

## **Order 5**

### **Reference As To Constitution And Reserved Points Of Law**

3. (1) A case stated under this Order (hereafter referred to in this rule as ‘the case’) shall be divided into paragraphs, which, as near as may be, shall be divided into paragraphs, which as near as may be, shall be confined to distinct portions of the subject and every paragraphs shall be numbered consecutively.
- (2) The case shall state –
  - (i) The question or questions of interpretation or application of the Constitution on which the decision of the Court is sought,
  - (ii) The findings of fact, as determined by the Court of Appeal, which are necessary and relevant to explain the questions referred for the decision of the Court;
  - (iii) The contentions of each of the parties on such question or questions; and
  - (iv) the opinion of the members of the Court of Appeal on such question or questions.
4. (1) Subject to the provisions of this rule, the following persons shall be entitled as of right to appear in person by a legal practitioner at the hearing of the case -
  - (a) The parties to the proceedings in which the question referred arose;
  - (b) Where the case involves the validity or constitutionality of a law within the competence of the Federal Government, the Attorney-General of the Federation;
  - (c) Where the case involves the validity or constitutionality of a law within the competence of a State, the Attorney-General of the particular State where the law is or purports to be in force.
- (2) Where the Attorney-General of the Federation or the Attorney-General of a State is not entitled to appear as of right under sub-rule (1) of this Rule, the Court may of its own motion or otherwise, grant leave to either of them to appear personally or by a legal practitioner for the purpose of presenting arguments to the Court on the case.

- (3) Any person who is entitled to appear as of right or by leave of the Court may obtain a copy of the case stated from the Registrar and shall be entitled to present arguments to the Court on the issue of the validity or constitutionality of the law in question.
5. (1) The provisions of Order 6 relating to the filing of briefs in civil and criminal appeals shall apply to proceedings relating to a case stated under this Order so however that each of the parties shall be deemed to be an appellant and the bound record of the case shall be deemed to be the Record of Appeal and each party shall file the Brief in support of his argument accordingly.
- (2) A person granted leave to appear pursuant to sub rule (2) of Rule 4 of these Rules shall not be required to file a Brief unless the Court otherwise directs, and the Registrar of the Court shall supply such a person with copies of the Record of Appeal together with the Briefs.
6. Where a party disputes the determination of the Court of Appeal on any material issue of fact contained in the case stated for the opinion of the Court and has duly appealed against such determination, the Court shall adjourn the consideration of the case stated until after the hearing and decision in the appeal.
7. The order of address on case stated shall be determined by the Court in respect of every such case and unless the Courts calls upon any counsel to address it a second time, every counsel shall be limited to one address only.