trial court? (Ground 9)".

The 1st and 2nd respondent's brief raised the following issues for determination –

"1. Whether the Court of Appeal was right when it came to the conclusion that the Commission of Inquiry which was instituted by the Governor of Rivers State, subject matter of the appellant's complaint was properly set up and constituted under the Commission of Inquiry Law (Cap. 30) Laws of Rivers State of Nigeria, and that the same does not constitute an infringement of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), including the appellant's right to fair hearing" (Ground 1, 2, and 3, Appellant's Grounds of appeal.)

2. Whether the Court of Appeal was right when it held by reference to the decision of the Supreme Court in the case of

FAWEHINMI v. BABANGIDA (2003) 3 NWLR (PT 808) 604, that the Commission of Inquiry Law of Rivers State is an existing law under the Constitution of the Federal Republic of Nigeria 1999 (as amended), that the contest provisions of the said law are valid and constitutional and that the Governor of Rivers State, the 1st respondent, acted properly in setting up the Commission of Inquiry subject matter of the appellant's compliant? (Grounds 4, 5, 6, appellant's Grounds of Appeal).

3. **Whether in resolving Issue No. 8 as it did, the Court of Appeal took a stand which was inconsistent with its earlier resolution of Issues Nos 1 – 3 and liable to be set aside? (Ground 7, appellant's Grounds of Appeal)**

4. **Whether the Court of Appeal was right when it came to the conclusion that the appellant failed to establish the allegation of bias against the learned trial Judge such as to render the decision of the**

learned trial Jude liable to be set aside? (Ground 8, appellant's Grounds of Appeal)

5. **Whether the Court of Appeal was right when it came to the conclusion that the appellant did not make out a case to warrant the grant of the reliefs he sought before the trial court and that the learned trial Judge was right in dismissing the appellant's case? (Ground 9, appellant's Grounds of appeal)"**

The 3rd respondent's brief raised the following issues for determination-

"1. **Whether on the facts of this case the Court of Appeal was right to hold that there is no distinction between a Judicial Commission of Inquiry and a Commission of Inquiry? (Ground one)**

2. **Whether the 30 days time limit given to the 3rd respondent to conclude its inquiry amounted to a denial of the appellant's right to fair hearing? (Ground two).**

3. **Whether the Court of Appeal correctly construed and applied Section 2(1) of the**

Commission of Inquiry Law (CAP 30), Laws of the Rivers State regardless of the provisions of the Constitution as to how a Governor can be investigated in his official capacity? (Grounds three, four and five);

4. Whether the Court of Appeal rightly held that the 3rd respondent can competently investigate and probe the administration of the appellant who is no longer in the Public Service of the Rivers State Government as Governor of the State? (Grounds six and seven);

5. Whether the Court of Appeal rightly held that the pronouncements made by the Learned Trial Judge which the appellant has complained of a re Obiter Dicta which could not be appealed against? (Ground Eight);

6. Whether the appeal to the Court of Appeal was wrongly dismissed because the appellant has not made out a case for him to warrant the grant of the reliefs sought in the Trial Court? (Ground9)."

The 4th to 10th respondent's brief raised the following issues for determination-

> "1. **Whether the appellant was denied the right to fair hearing to present his case to the 3rd respondent? (Ground 2).**
>
> 2. **Whether the Court of Appeal was right in not holding Section 2(1) of the Commission of Inquiry Law (Cap. 30) Laws of Rivers State and the Terms of Reference of the 3rd respondent unconstitutional? (Grounds 1, 3, 4, and 5).**
>
> 3. **Whether the 1st respondent acted *ultra vires* in constituting the 3rd respondent? (Grounds 6 and 7),**
>
> 4. **Whether the Court of Appeal was right when it came to the conclusion that the appellant failed to establish the allegation of bias or likelihood of bias against the Learned Trial Judge? (Ground 8)."**

The 1st and 2nd respondents, 3rd respondent and 4th to 10th respondents raised and argued preliminary objections to this

appeal in their brief. Their common grounds of objection are that the notice of the appeal is incompetent because it does not contain the address for service of the 1st respondent and the 1st respondent was not personally served with it, and that all the grounds of appeal are of mixed law and facts and no leave was first obtained to appeal on those grounds before the notice of appeal was filed. The 4th to 10th respondents further contended that the grant by this court of leave to appeal on mixed law and facts on 16-3-21, and the filing of a second notice of appeal pursuant to that leave did not cure the incompetence of the appeal filed on 7-8-2017.

Let me determine these preliminary objections before I delve into the merits of this appeal if need be.

I have carefully read and considered the arguments of the parties herein on these objections.

It is clear from the record of this appeal that the appellant filed two notices of appeal. The initial notice was filed on 7-8-2017 without the leave of court first obtained to appeal on grounds of facts or mixed law and facts. The appellant's application on 25-6-2018 for extension of time to seek leave to appeal, leave to appeal and extension of time to appeal, leave to rely on the record of appeal compiled and transmitted here on

the basis of the notice of appeal filed on 17-8-2017, the grant of the application on 16-3-2021 by this court and the filing of a second notice of appeal pursuant to the leave granted by this court, show that the initial notice of 7-8-2017 was abandoned and the appeal against the said judgment of the Court of Appeal commenced afresh. The notice of appeal filed on 7-8-2017 having been abandoned, it is not relevant in this appeal and is hereby struck out. So this appeal was validly commenced on 29-3-2021 when the notice of this appeal was filed pursuant to the leave granted the appellant to appeal on grounds of fact or mixed law and facts.

The objections by the respective respondents to the competence of the notice of appeal were raised and argued in their briefs filed in June 2021. The 1st and 2nd respondent's brief was filed on 15-6-2021. The 3rd respondent's brief was filed on 18-6-2021. So their objections were raised after the filing of the notice of appeal on 29-3-2021 pursuant to the grant of leave to appeal. The part of their objections against the abandoned notice of appeal are irrelevant and baseless.

The arguments that no address for service of the notice of appeal on the 1st respondent was endorsed on the notice of appeal is not valid. It is glaring form the face of page 19 of the

notice of appeal that the address for service on the 1st respondent is endorsed thereon thusly- The 1st respondent, c/o Mr. LamiKanra, SAN, No. 1 Okoroma/Njemanze Street, Opp. Silverbird Galleria, Portharcourt, Rivers State.

It is glaring from the record of this appeal, particularly the judgment of the Court of Appeal, that Mr. LamiKanra SAN was one of the counsel for the 1st respondent in the appeal proceedings at the Court of Appeal. His name is listed at page 110 of the said judgment as one of the counsel appearing with E. C. Ukala SAN for the 1st respondent. The above address is endorsed on the processes in the Court of Appeal for service on the 1st respondent. There is nothing to show that the 1st respondent rejected that address as the one furnished for the service of processes in the Court of Appeal on it. There is nothing to show that it furnished any other address for processes to be served personally on it. The address endorsed in the notice of appeal for service on the 1st respondent is same address indicated in other processes for service of processes on it in this appeal.

Even though Order 2 Rule 3(1) of the Supreme Court Rules 2014 that require that a notice of appeal to this court be served on the respondent personally implies that the address for service on the respondent personally be endorsed on the notice of

appeal, Rules 1(1) and (2) and proviso to Rule 3(1) of Order 2 therein allow and permit the endorsement on the notice of appeal as address for service on the respondent, the address used in the lower to serve the respondent processes. The exact text of the said provisions read thusly –

1 (1) **Any reference in these Rules to an address for service means an address within Nigeria where notices, pleadings, orders, summonses, warrants and other documents, proceedings, and written communications, if not required to be served personally, may be left, or to which they may be sent.**

(2) **Where under these Rules any person has given an address for service, any notice or other written communication which is not required to be served personally shall be sufficiently served upon him if it is left at that address or sent by registered post to that address, and in any case where the date of service by post is material, section 26 of the Interpretation Act shall apply**

Proviso to Rule 3(1) **Provided that if he Court is satisfied that the notice of appeal has in fact been served in the manner prescribed by sub-rule (2) of**

this rule, and communicated to the respondent, no objection to the hearing of the appeal shall lie on the ground only that the notice of appeal was not served personally"

This court in its recent decision in **Attorney General of the Federation V Princewill Ugonna Anuebunwa (SC/CV/118/2021 delivered on 13-4-2022)** held that the endorsement of the address used to serve processes on the respondent at the lower court in the notice of appeal as the respondent's address for service is valid by virtue of Order 2 Rule 1 (1) and (2) and proviso to Rule 3 (1) of the Supreme Court Rules 2014. I have no reason to depart from our decision in that case.

In **Odey V Alaga (2021) LPELR- 53408 (SC)** relied on by all the respondents for their objections, this court held per Agim JSC that **"the phrase "address for service"** used in Order 2 Rule 1(1) includes the address of the legal practitioner **"prosecuting his case, being an address where process in the proceedings in the Court of Appeal have been left for or sent to him through his said Legal Practitioner.**

The generally established practice in appeals is that the address given by a party in the proceedings at the lower court is endorsed on the Notice of Appeal against the decision in that proceedings as his address for service and the notice of appeal and processes

in the appeal may be served on the party at such address until the party files a notice of his new address for service in the appeal.

This is the practice except where the Rules of court provide otherwise. Order 2 Rule 2 of the Supreme Court (Amendment) Rules 2014 provides that "where any person has given the address of a legal practitioner as his address for service and the legal practitioner is not or has ceased to be instructed by him or the purpose of the proceedings concerned, it shall be the duty of the legal practitioner to inform the Registrar as soon as may be that he is not or no longer authorized to accept service on behalf of such person, and if he omits to do so he may be ordered to pay any costs occasioned thereby."

This appeal is a continuation of the proceedings in this case, with proceedings commenced in the trial High Court, through the Court of Appeal to this Court. The address of the party's legal practitioner at the lower court at which processes were served on the party endorsed as his address for service on the notice of an appeal against a decision of the lower court in the proceedings and remains his address for ser ice until the legal practitioner notifies the Registrar of this court that he has ceased to be instructed by him for the purposed of the proceedings".

It is noteworthy that the lack of unanimity in the decision of this court in Alaga v Odey was in respect of only the question of whether the service of the notice of appeal on the respondent

through the address of his counsel at the Court of Appeal endorsed in the notice of appeal as the address for the service and whether the court ordered substituted service of the notice of appeal on the respondent by newspaper publication was an effective service of the notice of appeal. The split in the decision did not extend to the validity of the endorsement of the address of its counsel at the lower court in the notice of appeal as the address for service on the respondent.

In the light of the foregoing, the objection that the notice of appeal was not endorsed with the address for service on the 1st respondent is dismissed.

Let me now consider the arguments that the respondents were not personally served with the notice of this appeal and that therefore this appeal is incompetent.

It is not in dispute that the notice of this appeal was served on the respondents through the law office address of their respective lawyers at the Court of Appeal, which addresses were endorsed on the notice of appeal as the address for service on each of them. So the notice was not served on them personally. It is noteworthy that the same lawyers that represented them at the Court of Appeal and whose addresses were endorsed in the notice of appeal as address for service on the respective

respondents, still represent the respective respondents in this appeal. None of them filed any notice stating that the respondent he represented in the Court of Appeal and is representing in this appeal has ceased to instruct him for the purpose of this appeal. Each respondent has filed a brief of argument raising issues for determination distilled from the grounds of appeal in the notice of appeal and arguing the merits of the appeal, while raising and arguing therein the preliminary objection to the appeal.

In the light of the foregoing, I am satisfied that the notice of this appeal, though not served on the respondents personally, has been communicate to them by serving it on their respective Counsel at the address for Service endorsed in the notice of appeal. Even though Order 2 Rule 3 (1) (b) of the Supreme Court Rules 2014 require that a notice of appeal be served on the respondent personally, the Proviso to that Rule provides that if the Court is satisfied that a notice served at the law office address of the respondent's legal practitioner indicated in the notice of appeal as the address for service on the respondent, has been Communicated to the respondent, no objection to the hearing of the appeal shall lie on the ground only that the notice of appeal was not served personally. It is implicit in this Proviso that the service of the notice of appeal at the law office address

of the respondent's counsel at the lower court indicated in the notice of appeal as the respondent's address for service, would be deemed sufficient service on the respondent, if the Court is satisfied that the notice has been communicated to the respondent.

This Court in **Attorney General of the Federation Vs Princewill Ugonna Anuebunam (Supra)** had departed from our decision in Odey v Alaga and applied the Proviso to Rule 3(1) of Order 2 of the Supreme Court Rules 2014 in exactly similar circumstances and held that since the facts show that the notice of appeal was served on the respondent's Counsel at the lower Court at the address indicated in the notice of appeal as the address for Service on the respondent and that the respondent had been communicated the notice of appeal as it had filed its brief in the appeal, the notice of appeal was sufficiently Served on him.

In the light of the foregoing, I hold that the notice of this appeal was sufficiently and validly served on the respondents through the law office address of their respective legal practitioners indicated in the notice of appeal as each respondent's address for service. The objection that the notice of

this appeal was not served on each respondent personally is dismissed.

Let me consider the objection that leave was not first obtained to appeal on grounds of mixed law and fact before the initial notice of appeal was filed on 7-8-2017. As I had held herein, the appellant had abandoned that initial notice of appeal and commenced de novo the process of appealing against the Court of Appeal Judgment by applying for extension of time for it to seek leave to appeal, leave to appeal and extension of time to appeal. Pursuant to the grant of that application by this court, he commenced the appeal afresh by filing notice of appeal on 29-3-2021 before the respondents filed their briefs in which they raised and argued this objection. In the light of the foregoing I hold that the objection on this ground is baseless. It is hereby dismissed.

On the whole, the objections to this appeal fail and are hereby dismissed.

Let me now proceed to determine the merits of the issues raised for determination in this appeal.

I will determine this appeal on the basis of the issues raised for determination in the appellant's brief.

Let me start with issue No. 1 which asks thusly - **"Whether the Court of Appeal was right to hold that there is no distinction between a judicial commission of inquiry and a commission of inquiry?**

I have carefully read and considered the arguments of all parties in their respective briefs on this issue.

The legal nature and status of a commission of inquiry, by whatever name called and irrespective of the authority that set it up, is already long settled by a long line of judicial decisions over time and therefore should no longer be open to dispute. I am therefore surprised that it is a subject of dispute in this case.

A commission of inquiry is a fact finding or information seeking body. It carries out its fact finding or information seeking by the process of impartial investigation to find out certain facts or information about the subject of the inquiry. It is not an adjudicatory body and so does not try or determine disputes as to any rights or obligations of liabilities. It is more commonly used in public governance as part of the administrative process to facilitate public governance. In Nigeria, provisions are made for its use by the Constitution and other statutes. In Rivers State, its use in the public governance of the state is provided for by the

Commissions of Inquiry Law of Rivers State Cap 30 Laws of Rivers State 1999.

A Commission of Inquiry under the Commission of Inquiry Law is a fact finding body set up by the executive of arm of government to investigate the state of affairs in the state generally or in particular areas, the official conduct of heads of Government, heads and other officers of government ministries, departments and institutions in the administration of government, its ministries, departments and institutions, the management of public funds and properties, any transaction involving the state or its fund or property and any other issue of urgent public importance for the public welfare, peace and security.

The purpose of the investigation is to find out the facts or gather facts on the subject matter of inquiry. In doing so, it is not trying any person for the commission of any misconduct or crime . It does not engage in the trial of any person for anything. It merely gathers facts on the subject of the inquiry . In Baba V NCATC (1991) 5 NWLR (Pt.192) 383 2 415-416 this Court held thusly- " **Where as in the case of Afini Panel, the body merely investigatory or exploratory and does not determine the rights or obligations of the affected, it would be wrong to regard such a body as if it were a court.....the body is merely exploring or investigating the facts with no intention or power to decide, there is, in my view, no**

determination.....In the Afinni Panel, the appellant was not on trial. No one was yet on trial. In **Amaechi V INEC (2008) 5 NWLR (Pt.1080) 227 at 306** this court restated that "**A Judicial Commission of Inquiry or an Administrative Panel is not the same thing as a court of law or its equivalent. Because a court of law operates within the judicial hierarchy, any person wrongly convicted is enabled to contest the conviction to the Supreme Court of Nigeria. This is a right granted by the Constitution.**" See also **Onyekwuluje & Anor V Benue State Gov't & Ors (2015) LPELR(SC).**

At the conclusion of its inquiry or investigation, a Commission of Inquiry is usually required to present a report to the appointing authority, which report should contain the findings of facts, the basis of such findings and its recommendation of what action government should take. The government would produce a white paper in which it would state which of the recommendations it accepts or rejects and directing what should be done concerning the recommendations it has accepted.

Even if it makes findings of facts that are adverse to a person, such adverse findings do not amount to a conviction for an offence or determination of his right and obligation. They remain mere finding of facts on the basis of which it would make recommendations to the appointing authority who may accept or

reject them. If it rejects them, the matter ends there. If it accepts them and decides to take necessary action on the accepted recommendation, the white paper accepting the recommendation can be challenged in court.

The accepted recommendations are not enforceable like a court decision. They are administrative decisions, on the basis of which disciplinary processes, criminal processes and public funds and properties recovery actions can be initiated by the executive government. So a Commission of Inquiry is not a court and does not pretend to be one. It is not a criminal investigation agency such as EFCC, ICPC and Police. Its findings of facts would make easier the work of criminal investigating agencies as it would readily provide all the facts that would enable them decide whether there is a reasonable basis for an investigation and prosecution of any person for a crime.

This court in **Cookey V Fumbo (2005) 15 NWLR (Pt 947) 187,** held thusly- **the 1st Defendant could not found an action against a third party on the recommendation of a Panel of Inquiry that had not been published in a white paper... It cannot be in doubt that where a government sets up a panel of inquiry, there must be some overt act by the government to signify its acceptance or rejection of the Panel's recommendations. The usual way of doing so is by the issuance of a white paper. The**

White Paper is notice to the whole world of the position taken by the government of the relevant report."? The reason is that a government that sets up commission of inquiry is at liberty to reject or accept the recommendation of the commission. In **Governor of OYO STATE V. FOLAYAN (1995) 1 NWLR (413) 292, 328, ONU JSC,** stated as follows; **"Be it noted, however that as the Aboderin Commission of Inquiry from its terms of reference is merely advisory, its decisions and recommendations will have no binding effect until accepted and confirmed by the authority that set it up.....The government having not yet accepted the recommendations of the Commission of Inquiry...those recommendations are legally not binding on the Government and the parties until accepted."**

The designation of the commission of inquiry set up as Judicial Commission of Inquiry and the fact that it was headed by a serving or retired Judicial Officer cannot invest it with judicial powers or character and did not change its nature as a fact finding or information seeking body with no power to adjudicate or in any manner determine any rights or obligations or try any person for the commission of a crime. In **A-G of Lagos State V Eko Hotels Ltd(2006) All FWLR (Pt.342) 1398** this court held that the **"dichotomy between administrative and judicial or quasi judicial Tribunals of Inquiry has long been consigned to the rubbish heap of history, the new trend being that such bodies,**

however described must obey the rules of natural justice in the performance of their duties, they have a duty to act at least fairly."

In Baba V NCATC(supra) this court again held that **"The problem these days, in my view, is now no longer that of classification, as it used to be, but that of discernment to see distinctly when and whether an administrative or domestic tribunal depart from mere administrative or executive exploratory functions and acts judicially in that it decides on the rights and obligation of the person affected."**

In our present case the terms of reference of the commission show clearly that its function and duty is to inquire into the sale of the sale of Omoku 150mw Gas Turbine; Afam as Turbine; Trans Amadi 136mw Gas Turbine and Eleme 75 Gas Turbine, The sale of Olympia Hotel, the Mono Rail Project, the non-execution of the contract for the construction of the Justice Adolphus Karibi-White Specialist Hospital after the payment of the sum of Thirty Nine Million and two hundred thousand Dollars to the supposed contractor, the disbursement for use by the Rivers State Ministry of Agriculture of the sum of Two Billion Naira Agricultural Credit Guarantee Scheme Fund and the withdrawal and expenditure of

the accrued Ninety-Six Billion Naira from the Rivers State reserve fund without compliance with the Rivers State Reserve Fund Law No. 2 of 2008 and find out the correct state of facts concerning them and make appropriate recommendations. The whole purpose for the inquiry is obvious from the terms of reference. It is not a civil or criminal trial. For ease of reference I reproduce here the exact text of the terms of reference as follows-

"(1) The ascertain the circumstances of the sale of the Omoku 150 Mega Watts Gas Turbine, Afam 360 Mega Watts Gas Turbine, Trans-Amadi 136 Mega Watts Gas Turbine, and Eleme 75 Mega Watts Gas Turbine by the administration of former Governor Chibuike Amaechi.

(2) To identity the purchasers of the Gas Turbine, the total costs for which they were sold, and the where about of the proceeds of the sales.

(3) To ascertain whether the transaction was conducted with the requisite transparency and accountability in accordance with the provisions of extant laws enforced in Rivers State.

(4) To determine if the Government and people have any equity left in the said Gas Turbines and the value of such equity;

(5) To ascertain the Terms sale of Olympia Hotel, the price at which it was sold and where the proceeds were domiciled;

(6) To identify the person(s) to whom Olympia Hotel was sold;

(7) To ascertain whether the sale of Olympia Hotel is in conformity with international best practices;

(8) To ascertain the terms of the construction of the Mon-rail project;

(9) To identify the contractor(s) engaged for the project.

(10) To determine the cost of the Mono-rail project to date;

(11) To determine whether the circumstances of the conception and construction of the mono-rail project were in conformity with international best practices with regards to conception and execution of Government projects;

(12) To determine the cost and feasibility of the completion of the mono-rail project;

(13) To ascertain the cost of the proposed Justice Adolphus Karibi-Whyte specialist hospital.

(14) To determine whether any contract has been awarded in respect of the project.

(15) To identify the terms of the contract, the identity of the Contractor and determine if any further amount of money was disbursed to the Contractor;

(16) To evaluate the level of work done via-a-vis the amount of money disbursed to the Contractor in respect of the contract.

(17) To ascertain whether the sum of Two Billion Naira under the Agricultural Credit Guarantee Scheme was disbursed by the Rivers State Ministry of Agriculture in accordance with the terms of the Agricultural Credit Guarantee Scheme;

(18) To ascertain the identity of the Co-operative societies or other beneficiaries to whom monies were disbursed under the for said scheme;

(19) To ascertain the total sum of money from the mandatory monthly contribution of One Billion Naira by the Rivers State Government into the Rivers State Reserve fund, pursuant to the Rivers State Reserve Fund Law No. 2 of 2008;

(20) To determine the status of the fund and the total amount of money disbursed from the Fund and the properties of such disbursement;

(21) To determine whether the disbursement of money from the fund complied with the provisions of the Rivers State Reserve Fund Law No. 2 of 2008;

(22) To establish the identity of all persons and companies involved in all the aforesaid matters.

(23) To make appropriate recommendations:

(a) for the recovery of the proceeds of sales of the Omoku 150 Mega Watts Gas Turbine, Afam 360 Mega Watts Gas Turbines, Tran-Amadi 136 Mega Watts Gas Turbines, and Elone 75 Mega Watts Gas Turbine by the administration of former Governor Chibuike Rotimi Amaechi;

(b) Concerning and relating to the sales of Olympia Hotel as may be just and fair, having regard to all circumstances

(c) Concerning and pertaining to the mono-rail project as may be just and fair having regard to all the circumstances;

(d) For the recovery of the sum of Two Million Naira improperly and unlawfully disbursed under the Agricultural Credit Guarantees Scheme;

(e) for recovery of all sums of money unlawfully disbursed to the Contractor in respect of the Hon Justice Adolphus Karibi-Whyte

(f) for the recovery of all sums of money unlawfully withdrawn from the Rivers State Fund under the Rivers State Reserve Fund Law No.2 2008.

The purely fact finding function of a commission of inquiry is what defines its nature and character as an administrative investigation and a non judicial body. As this court held in **Hart V Military V Gov. of Rivers State(1976) NSCC Vol.10 P.622 at Pp.633-634 " No labels such as "judicially or quasi judicially" are necessary to label the proceedings "judicial" "quasi judicial" "administrative" "investigatory", it is the characteristics of the proceedings that matter, not the precise compartments into which it falls..." See also A-G Lagos State V Eko Hotels Ltd(supra)**

I find no substance in the argument of Learned SAN for the appellant that the Court of Appeal was in serious error when it held that-**"Section 17 of the Law creates an offence but vests the power to try the offence in a court of competent jurisdiction, Section 18 is in "pari material" with section 11(3) of the Tribunals**

of Inquiry Act (supra) which the Supreme Court in the case of: FAWEHINMI V. BABANGIDA (supra) held was constitutional. Therefore, we hold that the powers given to the 3rd respondent to summon and take evidence from witnesses and issue warrants to compel attendance of witnesses are lawful and constitutional.

It is also our very view and we hold that the 3rd respondent is a fact finding and an investigative body. Generally, a body exercising powers which are merely investigative in character and which do not have any legal force, until confirmed by another body or which is involved only in making preliminary, will not normally be held to be acting in a judicial capacity. See the Governor of Oyo State v. Adekunle (2005) 3 NWLR (PT. 912) P. 294. It does not matter the name the body is called. The description of such body as a judicial commission of inquiry does not change its character from being a fact finding body".

Learned SAN for the appellant did not give any reason for his assertion that the Court of Appeal seriously erred in this decision. He failed to show the error in the decision. The above reproduced holding is part of the decision of the Court of Appeal as follows- **"The trial court in our view, after a proper diagnosis of Sections 7 (b) – (f), 12, 13, 14, 17, 18 and 21 of the Commissions of Inquiry Law (supra), found rightly that only Section 7 (d) of the said Law**