

IN THE HIGH COURT OF ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)



2021/HP/ EP006

IN THE MATTER OF: **THE ELECTORAL PROCESS ACT NO.35 OF 2016 OF THE LAWS OF ZAMBIA.**

AND IN THE MATTER OF: **PARLIAMENTARY ELECTION FOR MAFINGA CONSTITUENCY HELD ON THE 12TH AUGUST 2021.**

AND IN THE MATTER OF: **ELECTION PETITION BY JOHN SICHINGA.**

BETWEEN:

JOHN SICHINGA

PETITIONER

AND

ROBERT CHABINGA

1ST RESPONDENT

THE ELECTORAL COMMISSION OF ZAMBIA

2ND RESPONDENT

PETITION

The Petition of **JOHN SICHINGA** of Ndola in the Copperbelt Province of the Republic of Zambia
SHOWETH that:

1. Your Petitioner **JOHN SICHINGA** is a person who was a candidate at the aforesaid election.
2. Your Petitioner **JOHN SICHINGA** states that the election was held on the 12th day of August 2021 when **ROBERT CHABINGA** for the Patriotic Front (PF) was declared as being duly elected.
3. Your Petitioner polled 9,235 votes against the 1st Respondent's 15,921 votes.
4. And the Petitioner says that **ROBERT CHABINGA** was not duly elected because the elections in the said Constituency were held in an atmosphere which was not free and fair due to widespread malpractices, vote buying, bribery and corruption.

5. The 2nd Respondent being responsible for receiving and accepting or rejecting nominations for election as Member of Parliament did not undertake the requisite due diligence on the 1st Respondent's Grade 12 certificate presented with his nomination application as information has emerged that he may have used a forged certificate and therefore was not duly nominated as per requirement of the Constitution of Zambia.
6. The 2nd Respondent being responsible for conducting the said election did not allow my party representatives to witness the arrival and verification of ballot papers when the same was delivered to Mafinga District Council offices.
7. The 1st Respondent's national campaign team led by Mr. Joe Malanji gave cash handouts ranging between K40 and K300 to attendees of their rallies held at Thendele and Muyombe respectively on 8th August 2021.
8. On 11th August 2021 the 1st Respondent acting through his agents distributed cash transfer funds to villagers throughout the constituency as an inducement to vote for him and his party and further threatened recipients that they would be removed from the list of beneficiaries if they do not for his party the following day. The 1st Respondent further promised newly listed beneficiaries of social cash payment on Friday 13th August 2021 after they vote for him and his party.
9. Throughout the night of 11th August 2021 the 1st Respondent and his campaign team distributed various amounts of money, mealie meal and buckets of cooking oil to would be voters throughout the constituency.
10. The 1st Respondent through an organisation affiliated to his political party called GGOZA distributed foodstuff, money and provided transport to voters to various polling station throughout polling day.
11. The 1st Respondent provided branded party motor vehicles to ferry voters from their respective homes to polling stations and on the way persuaded them to vote for himself and his party.
12. On polling day, 12th August 2021, the 1st Respondent through his agents prepared food at various vantage points near polling stations which food was being given to voters in addition to giving them cash handouts as an inducement to vote for him and his party.

13. The Petitioner's accredited monitors were denied entry to some polling stations on polling day by officers of the 2nd Respondent.
14. The 2nd Respondent's presiding officers denied the Petitioner's polling agents results form Gen.20a in 11 polling stations and in one polling station the polling agent was asked to sign an unfilled form.

WHEREOF the Petitioner prays that it may be determined that;


- 1) The said **ROBERT CHABINGA** was not duly elected or returned and the election was void.
- 2) The said **ROBERT CHABINGA** was not duly nominated as he did not have the requisite Grade 12 certificate.
- 3) Costs.

Dated at Lusaka this 25th day of August 2021.

Signed


PETITIONER

Per:


Lusenga Mulongoti Advocates
No. 63 Independence Avenue
Prospect Hill
P.O Box 50154
LUSAKA
Advocates for the Petitioner

To: The 1st Respondent
Robert Chabinga
LUSAKA

To: The 2nd Respondent
The Electoral Commission of Zambia
Elections House, Haile Selassie Avenue
Longacres
LUSAKA

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Advocates for the Petitioner