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2021/P/K/E/T/002

**IN THE LOCAL GOVERNMENT ELECTION TRIBUNAL
HOLDEN AT LUSAKA
LUSAKA**

(Constitutional Jurisdiction)

IN THE MATTER OF: ARTICLE 47 (3), 153 (1) and 159 (3) of the Constitution of the Republic of Zambia (Amendment) Act No. 2 of 2016.

And

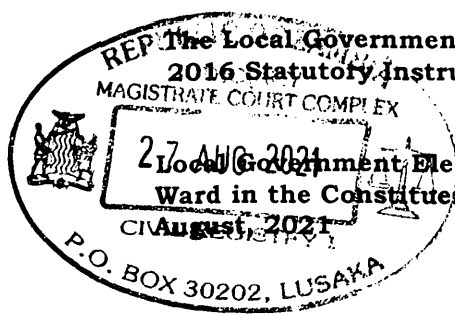
IN THE MATTER OF: SECTIONS 72 (1) (B), 96 (1) (C) (I), 98 (C), 99 AND 100(3) of the Electoral Process Act No.35 of 2016.

And

IN THE MATTER OF: The Local Government Elections Tribunal Rules, 2016 Statutory Instrument No.60 of 2016

AndAnd

IN THE MATTER OF: Local Government Election for Ward 2, Chawama Ward in the Constituency, Matero held on the 12th August, 2021



BETWEEN:

TYSON MPHANDE

PETITIONER

AND

KARMA JAWARA

1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA

2ND RESPONDENT

PETITION

ELECTION FOR WARD 2, CHAWAMA WARD HELD ON THE 12th DAY OF August, 2021

The Petition of **TYSON MPANDE** whose address for service is House No: 304/10934, 4th Street, Kuomboka, Chawama **SHOWS THAT:**

1. Your Petitioner is a person who was a candidate at the aforesaid election;
2. The election was held on the 12th day of August, 2021 where I, and the 1st Respondent were candidates and the returning officer returned the 1st Respondent as being duly elected.

3. The 1st Respondent was not duly elected as the 1st Respondent and his agents committed the following illegal acts –

4. Between 1st and 2nd August, 2021, the 1st Respondent's agents attacked our youth member, one David Yumba Kazali by hitting him on the head and other body parts with a plank while he was distributing the petitioners flier's. This matter was reported to police.

5. One of our members who is also a Ward Vice Information and Publicity Secretary (IPS) by the name of Abigail Simusa had her top regalia forcefully removed off her body brining untold shame upon her. Her mobile phone was stolen in the process which matter was reported at chawama Police.

6. Another ward member who is also a top information and publicity Secretary by the name of Terry Chingo was badly injured and the matter reported to Chawama Police.

7. This whole act of removing my pasted campaign posters was being done by the 1st Respondent's agents led by Innocent Kalimanshi and one only known as Cena in the full view of the 1st Respondent.

8. On 20th July, 2021 before the elections my campaign posters were removed from their locations on ZESCO poles and wall fences along Northern view road, twatasha road and Chokocha road among others by the 1st Respondent and the agents of the 1st Respondent.

9. Between 27th and 29th May 2021 the 1st Respondent and his agents led by one Soshaand campaign team violently attacked us with stones injuring several persons.

10. Between 4th and 8th July, 2021, the 1st Respondent and his agents led by Nathan Phiri and another known as Sosha and campaign team violently attacked us with stones injuring several persons including the Constituency Chairman Mr Andrew Zulu who was also our campaign manager. He was admitted for hours at Kawamala Clinic and later the matter was reported at Chawama Police.

11. The 1st Respondent, her agents and campaign team constantly breached the campaign programme drawn up by all parties with the police by disrupting the timetable thereby disrupting our campaigns.

12. The 1st Respondent and her agents throughout the campaign period disrupted the Petitioner's campaigns.

13. Between 8th and 10th 2021, the 1st Respondent through her agents, namely Innocent Kalimanshi and Nathan Phiri attacked our Joint Youth Camp popularly known as Patuka House damaging doors, windows, cooking utensils and throwing cooked food stuff on the road. The 1st Respondent's agents also stole cooked food stuffs, a grinder and two doors from inside storeroom at the same premises.

14. The 1st Respondent's agents in the name of Innocent Kalimanshi fired two (2) gun shots in the air sending people in the area into hiding and panic.

15. On or about 21st July, 2021 the Respondent's agents and campaign team including Innocent Kalimanshi, Nathan Phiri also known as General Mwinko together with other unknown people threatened to demolish the houses of UPND members and sympathisers including Maggy Tembo, Moses Mafuta, Jane Mafuta, Nathan Shambono, Delila Mudenda among others.

16. On 12th August, 2021, the day of voting, the 1st Respondent through her agents was distributing food to the voters outside the polling stations before and after the persons voted.

17. Further when the polls closed and counting of ballots commenced and proceeded to the totalling centre, three Presiding Officers for Ward 2, Chawama Ward, John Mbewe from polling station number 3 Methodist, William Banda from polling station number 2, and Dright Skwale were beaten by soldiers.

18. On 11th August, 2021, around 20:00 hours to 23:00 hours the 1st Respondent, her agents and campaign team distributed mealie meal, rice and cooking oil to the voters and this will be attested to by the beneficiaries and eye witnesses.

19. On 12th August, 2021, voters were enticed to get money in K50.00 notes and beer was bought for voters by the 1st Respondent's agents led by a Mr. Francis Kalala.

20. On 12th August, 2021, Toyota Prado Vehicle Registration No. ALZ 8348 belonging to Mr Potipher Tembo the Parliamentary candidate for Chawama on the UPND ticket attacked and had its rear side window was smashed by the 1st Respondent's agents in Ward 2 at Methodist polling station while distributing food for the UPND Election Agents thereby disrupting the voting process.

21. The 1st Respondent's agent on 12th August, 2021 attempted to sneak in suspected Ballot papers into Methodist Polling station which led to three 2nd Respondent's agents who were also presiding officers namely John Mbewe, William Banda and Dright Siakwale being beaten by the alert soldiers and this was attested to by independent observers and monitors.

22. Fifteen Gen 20s were missing and unaccounted for at the time the 1st Respondent was declared Councillor by the 2nd Respondent's Returning officer and the missing Gen 20s constituted a substantial proportion of the votes.

23. The 2nd Respondent did not avail the Petitioner with Gen 20 Forms at the Polling Stations for the following 13 Polling Stations: Mauzunzo A-3, Mauzunzo-A-4, Lwipa-B-4, Basopo-2, Basopo-4, Eye Clinic-2, Chawalila-1, Chawalila-6, Chawalila-8, Chawalila-9, Motomoto-A-1, Motomoto-B-1, Eye clinic-1 and yet the results for these centres were surprisingly reflected in the Record of Proceedings by the said 2nd Respondent.

24. The said **1st Respondent** was not duly elected or returned and that the election was void.

25. The 1st Respondent should not be allowed to step in the chambers till the matters are resolved.

WHEREOF your Petitioner prays that it may be determined that the said **1st Respondent** was not duly elected or returned and that the election was void.

26. And your Petitioner prays for –

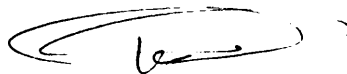
(a) A declaration that the illegal practices committed by the 1st Respondent and his agents materially affected the election result.

(b) A declaration that the 1st Respondent was not duly elected/A declaration that election of the 1st Respondent as Councillor for Ward 2 Chawama Ward is void/ A declaration that the declaration by the 2nd Respondent that the 1st respondent was duly elected is void; or

(c) A declaration that the Petitioner was duly elected.

(d) An Order that the costs of the Petition be borne by the Respondents.

Dated at Lusaka this day of.....2021



Petitioner

This Petition was settled by; _____

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LUSAKA

(Co Advocates for the Petitioner)