

**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA**

2025/HP/EP/01

(ELECTION NOMINATION PETITION JURISDICTION)



BETWEEN:

**EZEKIEL KAYUMBA
AND**

PETITIONER

ELECTORAL COMMISSION OF ZAMBIA

RESPONDENT

Before: The Hon. Mr. Justice Charles Zulu

For the Petitioner: Mr. P. Chulu and Mr. C. Dioma, of Messrs
Patrick Chulu Legal Practitioners.

For the Respondent: Mr. M. Bwalya, In-House Counsel.

J U D G M E N T

Cases referred to:

- 1. Lungu v the People (CCZ Appeal No. 51 of 2023).***
- 2. Biziwayo Newton Nkunica v Lawrence Nyirenda and Electoral Commission of Zambia (2019/CCZ/005).***
- 3. Charles Maboshe v Steven Nyirenda & Others (2021/CCZ/0031).***
- 4. Krige and Another v Christian Council of Zambia (1975) Z.R. 152.***
- 5. Swallow and Pearson (a firm) v Middlesex Court Council [1953] All E.R. 580).***

Legislation referred to:

- 1. Constitution of Zambia Chapter 1 of the Laws of Zambia as amended by Act No. 2 of 2016.***
- 2. Electoral Process Act No. 35 of 2016.***
- 3. High Court Rules Chapter 27 of the Laws of Zambia.***

- 4. Electoral Process (General) Regulations 2016 Statutory Instrument No. 63 of 2016.**
- 5. Electoral Process (Amendment) (General) Regulations No. 39 Of 2021.**
- 6. National Assembly By-Election (Pambashe Constituency No. 60) (Election Date and Time of Poll) Order, 2024.**
- 7. Electoral Process (Registration of Voters) Registration, Statutory Instrument No. 80 of 2020.**

1.0 INTRODUCTION

- 1.1 This Judgment concerns a complaint in which the Petitioner, Ezekiel Kayumba's nomination as a Parliamentary Candidate in the by-election for Pambashe Constituency scheduled to be held on February 6, 2025 was declared invalid.
- 1.2 The complaint otherwise an election nomination petition under Part IX of the **Electoral Process Act No. 35 of 2016** (hereinafter the Act) was taken out pursuant to Article 52(4) of the **Constitution of Zambia Chapter 1 of the Laws of Zambia** as emended by **Act No. 2 of 2016** (hereinafter called the Constitution) and sections 96 and 98 of the Act.

2.0 BACKGROUND

- 2.1 In the General Election held on August 12, 2021 the parliamentary seat for Pambashe Constituency was won by Mr. Ronald Chitotela, sponsored by the Patriotic Front Party.
- 2.2 And sometime in July, 2024 Mr. Chitotela was convicted of Arson contrary to section 328(1)(a) of the Penal Code. And on

December 17, 2024 Mr. Chitotela was sentenced to ten (10) years imprisonment with hard labour.

- 2.2 Subsequently, the Pambashe Parliamentary seat was declared vacant by the Speaker of the National Assembly.
- 2.3 On December 26, 2024 the Electoral Commission of Zambia (ECZ) announced that it had declared February 6, 2025 as the date on which to hold the parliamentary by-election for Pambashe Constituency. The ECZ designated Tuesday, January 7, 2025 between 09:00hours to 15:00 hours as the date and period within which aspiring candidates would file and submit their respective nomination papers to the ECZ.
- 2.4 It is not in dispute that the Petitioner expressed his desire and intention to stand as a candidate sponsored by the Citizens First (CF) Political Party and presented his nomination papers to the Returning Officer, Mr. Michael Munshya at Mushota Primary School in Kawambwa District. However, the Petitioner's nomination was declared invalid, hence the present Petition.

3.0 THE PARTIES' PLEADINGS

- 3.1 The Petitioner in his Petition filed on January 13, 2025 seeks the following reliefs.
 - 3.1.1 ***(a) a declaration that the Respondent's nomination time-table was irregular;***
(b) a declaration that the Respondent's decision to invalidate the Petitioner's nomination papers was unfair, illegal, null and void; and
(c) an order that a new nomination date be set with a properly gazetted timetable.

3.2 The Respondent filed an Answer disputing the Petitioner's allegations. The Respondent averred that the nomination papers presented by the Petitioner were duly declared invalid for want of a duly completed affidavit on account that the Petitioner in support of his nomination produced an expired voter's card. And that the Petitioner failed to rectify the anomaly or, to produce a valid voter's card prior to declaration of his invalidation.

4.0 SUMMARY OF THE EVIDENCE

4.1 Three Petitioner's Witnesses (PWs) testified in support of the petition. PW1 was the Petitioner, Ezekiel Kayumba. Based on facts alleged in his Petition, he testified as to the events of what happened on January 7, 2025: the date set for filing of nominations.

4.2 He said the time set for him to file his nomination papers as a candidate sponsored by CF was 14:30 hours. He said together with his team comprising of his Election Agent, Mr. Haggai Mwewa (PW2), election observers and monitors, and supporters, arrived at the nomination centre in Kawambwa District at around 13:20 to 13:30 hours and were told to wait.

4.3 He said at round 14:20 hours the United Party for National Development (UPND) team arrived at the nomination centre and proceeded to process the nomination papers. He said the UPND nomination process took long and only came to an end at about 15:20 to 15:30 hours.

- 4.3 He said he and the CF team were called in at around 15:40 hours. He said they were screened for the second time and, the Petitioner mentioned some of the people from ECZ at the nomination centre namely: The Returning Officer, Mr. Michael Munshya (RW), the Assistant Returning Officer and the ECZ Commissioner, Mr. MacDonald Chipenzi.
- 4.4 He said the Returning Officer asked him to submit his papers for nomination. He said he submitted an affidavit in support of the nomination, a certified copy of the National Registration Card (NRC), a certified copy of the voter's card. He said upon review of the documents, the Returning Officer informed him that the voter's card he had submitted was expired and that he needed to produce a valid voter's card.
- 4.5 The said expired voter's card was exhibited in the Bundles of Documents bearing the date of November 17, 2010.
- 4.6 The Petitioner stated that he was asked to produce a valid voter's card used in the 2021 General Elections.
- 4.7 The Petitioner acknowledged that at that material time, his voter's card for the 2021 General Elections was not with him, but was in Mansa. He said he called his secretary in Mansa to check for the voter's card at the office and it was located. He added that his secretary sent a digital copy to Mr. Haggai Mwewa (PW2) through his *WhatsApp* platform. He added that at about 16:08hours the copy that was sent by his secretary via *WhatsApp*

was shown to the Returning Officer. And that the Returning Officer advised him to have the said copy printed out and certified.

- 4.8 He said his secretary also sent via *WhatsApp* a certified copy, certified by the Police in Mansa, but the Returning Officer was dissatisfied that the copy was not clear. According to him, the Returning Officer then instructed his Election Agent, Mr. Haggai Mwewa to print out a clear copy and have it certified by the District Electoral Officer. He said the District Electoral Officer refused to certify the said copy of the voter's card for the reason that he had no stamp at the material time.
- 4.9 He said his Election Agent went to the Local Court Magistrate, who was within the same premises to have a printout of his voter's card certified. He said his valid voter's card bearing November 10, 2020 was certified by the Local Court Magistrate. And that Mr. Haggai Mwewa presented the same to the Returning Officer at 16:30hours. He added that, at 16:35 hours, another clear and certified copy from Mansa sent via *WhatsApp* was presented before the Returning Officer. He said the Returning Officer said everything was fine and apologized for the time wasted.
- 4.10 He said after the documents were presented to the Returning Officer, the Returning Officer started to play delaying tactics, and told him and his team to wait for the "TS" to return and verify the voter's card. He said the "TS" eventually returned after 20

minutes and verified his voter's card through the ECZ computer system.

- 4.11 He said thereafter, the Returning Officer allowed the Petitioner to undergo the nomination process. He said his fifteen (15) supporters were screened, verified and were captured in the system. And that he too was asked to surrender the required documents which he had and, his image was captured for purposes of being on the ballot paper.
- 4.12 He said the Returning Officer then requested for payment of the nomination fee. He said he produced K15,000.00, but because he was a person living with disability, his applicable fee was K10,000.00. He said the Returning Officer then returned a sum of K5,000.00 to him.
- 4.13 He alleged that before the Returning Officer could issue a receipt as a final step in the nomination process, the Returning Officer was approached by a man purporting to be an ECZ official and handed a note to the Returning Officer. According to him, since he sat next to the Returning Officer, he was able to have a glimpse of what was written on the note. He alleged that on the note it was stated: *"Don't allow that man to go through"*. He said this prompted him to confront the Returning Officer and quizzed him: *"are those the instruction you have been given"*. He said in response, the Returning Officer assured him not to worry because everything was being processed.

4.14 He said after that confrontation over the note, he saw a police officer walk in to call the Returning Officer, saying he was wanted elsewhere. He said the Returning Officer left, and only returned after about 20 minutes. He said on his return, the Returning Officer did not speak to anyone, but got the money from the drawer and returned the money to him. He said thereafter the returning Officer proceeded to scribble something on a piece of paper and called all the media houses that were waiting outside to come in for an announcement. He said the Returning Officer then announced that, his nomination was invalid on grounds that he had failed to produce a certified copy of the voter's card on time.

4.15 In cross examination, he admitted that he did not produce his valid voter's card bearing the date November 10, 2020. And that he only produced a certified copy of the same.

4.16 As to how the voter's card was certified in Kawambwa since the original was in Mansa, the Petitioner said the Local Court Magistrate called the Police in Mansa via video call and was able to view the original voter's card.

4.17 PW2 was Mr. Haggai Mwewa, a businessman and the Petitioner's Election Agent. He said following an announcement by the ECZ on December 26, 2024 that it would hold the Pambashe Constituency by-election on February 6, 2025; a briefing was held on January 4, 2025. He said the briefing was attended by the ECZ Commissioner, Mr. MacDonald Chipenzi, the ECZ

employees, the Provincial Electoral Officer, the District Electoral Officer and the Returning Officer.

4.18 He said a nomination timetable of aspiring candidates was agreed upon. And he made reference to the same, exhibited in the Petitioner's Bundle of Documents at pages 5 and 6. He said his Party, the Citizens First (CF) and its aspiring candidate, the Petitioner was allocated 09:00hrs to 09:50 hours.

4.19 He said On January 5, 2025 when they were at the Civic Centre to certify nomination papers, he was approached by an independent candidate to swap the nomination time slots. He said with the consensus of the Returning Officer, the CF nomination slot was rescheduled from 09:00 to 14:50 hours. And that the independent candidate took up the first slot which was from 09:00hours to 09:50hours.

4.20 He added that on the date set for nominations on January 7, 2025 the Returning Officer called him at around 09:23hours to urge him to be ready for nomination at any time because, the independent candidate had not shown up to file his nomination

4.21 He said he and his team got to the nomination center at about 13:20 hours. And that after a little while, at 14:00hours the UPND arrived at the nomination centre and completed their nomination process at 15:36 hours.

4.22 He said the CF Party and its candidate, the Petitioner was allowed to file its nominations at 15:40hours. He said the

- Petitioner produced the required documents, but the Returning Officer then informed the Petitioner that the voter's card he had produced was expired. He said the Petitioner was then advised to produce a certified true copy of his 2021 voter's card.
- 4.23 He said since the 2021 voter's card was in Mansa, the Petitioner called Mansa and at 16:08hours, a copy was sent to his phone via *WhatsApp* and the same was shown to the Returning Officer. And that when shown to the Returning Officer, the Returning Officer advised them to have it printed out and certified. He said while he was preparing to print out a copy, a certified copy was sent from Mansa via *WhatsApp*, but the same was rejected because the Returning Officer said it was not clear.
- 4.24 He explained that in order to get a clearer certified copy, he took a printout of the Petitioner's voter's card to the Magistrate at Mushota Local Court to have it certified as a true copy of the voter's card.
- 4.25 He said he approached the Local Court Magistrate at Mushota Local Court in Kawambwa District and explained to the Magistrate that he needed to have the printout of the voter's card certified, but the original voter's card was in Mansa. He said he further explained to the Magistrate that upon the advice of Mr. Chipenzi, the certification was possible and the existence of the original copy could be confirmed via video call with the people in Mansa.

- 4.26 He said the video call was done to Mr. Chungu in Mansa and the Magistrate verified the existence of the said voter's card. He said thereafter the printout of the voter's card was certified by the Local Court Magistrate.
- 4.27 He said he then returned to the nomination centre, and when he presented the certified copy of the Petitioner's voter's card, he was asked to call the person who had commissioned the voter's card. He said when the Local Court Magistrate attended to the call, he was disrespected by the ECZ officials and he left.
- 4.28 He said at 16:30 hours the certified copy of the Petitioner's voter's card was handed over to the Returning Officer and the Returning Officer accepted it. He said thereafter, the District Electoral Officer handed over the certified copy to some officers from Lusaka and verified with the ECZ computer system. A video clip was played to show that the Returning Officer received the said certified voter's card.
- 4.29 He said after the Returning Officer accepted their documentation, the ECZ officials proceeded to screen their supporters and they were all captured in the system including the Petitioner and he. And that the Returning Officer proceeded to receive the nomination fee from the Petitioner.
- 4.30 He said after receipt of the nomination fee, the Returning Officer proceeded to take out the receipt book to record the payment, but before he could record the same, the Returning was

approached by his supervisor from Lusaka and uttered words that he could not hear.

- 4.31 He said at that point he then heard the Petitioner ask the Returning Officer: *“are those the instructions you have been given”*. He said, he then went to calm down the Petitioner and advised him not to exchange words with the Returning Officer as the process had already been done.
- 4.32 He added that he then saw a police officer enter the nomination centre and inform the returning officer that he was wanted outside.
- 4.33 He said the Returning Officer left the nomination room and went outside. He said after some time, he followed the Returning Officer and discovered that the Returning Officer had entered in the office where the ECZ Commissioner was. And that when he wanted to enter the said office, he was prevented by police officers.
- 4.34 He said when the Returning Officer returned, he did not speak to anyone, but got the nomination fee paid by the Petitioner and handed it back to him and proceeded to record something on a piece of paper, and thereafter announced that the Petitioner’s nomination was invalid because, the voter’s card was produced after the lapse of time. He said thereafter he and his team left the nomination centre.

4.35 He added that the nomination process for the Petitioner was recorded by him using his two smart phones. And some of the video clips were produced and viewed during the hearing of the Petition.

4.36 In cross examination, he said there was nothing wrong with the timetable set for filing nominations. And he admitted that during the nomination process the Petitioner produced an expired voter's card. And added that the Petitioner was a registered voter, but did not produce his valid voter's card.

4.37 PW3 was Edson Kombo, a member of the CF Party and the Petitioner's accredited monitor in the Pambashe Constituency nominations.

4.38 His testimony is materially on all fours with the testimony of his counterpart, PW2. In the interest of brevity, I shall not recapitulate seriatim the summary of PW3's testimony, save to add that according to him, the invalidation of the Petitioner's nomination was the fault of the ECZ. He explained that when the Petitioner produced an expired voter's card, he was advised to produce a certified copy of 2021 voter's card and was allowed to submit the same.

5.0 THE RESPONDENT'S CASE

5.1 The Only witness for the ECZ was Mr. Michael Munshya, a teacher by profession and the Returning Officer in this matter.

5.2 He said the ECZ through the District Electoral Officer invited stakeholders, thus, political parties and their aspiring

candidates to attend to a meeting held on January 4, 2025 for purposes of briefing the stakeholders on the procedure for filing of nominations.

- 5.3 He said the meeting held on January 4, 2025 was graced by the ECZ Commissioner Mr. McDonald Chipenzi. And that the meeting was attended by seven political parties with their aspiring candidates. The seven political parties were listed as follows: Citizens First (CF), Democratic Union (DU), Forum for Democracy and Development (FDD), New Congress Party (NCP), Socialist Party (SP), Movement 4 Change & Equality(M4CE) and the United Party for National Development (UPND).
- 5.4 He said at the meeting, an agreed nomination timetable was drawn to guide when each candidate would file their nomination.
- 5.5 According to him, a nomination timetable was an administrative tool meant to mitigate political tension during the filing of nomination papers.
- 5.6 He said a checklist of the requirements for nomination was disclosed to the candidates. He said it was explained that an aspiring candidate must be a Zambian citizen, a registered voter, must be 21 years old or above, and in possession of a grade 12 certificate with 5 passes, a statutory declaration of assets and liabilities.
- 5.7 He added that an aspiring candidate was required to complete an affidavit (GEN 8) commissioned before the Commissioner for

Oaths. And that an aspiring candidate should be accompanied by fifteen (15) supporters who were registered voters and should produce original NRCs and voter's cards on the day of nomination. In addition to the 15 supporters, he said an aspiring candidate should have party officials accredited by the ECZ and two election agents.

5.8 He added at the said meeting, an individual whom he did not mention expressed interest to stand as an independent candidate.

5.9 He said on January 5, 2025 at the Political Party Liaison Committee meeting held at the Kawambwa District Council, he was approached by the said independent candidate in the company of Mr. Haggai Mwewa, the Election Agent for Petitioner. He said it was then suggested to him that the two wished to exchange nomination slots, and he allowed the changes. He said with these changes, an amended nomination timetable rescheduled the time slots of the Petitioner from 09:00hours to 14:50hours. And the independent candidate took up the slot of 09:00hours.

5.10 He said on January 7, 2025 the nomination day, the independent candidate did not show up at his designated time slot to file his nomination paper.

5.11 He said at 15:00hours, he officially closed the nomination centre. And that at that time, the Petitioner and his supporters

were already within the legal parameters of the nomination centre.

5.12 He said the nomination process for the Petitioner started at about 15:24 hours. And that when they entered the nomination centre, three political party officials and two agents were allowed to sit.

5.13 He said when the Petitioner appeared before him he requested the Petitioner to produce his NRC, valid voters card and the original grade 12 certificate. He said these were required to prove: (i) that the Petitioner was a Zambia citizen, (ii) he was a registered voter and (iii) that he had a grade 12 certificate.

5.14 He said the Petitioner when asked to produce his voter's card, he produced an expired voter's card issued on November 17, 2010. He said when the Petitioner was advised that the voter's card was invalid, the Petitioner together with his Election Agent protested and started arguing with him. He said to settle the argument, he asked one of the Petitioner's supporters to produce a valid voter's card. He said at that point, the Petitioner then realized that the voter's card he had presented for his nomination was invalid. And his Election Agent prodded the Petitioner to check in his wallet, but the Petitioner did not find his valid voter's card. He said a search was extended to the Petitioner's motor vehicle, but the same proved futile.

- 5.15 He said the Petitioner then called his wife at home in Mansa to check in the bedroom drawers, and she confirmed that she had found the voter's card.
- 5.16 He said at around 16:30 Hours, Mr. Haggai Mwewa (PW2) came running to the nomination centre and asked the Petitioner for a person in Mansa who could send a copy of the voter's card via *WhatsApp*. He said at 16:50hours, Mr. Mwewa went outside and after a while, he returned with a printed copy of what looked like a copy of the voter's card. However, the same was not clear. He said the Petitioner and his Election Agent assured him that they would avail him the voter's card and pleaded for patience from him.
- 5.17 He said again at 17:10hours, Mr. Haggai Mwewa walked in with what looked like a certified copy of the voter's card which was certified in Mansa without producing the original voter's card.
- 5.18 He said meanwhile, the nomination process was ongoing; the Petitioner's 15 supporters produced their original voter's card and were captured.
- 5.19 He said despite giving the Petitioner time to produce his valid voter's card, he still did not produce it. He said realizing the time was 17:40 hours, he stood up and declared the Petitioner's nomination invalid because he did not produce an original valid voter's card.

5.20 In cross examination, he acknowledged the letter under his name and signature dated January 7, 2025 addressed to the Petitioner in which the Petitioner was advised that:

5.20.1 ***I regret to inform you that in accordance with regulation 18 of the Electoral (General) Regulations 2016 I have determined that you have not been validly nominated for the forthcoming National Assembly election in this Constituency. The reason for my determination is as follows: nomination not accompanied by duly completed affidavit form.***

5.21 And when questioned to the apparent discrepancy as regards the reason announced for invalidation at the nomination centre and that stated in the letter, he rejoined that for the affidavit to be duly completed it was supposed to be accompanied by a valid voter's card.

6.0 THE PETITIONER'S SUBMISSIONS

6.1 The Petitioner's Counsel, Mr. Chulu and Mr. Dioma raised three issues for determination, namely:

- 6.1.1(i) ***whether or not the nomination timetable is required to be published in the Government Gazette;***
ii. whether or not the Petitioner submitted to the Returning Officer a certified true copy of his 2021 voters card before his nomination was declared invalid; and
iii. whether or not the Returning Officer can declare a candidate's nomination invalid for failure to produce an original voter's card.

6.2 In relation to the first issue, whether or not the nomination timetable is required to be gazetted, it was submitted that the

ECZ was mandated by law to gazette the nomination timetable. Reference was had to section 28 (1) and (2) of the Act, which provides:

- 6.2.1 ***(1) Subject to the Constitution, the Commission shall, before the polling day—***
- (a) compile an election timetable for each election to provide for the following:***
 - (i) the closing date of the registration of voters;***
 - (ii) the dates for inspection of the Provisional Register of Voters;***
 - (iii) the date and method for the submission of nominations;***
 - (iv) the date and method for the acceptance of nominations;***
 - (v) the opening and closing dates of the campaign period;***
 - (vi) the date of the election and voting hours for the election;***
 - (vii) any cut-off time for any act to be performed; and***
 - (viii) any other relevant information; and***
 - (b) publish the election timetable in the Gazette***
- (2) The Commission may amend the election timetable by notice in the Gazette if—***
- (a) it considers it necessary for a free and fair election; or***
 - (b) the polling day is postponed under section fifty-six.***

6.3 It was observed that the information listed under items (iii), (iv) and (vii) of section 28(1)(a) of the Act is the same information required to be stated in the nomination timetable. He added that even an amendment of a nomination timetable ought to be gazetted.

6.4 Article 52 (1) of the Constitution was cited, which provides:

6.4.1 ***A candidate shall file that candidate's nomination paper to a returning officer, supported by an affidavit stating that the candidate is qualified for nomination as President, Member of Parliament or Councilor in the manner, on the day, and at the time and place set by the Electoral Commission by regulation.***

6.5 It was observed that under Article 266 of the Constitution, the term Statutory Instrument includes Regulations.

6.6 Equally, regulation 15 (1) of the **Electoral Process (General) Regulations 2016 Statutory Instrument No. 63 of 2016**, was vouched, which reads:

7.5.1 ***A returning officer shall receive the nominations of a candidate in an election on the days, hours and places specified by the Commissioner, by statutory order.***

6.7 It was argued that a combined reading of the above cited provisions placed an obligation on the ECZ to promulgate a Statutory Instrument providing the manner, place, date and time when each candidate is required to file his/her nomination paper. And that by virtue of Article 67(2) of the Constitution, it is prescribed that a Statutory Instrument must be published in the Government Gazette. Article 67 (2) of the Constitution provides:

6.7.1 ***A statutory instrument shall be published in the Gazette –***

(a) not later than twenty-eight days after it is made; or

(b) In the case of a statutory instrument which will not have the force of law unless it is approved by a person or an authority other than person or an authority by which it was made, not later than twenty –eight days after it is so approved;

And if the statutory instrument is not so published, it is void from the date on which it was made.

6.8 It was contended that the failure by the ECZ to publish the nomination time table in the Government Gazette, rendered the nomination timetable irregular, null and void.

6.9 As to whether the Petitioner submitted a certified true copy of the 2021 voter's card before his nomination was declared invalid, it was submitted that the Petitioner had ably demonstrated that by 16:30 hours, he had submitted a certified true copy of his 2021 voter's card before the Returning Officer.

6.10 On the issue, whether the returning officer can declare a candidate's nomination invalid for failure to produce an original voter's card, again regard was had to Article 52(1) of the Constitution. In addition, section 31(1) of the Act, was cited, which provides:

6.10.1 A person who applies to be a candidate for election in any constituency shall lodge with the Returning Officer for that constituency that person's nomination paper and an affidavit in the prescribed form.

- 6.11 It was observed that a list of what constitute a candidate's nomination papers was itemized under Regulation 12(1) to (5) of the Electoral Process (General) Regulations, Statutory Instrument No. 63 of 2016 and the Electoral Process (General)(Amendment) Regulations 2021, Statutory Instrument No. 39 of 2021. Counsel argued that out of all the requirements for filing of nomination papers, production of an original voter's card before the returning officer was not one of them.
- 6.12 And as to the content of an affidavit otherwise referred to as "GEN 8"; submitted to the Returning Officer, Counsel observed that, as regards production of a voter's card, a candidate was only required to state: *"I am a registered voter and a certified copy of my voter's card is attached and marked 2"*. According to Counsel, the Returning Officer fell in error to invalidate the Petitioner's nomination for failure to produce an original voter's card. I was thus urged to grant the relief sought.

7.0 THE RESPONDENT'S SUBMISSIONS

- 7.1 On the issue whether or not the nomination timetable required publication in the Government Gazette; in the light of section 28 of the Act, it was argued from the outset that a nomination timetable was not an election timetable within the tenor of section 28 of the Act.
- 7.2 I was urged to take judicial notice, that on December 27, 2024 the ECZ, pursuant to Article 57(1) and (3) the ECZ promulgated the **National Assembly By-Election (Pambashe Constituency No. 60) (Election Date and Time of Poll) Order, 2024,**

Statutory Instrument No 82 of 2024. It was argued that the same stipulated the date and the time for filling of nominations and the time of voting.

- 7.3 Accordingly, it was argued that it was misconceived for the Petitioner's Counsel to argue that, the ECZ was by statutory instrument required to state the date and order in which the candidates were to file their nominations. I was invited to bear in mind that even as at the date of nomination, the number of candidates that would file their nominations is not known until at the end.
- 7.4 It was thus contended that it was misleading for the Petitioner to postulate that a nomination timetable should be published in the Government Gazette. It was added that even if a nomination time table was drawn, nothing stopped an aspiring candidate showing up for nomination, notwithstanding that such a candidate was not appearing on the nomination timetable.
- 7.5 It was restated that section 28 of the Act refers to an election timetable issued before an election and not a nomination timetable.
- 7.6 Regarding the issue whether the Petitioner met the requirements for filing nomination papers at the time he lodged his nomination, I was directed to Article 70(1) of the Constitution, which provides:

7.6.1 **70. (1) *Subject to clause (2), a person is eligible to be elected as a Member of Parliament, if that person—***

- (a) is a citizen;**
- (b) is at least twenty-one years old;**
- (c) is a registered voter;**
- (d) has obtained, as a minimum academic qualification, a grade twelve certificate or its equivalent; and**
- (d) declares that person's assets and liabilities, as prescribed.**

7.7 It was submitted that, it was indisputable that the law requires a person filing a nomination under Article 70(1) of the Constitution to show or prove at the time of filing nomination papers that he/she is a registered voter. That the requirement for production of a voter's card was reinforced by section 33 (2) of the Act, which provides:

7.7.1 (2) ***A person appearing before a returning officer for the purpose of subscribing a nomination paper under subsection (1) shall produce a voter's card and a national registration card to the returning officer for inspection as proof of identity.***

7.8 It was argued that production of a voter's card was proof of registration, and regard was had to regulation 34 of the **Electoral Process (registration of Voters) Registration, Statutory Instrument No. 80 of 2021** which states that: a voter's card is admissible as *prima facie* evidence of matters contained in the voter's card.

7.9 And as regards the third issue, whether the returning officer can declare a candidate's nomination invalid for failure to produce an original voter's card, recourse was had to regulation

18 (1) (b) of the **Electoral Process (General) Regulations 2016**, stating that a candidate's nomination can be invalidated if:

7.9.1 ***The nomination paper is not accompanied by the affidavit or the affidavit is defective in a material particular.***

7.10 The case of **Bizwayo Newton Nkunika v Lawrence Nyirenda and Electoral Commission of Zambia**¹ was also cited, wherein the Constitutional Court held:

7.10.1 ***The Respondent's mandate was to either out-rightly accept or reject the nomination based on the qualifications submitted by the candidate.***

7.11 I was urged to dismiss the petition with costs, because the Returning Officer was on firm ground when he invalidated the nomination papers of the Petitioner for failure to prove that he was a registered voter as required by law.

8.0 THE PETITIONER'S REPLY

8.1 The Petitioner's Counsel reiterated that by virtue of Article 67(2) of the Constitution, the ECZ was supposed to publish the alleged **National Assembly By-Election (Pambashe Constituency No. 60) (Election Date and Time of Poll) Order, 2024**, in a Government Gazette, if it existed. And that if it was not published, it was null and void for being in violation of Article 67(2) of the Constitution. According to Counsel, before the Court takes judicial notice of its existence, the same required publication in the Government Gazette. In support of

this, Order 5 rule 4 of the **High Court Rules Chapter 27 of the Laws of Zambia** was cited.

- 8.2 As regards whether the Petitioner met the requirements for filing nomination at the time he lodged his nomination papers on January 7, 2025 Counsel contended that the issue before the Court was not whether the Petitioner was a registered voter or not. According to Counsel, the record is clear that the Respondent's officers did verify the Petitioner's copy of the 2021 voter's card and that the Respondent's Returning Officer said that everything was correct.
- 8.3 It was argued that the issue before the Court was whether or not the law mandates a candidate for election as member of Parliament to produce an original voter's card before the nomination papers are declared valid. And in answer to this question, it was contended that the Respondent had failed to point to a law which expressly mandates a candidate at constituency level to produce an original voter's card.
- 8.4 It was submitted that section 33(2) of the Act relied on by the Respondent does not apply to parliamentary nominations, but to local government elections. According to Counsel, Parliament in its wisdom did not include production of a voter's card and National Registration Card as part of the requirements for filing nominations for a parliamentary candidate. And that if this Court decided to apply section 33(2) in the present case, it would amount to rewriting the law, thus usurping the powers

of Parliament. The case of **Lungu v The People**¹ was cited wherein the Constitutional Court stated:

8.4.1 ***The role of the Court is not to enact or amend a statute, its role is to give effect to the intention of the legislator which is reflected in the words of an enactment.***

8.5 It was rejoined that the Respondent cannot be seen to find comfort under the provisions of regulation 34 of the **Electoral Process (Registration of Voters) Registration 2020**, because the same does not relate to the issues raised in the Petition. That in any case, the said regulation does not forbid the use of certified true copies of a voter's card.

8.6 Regarding the issue of whether the Returning Officer could declare a candidate's nomination invalid for failing to produce an original voter's card, it was restated that the Respondent had failed to show the Court the law which specifically mandates the Returning Officer to invalidate a candidate's parliamentary nomination papers for failure to produce an original voter's card. That the only grounds for invalidating a candidate's nomination were outlined under regulation 18(1) of the **Electoral Process (General) Regulations 2016**. And that the reason furnished by the Respondent was not sufficient and did fall within regulation 18.

8.7 I was once again urged to allow the Petition.

9.0 DETERMINATION

9.1 I have carefully considered the Petition, the Answer to the Petition, the testimonies of witnesses, including documentary

evidence relied upon by the parties and their final submissions. The facts not in dispute are reaffirmed. And as a matter of short recall, the Pambashe Parliamentary seat fell vacant on December 17, 2024, following the decision by the Speaker of the National Assembly, to declare the seat vacant on account of the conviction and sentence on a charge of arson of the then incumbent Member of Parliament, Honorable Mr. Chitotela.

- 9.2 Subsequently, the ECZ issued a Public Notice dated December 26, 2024 announcing that it had set Thursday, February 6, 2025 as the date on which to hold the parliamentary by-election for Pambashe Constituency. The time set for receiving nomination papers was Tuesday, January 7, 2025 between 09:00hours to 15:00hours.
- 9.3 Prior to the nomination date, the ECZ organized a stakeholder's meeting for all aspiring candidates. The meeting was held on January 4, at Mushota Primary School, in Kawambwa District. The Petitioner and his Election Agent, Mr. Haggai Mwewa were in attendance. The purpose of this meeting was obvious, thus, to orient the aspiring candidates on the requirement of the electoral process in particular the nomination process.
- 9.4 The familiarization was to bring to the notice of the aspiring candidates as to what was required to be presented to the Returning Officer on the date set for nominations. And one of the documents to be presented by the candidates was reported to be a candidate's valid voter's card.

- 9.5 And part of the briefing was aimed at reaching consensus as regards the nomination timetable: the allocation of specific times to each candidate for filing of nomination papers. As rightly pointed out by the Returning Officer who was spearheading the process, the purpose for the nomination timetable setting out the times when candidates were expected to file their respective nomination papers was aimed at achieving a peaceful and orderly nomination process, free of political parties clashing at the nomination centre.
- 9.6 The original timetable indicated that the Petitioner was allocated between 09:00 to 09:50hours as the time for him to file his nomination papers. However, with the concurrence of the Returning Officer, the Petitioner and another aspiring independent candidate, the timetable was changed from 09:00 hours to 14:50hours.
- 9.7 And it is evident from the evidence on the record that there was no issue as regards the change of time. Notably, the time for filing nominations allocated to the second last aspiring candidate for the UPND, was 14:00hours to 14:50hours.
- 9.8 Again, there was no issue as regards the time slot allocated to the UPND; having started their nomination process within the allocated time. However, there was delay with the nomination process for the UPND, and this delay caused the Petitioner not to present his papers at his scheduled time which was 14:50hours. Instead, the Petitioner presented himself before the Returning Officer at 15:40 hours to begin the nomination

process. And his nomination was set in motion; his supporters were processed, and the Petitioner as well was attended to.

9.9 Again, there was no issue with the Petitioner starting his nomination process at 15:40hrs or there about.

9.10 It is abundantly clear from the testimonies of the witnesses and the video clips that were produced that the Petitioner when asked to present his documentation in particular his valid voter's card, he produced an expired voter's card issued in 2010. He was advised by the Returning Officer that he needed to produce a valid voter's card.

9.11 And it is indisputable that at the time when he was presenting his nomination papers, the Petitioner was not in possession of his valid voter's card bearing the date, November 10, 2020. This card for some unknown reason was in Mansa. And before the Returning Officer declared his nomination invalid post 17:00hours, the valid voter's card was never presented or submitted to the Returning Officer. Instead, the Petitioner purported to present a copy remitted from Mansa via the *WhatsApp* platform, certified by the Local Court Magistrate at Mushota Local Court without the original voter's card.

9.12 The Petitioner's nomination was declared invalid. In making this declaration, the Returning Officer announced:

9.12. ***Mr. Ezekiel Kayumba has not successfully lodged in his nomination therefore his nomination paper is invalid the reason for this is because he did not produce a valid voters card and after extending time that he could look for that voters card it did not come***

in time therefore this nomination paper is declared invalid thank you.

9.13 One of the issues upon which the Petitioner seeks to set aside the invalidation of his nomination papers, is that the timetable was not gazetted. And the question posed was: whether or not the nomination timetable required to be gazetted. It is thus imperative to reproduce Article 52 (1) of the Constitution which provides:

9.13.1 ***(1) A candidate shall file that candidate's nomination paper to a returning officer, supported by an affidavit stating that the candidate is qualified for nomination as President, Member of Parliament or councilor, in the manner, on the day, and at the time and place set by the Electoral Commission by regulation.***

9.14 And pursuant to Article 52 of the Constitution in terms of issuance of regulations under the said Article, the Electoral Process (General) Regulations were promulgated by the ECZ via its power to make subsidiary legislation. It is for this reason that under regulation 15 of the said Regulations, the law provides:

9.14.1 ***15. (1) A returning officer shall receive the nomination of a candidate in an election on the days, hours and places specified by the Commission, by statutory order.***

9.15 Mr. Bwalya invited the court to take judicial notice of **Statutory Instrument No. 82 of 2024, The National Assembly By-Election (Pambashe Constituency No. 60) (Election date and Time of Poll) Order**. Notwithstanding the fact that this Statutory Instrument was not produced before court or shown to have been published in the Government Gazette, the Court is entitled to take

judicial notice of the same, and I discern no prejudice that the same may occasion to the Petitioner.

- 9.16 Mr. Chulu's argument was that pursuant to Article 67(2) of the Constitution, there was a requirement for the said Statutory Order to be gazetted. As to whether the said Statutory Order or in particular, the nomination timetable required to be gazetted or not in terms of Article 67 (2) of the Constitution, is a matter that invites the Court to make a determination vis-à-vis interpretation of Article 67(2) of the Constitution. And interpretation of the said Article is a matter that goes to jurisdiction of this Court. And by virtue of Article 128 (1) (a) of the Constitution that authority does not vest in this Court, but with the Constitutional Court.
- 9.17 And as regard the provisions of section 28 (1) and (2) of the Act, the Petitioner's Counsel misconceived the timetable envisaged under this section. The timetable contemplated under section 28(1) of the Act is an election timetable distinct from a nomination timetable. And the election timetable in this matter took the form of **Statutory Instrument No. 82 of 2024, The National Assembly By-Election (Pambashe Constituency No. 60) (Election date and Time of Poll) Order.**
- 9.18 According to Mr. Bwalya there is no requirement under the law to gazette a nomination timetable, but an election timetable as provided for under section 28(1) of the Act.
- 9.19 The Petitioner, in paragraph 43 of his Petition asserts that the need to gazette a nomination timetable takes away the ECZ's

arbitrariness to dictate the time at which the Petitioner was to submit his nomination and the time to end the nomination process.

9.20 Again, the issue resurfaces, as to whether a nomination timetable should be gazetted. Contextually, a nomination timetable is a product of consensus among aspiring candidate, conveniently specifying exact time slots when candidates are to file their nomination papers within the election timetable, promulgated by a statutory order. Whether the same should take a form of a separate statutory instrument under Article 52(2) of the Constitution and section 28 of the Act, inevitably invites constitutional interpretation.

9.21 I discern no compelling circumstance or issue to refer the matter to the Constitutional Court via Article 128 (2) of the Constitution, for interpretation of the issue raised by the Petitioner because, the validity of the amended timetable being gazetted or not does not go to the real issue for which the nomination papers of the Petitioner were declared invalid. In any event, time is of the essence in terms of hearing and determination of this Petition. And the Petition having been filed on January 13, 2025, the window of 21 days for hearing and determining the same expires tomorrow on January 4.

9.22 Furthermore, the nomination of the Petitioner was not declared invalid because the Petitioner failed to comply with his own agreed nomination timetable, but it was reportedly declared invalid because the Petitioner failed to produce a valid voter's card.

9.23 I now turn to the issue: whether or not the Returning Officer can declare a candidate's nomination invalid for failure to produce an

original voter's card. A nomination for a candidate aspiring to stand in an election as a member of Parliament may be invalidated on grounds itemized under regulation 18 (1) of the Electoral Process (General) Regulation 2016 as amended by Statutory Instrument No. 39 of 2021, which stipulates follows:

9.23.1 ***A returning officer for a constituency, district or ward shall, immediately after the filing of a nomination paper in that constituency, district or ward determine the validity of each nomination lodged with the returning officer and shall declare invalid a nomination in respect of which:***

- (a) the nomination paper was not duly completed or properly signed or lodged;***
- (b) the nomination paper is not accompanied by the affidavit or the affidavit is defective in a material particular;***
- (c) the appropriate election fee has not been paid; and***
- (d) the candidate does not meet the qualifications specified in the Act and the Constitution.*** (emphasis supplied).

9.24 The requirements for one to qualify to stand as a member of Parliament are specified under Article 70(1) of the Constitution.

9.25 The Petitioner's Counsel took the view that there was no legal requirement for a parliamentary candidate to produce an original valid voters card for purposes of filing nominations. According to Counsel, all the Petitioner needed to do, was to file an affidavit (GEN 8) alongside all other requirements and present a certified true copy of the voter's card.

9.26 I agree with the Petitioner's Counsel that the provisions of section 32(2) of the Act are inapplicable to a parliamentary election, but to candidates vying for elections at district or mayoral or ward level. However, the requirement for an aspiring candidate to be eligible for election as a Member of Parliament under Article 70(1) of the Constitution need no interpretation; the Article *inter alia* axiomatically prescribes that a candidate must be a registered voter. And in terms of regulation 34 of the Electoral Process (Regulation of Voters) Registration 2020, a voter's card is *prima facie* evidence that the holder of the voter's card is a registered voter.

9.26 Undoubtedly, proof of being a registered voter is constitutionally crucial at the time a candidate presents his/her nomination papers for scrutiny before the returning officer on a date set for receipt of nomination papers from candidates. And as to how this is proved, by drawing analogy from the provisions of section 33(2) of the Act, and more importantly, from legal and common sense, a candidate is required to produce a voter's card and a National Registration Card to the returning officer for inspection as *prima facie* proof that he or she is a Zambian citizen and a registered voter. Otherwise, the mere reliance on a photocopy may result in a regrettable situation and a mockery of the electoral process of having an imposter, without a valid voter's card or National Registration Card, standing for elections using false certified documents of a National Registration Card and voter's card.

9.27 It is certain, the Petitioner was not ignorant of the law, in terms of Article 70 (1) of the Constitution requiring him to prove *prima facie* before the Returning Officer that he was a Zambian citizen, and thus he carried with him his original copy of his National Registration Card. And to prove before the Returning Officer that he was a registered voter, the Petitioner carried his original voters card, albeit it was expired.

9.28 In fact, under the circumstances of the present case, the demand from the ECZ for the Petitioner to present his valid voter's card without compromise became heightened after the Petitioner sought to obtain validation of his nomination papers before the Returning Officer using an invalid voter's card.

9.29 Therefore, in term of Regulation 18 (1) (d) of the Electoral Process (General) Regulation as amended by S.I. No. 39 of 2021, the Returning Officer was within the law to declare the Petitioner's nomination invalid; for not proving before the Returning Officer that he was a registered voter, by way of producing his original voter's card.

9.30 It is immaterial that the ECZ, had alternative means of verifying the status of Petitioner on their system. Perhaps the mischief intended to be cured by the lawmaker, is the paradox of having a candidate seating on a ballot paper, but ineligible to participate in the electoral process in which he seeks political leadership.

9.31 I desire to reiterate that upon production of an expired voter's card and upon scrutiny thereof, the Returning Officer was

empowered by Regulation 18 (1) (d) of the Electoral Process (General) Regulation as amended by S.I. No. 39 of 2021 to immediately and outrightly declare the Petitioner's nomination invalid. It is apparent to me that Regulation 18 (1) aforesaid, provides no room on humanitarian grounds or otherwise, to extend time for the Petitioner to resubmit valid documents.

9.32 And Upon production of an expired voter's card to the Returning Officer, the Petitioner outrightly invited upon himself the weight of the sanction that is reserved for a defaulting aspiring candidate. This proposition measurably conforms to the approach taken by the Constitutional Court in **Bizwayo Newton Nkunika v Lawrence Nyirenda and ECZ²** (supra) that is to say: the ECZ is outrightly empowered to reject a candidates nomination, if the nomination papers are found wanting.

9.33 The *viva voce* testimonies of all witnesses and confirmed by the video clips presented to the Court clearly show that the Petitioner had with him his original NRC and a voter's card, albeit the voter's card he 'misguidedly' carried to the nomination center and presented to the Returning Officer for his nomination, had expired.

9.34 Even assuming *arguendo* that the Petitioner's Counsel is sure-footed in his argument that, there is no law that requires an aspiring candidate for a parliamentary seat to file an original voter's card, the validity of the affidavit and the certified copy of the Petitioner's voter's card attracts judicial inquiry. And this

brings me to the question posed by the Petitioner's Counsel: whether or not the Petitioner submitted to the Returning Officer a certified true copy of his 2021 voter's card before his nomination was declared invalid.

- 9.35 The dramatic turn of events as to how the Petitioner ended up to present what he termed a "certified true copy of the '2021 voter's card' are worth recounting. Firstly, it must be recalled that on the date of nominations, the Petitioner was in Kawambwa District, while his valid voter's card dubbed, the '2021 voter's card' remained in Mansa, and never found its way to Kawambwa to satisfy the Petitioner's qualification requirement in terms of Article 70(1)(c) of the Constitution.
- 9.36 Having realized that he had left his valid voter's card back in Mansa, his Election Agent (PW2) and Monitor (PW3) went frantically to try and retrieve a copy thereof, for purposes of handing the same over to the Returning Officer. A copy of the said voter's card was digitally sent to the Petitioner via the *WhatsApp* platform and the same was printed out and taken to Mushota Local Court to have it certified as a true copy of the original. The certification by the Magistrate was done without the actual voter's card and without a fresh affidavit being sworn before the Local Court Magistrate.
- 9.37 Furthermore, a copy of the certified copy allegedly certified at the Police in Mansa was also sent via the *WhatsApp* platform, and was shown to the Returning Officer.
- 9.38 The alleged certified copies of the Petitioner's voter's card shown to the Returning Officer were defective in a material particular.

Firstly, the certified copy of the *WhatsApp* printout commissioned by the Magistrate at Mushota Local Court was materially defective, because it is evident that it was certified in the absence of the original copy. The means by which it was certified, that is to say; that it was shown to the Magistrate via video call by a person holding on to the original voter's card in Mansa was irregular. It is for this reason that in the video clip shown to the Court, one of the ECZ officials around the nomination table was heard inquiring how the certification was done in the absence of the original voter's card.

9.39 Secondly, it should also be noted that the affidavit presented to the Returning Officer had no connection with the copies of the certified copies of the voter's card. The certified copy of the voter's card certified at Mushota Local Court could not be used because, the Affidavit itself was not sworn before the said Magistrate. This equally applies to a copy of the certified copy of the Petitioner's voter's card alleged to have been certified by the Police in Mansa.

9.40 It is absolutely seminal to note that Paragraph 3 of the Affidavit (GEN 8) in the Schedule to the Electoral Process (General) Regulations provides how a statement should be settled attesting to the applicant's being a registered voter, thus:

9.40.1 ***I am a registered voter and a certified copy of my voter's card is attached and marked 2.*** (emphasis supplied)

9.41 The authenticity of this statement lies in the procedural requirement that the attestation of the affidavit and certification

of a copy of the voter's card is done by the same Commissioner for Oaths. Therefore, both the attestation of the affidavit and the certification of the voter's card as a true copy of the original must be executed before the same Commissioner for Oaths. And for emphasis, certification of a copy is done in actual sight of the original document.

9.42 Indeed, not only was the Petitioner's nomination invalid by failure to prove that he was a registered voter by producing a valid voter's card, *a fortiori* it was invalid because, the affidavit relied on was defective in a material particular. Firstly, and primarily so, it exhibited an expired voter's card. For this reason, there was no disconnect as regards the reason announced for the invalidation and the reason stated in the letter from the ECZ. Secondly, certified copies were not part of the affidavit, and above all, they had irregularities as above stated and could not be acted upon.

9.43 Mr. Bwalya made reference to the case of **Charles Maboshe v Steven Nyirenda and Others**³ in which the Constitutional Court held that it is the duty of the Returning Officer to either accept the nomination documents filed before him/her or not. The Petitioner and his witnesses made allegations questioning the impartiality and objectivity of the Returning Officer in the execution of his duties. In particular, the Petitioner alleged that a note was passed to the Returning Officer, not to allow the Petitioner's nomination to go through.

9.44 I am disinclined to believe the above allegation, the proceedings on that day appear to have been captured on camera by the Petitioner's Election Agent, Mr. Mwewa. And a number of video clips were shown to the Court. There is no video clip showing or suggesting that the Returning Officer was under some capture of some sort from his superiors or colleagues, and hence deprived the autonomy to professionally discharge his duties.

9.45 Another issue the Petitioner and his witnesses brought is that they relied on assurances by ECZ officials initially endorsing the manner in which the voter's card was remitted from Mansa and how it was certified and commissioned. According to the Petitioner, they did what they did based on the advice given by the ECZ. This assertion is of no legal value because, there is no estoppel against the law. Therefore, irrespective of the alleged disavowed assurances made by the ECZ, the ECZ was invariably mandated to abide by the dictates of the law. In the case of **Krige and Another v Christian Council of Zambia**⁴, Baron D.C.J., eruditely stated:

9.46.1 ***As to estoppel, the matter is in my view concluded against the plaintiff by the principle that one cannot set up an estoppel against a statute.***

9.46 Additionally, in **Swallow and Pearson (a firm) v Middlesex Court Council**⁵, Parker J, had this to say:

9.46.1 ***There is no doubt that a man is entitled to waive or to agree to waive the advantage of a law or rule made solely for his benefit and protection. It is equally clear that no person can waive a***

provision or requirement of the law which is not solely for his benefit, but is for the public benefit.

9.47 The Constitution, the Electoral Process Act and the attendant Regulations are there to secure certainty and predictability in the administration of the electoral process, not only by the Court, but by all officials and authorities vested with the power to enforce electoral laws. Therefore, the provisions of the law cannot be waived to remedy the Petitioner's legal dilemma caused by the Petitioner's lack of diligence.

10.0 CONCLUSION

10.1 In the light of the foregoing, I find that Returning Officer validly invalidated the Petitioner's nomination. Therefore, the Petitioner's claims seeking to set aside that declaration and to reset a new date for filing of nominations for the Pambashe Parliamentary by-election is dismissed. For the avoidance of doubt, the Petition is dismissed in its entirety.

10.2 I make no order as to costs.

10.3 Leave to appeal is granted.

DATED THIS 3RD DAY OF FEBRUARY 2025


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THE HON. MR. JUSTICE CHARLES ZULU