

IN THE SUPREME COURT OF ZAMBIA  
HOLDEN AT LUSAKA

SCZ JUDGMENT NO. 46 OF 2008  
APPEAL NO. 97 OF 2008

(Civil Jurisdiction)  
BETWEEN:

MARK CLETUS MUSHILI

APPELLANT

AND

MARY MILDRED ZAMBEZI

1<sup>ST</sup> RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA

2<sup>ND</sup> RESPONDENT

CORAM: SAKALA, CJ, MUMBA, CHITENGI, SILOMBA AND MUSHABATI, JJS

On the 25<sup>th</sup> June and 19<sup>th</sup> August, 2008

For the Appellant: Mr. B. Mutale, SC, of Ellis and Company,  
Assisted by Mr. Mwila Chitabo of Chitabo Chiinga Associates

For the 1<sup>st</sup> Respondent: Mr. S.C. Malama, SC, of Jacques and Partners  
Assisted by Mrs. Kunda

For the Respondent: Mr. M. Mukwasa, State Advocate

## JUDGMENT

SILOMBA, JS, delivered the Judgment of the Court.

### CASES REFERRED TO:-

1. Mlewa -Vs- Wightman (1995/77) ZR, 171.
2. Banda -Vs- Chief Immigration Officer (1993/94) ZR, 80.
3. Nkhata and 4 Others -Vs- The Attorney-General (1966) ZR, 124.

LEGISLATION REFERRED TO:-

Electoral Act, No. 12 of 2006.

This is an appeal against the judgment of the High Court dated the 27<sup>th</sup> July, 2007 in which the learned trial Judge determined that the appellant was not duly elected as a Member of Parliament for Ndola Central Constituency and that the election was void. From now onwards, we shall refer to the appellant (Mark Cletus Mushili) as the 1<sup>st</sup> respondent and the 1<sup>st</sup> respondent (Mary Mildred Zambezi) as the petitioner, while the 2<sup>nd</sup> respondent will continue as such, as this is what they were in the Court below.

In her petition before the High Court, the petitioner disclosed that she was, together with the 1<sup>st</sup> respondent and others, a parliamentary candidate during the Presidential, Parliamentary and Local Government elections that were held in September, 2006. While she stood on the ticket of the Movement for Multiparty Democracy (M.M.D.), the 1<sup>st</sup> respondent was a candidate duly sponsored by the Patriotic Front (P.F.). In that election, the 1<sup>st</sup> respondent emerged as the duly elected parliamentary candidate for the Ndola Central Constituency.

The petitioner, in paragraph 4 of her amended petition, challenged the election of the 1<sup>st</sup> respondent, alleging that his election was marred by corrupt

and illegal practices, which were exhibited or committed by himself and/or his agents before and after the election process. The allegations are well outlined in the judgment of the trial court, suffice to say that there were fifteen allegations against the 1<sup>st</sup> respondent and four allegations against the 2<sup>nd</sup> respondent, making it a total of nineteen allegations.

After trial, the learned trial Judge found that the petitioner had succeeded in proving nine out of fifteen allegations against the 1<sup>st</sup> respondent; the four allegations against the 2<sup>nd</sup> respondent were dismissed. As against the 1<sup>st</sup> respondent, the learned trial Judge upheld the petition and determined that the 1<sup>st</sup> respondent was not duly elected as Member of Parliament for Ndola Central Constituency and accordingly declared that his election was void.

Dissatisfied with the order of the Court below, the 1<sup>st</sup> respondent has filed six grounds in support of the appeal. These are:-

1. The learned trial Judge misdirected himself when he nullified the elections when it was not proven that the majority of the voters were prevented from voting for a candidate whom they preferred;
2. The learned trial Judge seriously misdirected himself in fact and in law when he found that the petitioner had proved her case in terms of

- Section 93(2) (a) and (c) of the Electoral Act No. 12 of 2006 when Section 93(2) (c) had not been specifically pleaded in the petition;
3. The learned trial Judge misdirected himself when he held that voters' cards were collected from people and money given to them when there was no such evidence;
  4. The learned trial Judge misdirected himself when he held that the petitioner was called a prostitute and a liar;
  5. The Court below misdirected itself in law and fact when it held that there was removal of the petitioner's campaign material and the defacing of her posters and that that had a probable effect on the election in Ndola Central Constituency; and
  6. The learned trial Judge had erred in fact and in law in holding that RW10 Clare Mazuba, had removed the petitioner's campaign materials when her evidence was that the material removed was that of Councillor Nawa, (see pages 781 - 783 of the record of appeal).

Both counsel, representing the 1<sup>st</sup> respondent, relied on his heads of argument in their entirety and made no oral submissions to augment the heads of argument and neither did they submit in reply to the petitioner's submissions.

In relation to ground one, it was argued in the heads of argument that for an election to be nullified under Section 93(2) (a) of the Electoral Act, No. 12 of 2006, it must be proved or established that there were corrupt or illegal practices or other misconduct committed in relation to an election; that by reason of illegal or corruption practices or other misconduct the voters were prevented from voting for the candidate whom they preferred.

It was further argued that since it was not established that by reason of corrupt or illegal practices or other misconduct the voters were prevented from voting for a candidate whom they preferred, the election ought not to have been nullified; that there was no evidence that the majority of the electorate were prevented from voting for a candidate whom they preferred.

The argument of the 1<sup>st</sup> respondent's counsel, on ground two, was that the petitioner did not plead for the relief provided for under Section 93(2) (c) of the Electoral Act in her election petition. That being the case, it was contended in the heads of argument that that was a serious misdirection for the learned trial Judge to provide for a relief, which had not been prayed for.

On ground three, counsel submitted that the trial Court misdirected itself when it held that the 1<sup>st</sup> respondent gave out money because the evidence relied on of Kaputula Mukabila (PW9), Dominia Kaulu (PW12) and Diane Mwale (PW20) was not actually reliable; that if it were true that the three witnesses received bribes, then they were guilty of a criminal offence or an electoral misconduct and that as such they lacked credibility.

Coming to ground four, counsel submitted from the heads of argument that the two witnesses who testified in favour of the allegation that the petitioner was called a prostitute were Koomb's Malambo (PW11) and Philimon Kaunga (PW18). It was submitted that although PW11 had informed the petitioner about the results she (petitioner) never alluded to having received any report from him.

On (PW18), counsel submitted that this was the witness who conceded that his party had lost and that he was bitter that the MMD had collapsed in Chipulukusu. The witness, including Felix Mwangi (PW13), had an interest to

serve since they were supports of the petitioner, it was argued. It was further argued that the petitioner never mentioned in all her evidence about the insults on her and like in all other allegations no report was made to the police, leading to the only irresistible inference that the petitioner was never insulted.

Counsel submitted that the 1<sup>st</sup> respondent denied insulting the petitioner and was supported by Laban Chibuye (RW2) and Josephat Changwe (RW11) who testified, according to counsel, that they could not insult the petitioner because they regarded her as their own mother.

On ground five, counsel submitted from the heads of argument that following the learned trial Judge's observation (see page 53, lines 5 to 13, of the record) that it was true that neither the 1<sup>st</sup> respondent nor his agents were involved in or seen tearing the petitioner's posters, the 1<sup>st</sup> respondent could not be penalized for acts or omissions of unknown people, especially that there were a lot of parties contesting in the election.

On ground six, which was a late entry and for which no leave of the court was obtained to have it included and argued, we think that the argument that Clare Mazuba (RW10) was not an agent of the 1<sup>st</sup> respondent and that the poster she removed was not that of the petitioner but for a prospective Councilor can be adequately covered under ground five.

In response to the submissions of counsel for the 1<sup>st</sup> respondent, the petitioner's State Counsel relied on the heads of argument, which he reinforced with oral arguments. He submitted, in relation to ground one, that the petitioner led evidence on all aspects of bribery, including the particulars that were committed by the 1<sup>st</sup> respondent or through his agents as provided in Section 79

of the Electoral Act. The State Counsel submitted that no objection was raised and the Court, without error, correctly made its findings on the admitted evidence.

The State Counsel further submitted that since the 1<sup>st</sup> respondent was found to have committed bribery personally himself, the learned trial Judge was on firm ground to annul his election under Section 93(2) (c) under which .... "the prevention of the majority of the voters from electing the candidate in the constituency whom they preferred" ... was irrelevant. The "prevention" factor was, according to the State Counsel, relevant where any corruption (e.g. bribery and illegal practice) was committed by anybody else other than by the candidate himself and/or his agents. As far as he was concerned, once the candidate was held to have committed an act of bribery, as was the case in this appeal, the trial court had to grant relief under the aforesaid Act. The case of Mlewa -Vs- Wightman <sup>(1)</sup> was cited in aid.

Under ground two, the State Counsel submitted in the heads of argument that the petitioner pleaded the commission, by the 1<sup>st</sup> respondent of the acts of bribery in paragraph 4 (i) (b) of the petition in which she made reference to Section 79 of the Electoral Act; that the evidence the petitioner produced was found by the trial court to have proved some acts of bribery. The State Counsel reiterated his earlier position in ground one that once bribery, as pleaded, was satisfactorily proved to have been committed by the 1<sup>st</sup> respondent the trial court had no choice but to grant the relief of annulling the election under Section 93 of the Electoral Act.

With regard to ground three, it was observed from the heads of argument that the ground was attacking the trial Court's findings on the credibility of the witnesses, implying that there was no material upon which the lower court could make findings in favour of the petitioner's witnesses and against those of the 1<sup>st</sup> respondent. In the view of the State Counsel, the judgment of the lower court was arrived at after careful analysis of the evidence given on either side of the case, in particular that of the petitioner and the credibility of her witnesses.

We were urged to accept that the decision of the trial court rested on the credibility of the witnesses and findings of fact and that as such there was no principle of law upon which such lucid findings could be upset on appeal. As far as the State Counsel was concerned, the lower court was on firm ground and never fell into any error as it applied the right principles, directed itself very carefully and properly evaluated the evidence before it. The cases of Banda -Vs- Chief Immigration Officer<sup>(2)</sup> and Nkhata and 4 Others -Vs-The Attorney General<sup>(3)</sup> were relied on.

In conclusion, the State Counsel submitted that the foregoing arguments on ground three were to apply to the remaining grounds four, five and six with equal force. We were, therefore, asked to reject the 1<sup>st</sup> respondent's grounds of appeal and dismiss the appeal in its entirety with costs. In his oral submission, counsel merely emphasized, by way of repetition, what was already contained in the heads of argument.

We have carefully analysed the evidence of the parties that was tendered before the lower court, their heads of argument and the submissions of counsel, as well as, the judgment of the learned trial Judge that is the subject of the



appeal. In dealing with the grounds of appeal, we have decided to dispose of ground one and ground two separately while grounds three, four and five (including ground six) will be taken care of together because they related to findings of fact and the credibility of witnesses. We shall begin with ground two and then move to grounds three, four and five. Ground one will be the last to deal with.

Ground two challenges the finding of the learned trial Judge that the petitioner had proved her case in terms of Section 93(2) (a) and (c) of the Electoral Act when Section 93(2) (c) of the same Act was not specifically pleaded. The 1<sup>st</sup> respondent has asserted that it was a serious misdirection for the trial court to provide for a relief that had not been prayed for. The petitioner has counter-asserted that the relief was pleaded in paragraph 4 (i) (b) of her amended petition.

We have visited paragraph 4 (1) (b) of the amended election petition, under sub-heading, "Corrupt Practices," and therein we find that the petitioner pleaded the allegations that the 1<sup>st</sup> respondent had distributed gifts in form of cash, foodstuffs like mealie meal and other valuable materials to would-be voters at various places .... In contravention of Section 79 of the Electoral Act, which prohibits bribery ... At the conclusion of the petition, the petitioner prayed the trial court to determine that the 1<sup>st</sup> respondent was not duly elected or returned and that the election was void *ab initio*.

We take note that the election petition was commenced under Section 93(2) (a) of the Electoral Act. We also take note that Section 93(2) (c), dealing with the power of the High Court to declare an election void if allegations of

corrupt practices or illegal practices are proved to have been committed in connection with the election by or with the knowledge or consent or approval of the candidate or of that candidate's election agent or polling agent, was not specifically pleaded.

We have said before that a person wishing to commence an action in court must specify the provision of the law under which she or he wishes found her or his action. This is so in order to avoid frivolous and vexatious litigants. However, the fact that the law under which an action is commenced is indicated does not amount to a pleading. In this case, the petitioner indicated the law under which the petition was commenced.

With regard to the form and content of pleading, we do not think that it is a requirement to specifically plead the law under which an issue raised in the proceedings must be disposed of. This is so because, as lawyers, Judges are trained how and where to find the law. In *Halsbury's Laws of England*, 3<sup>rd</sup> Edition, Vol. 30, it is stated at page 7, paragraph 12, that the requisites of good pleading are that it must contain, among others, a statement of facts and not the law.

Coming to the case before us, we hold that it was not an essential element of pleading to specifically plead Section 93(2) (c) of the Electoral Act. Once the allegations outlined in paragraph 4 (i) (b) of the petition were proved to the satisfaction of the High Court, it was incumbent on the learned trial Judge to nullify the election, as prayed for, under Section 93(2) of the same Act. Ground two fails.

We now turn to deal with grounds three, four and five together. We note that ground three challenges the decision of the learned trial Judge for holding that voters' cards were collected from people and money given to them when there was no such evidence. This ground of appeal is quite precise and focused contrary to the attention given to it by the 1<sup>st</sup> respondent in his heads of argument. It relates to the allegation that voters' cards were collected from potential voters on payment of money.

The evidence for and against the collection of voters' cards and the payment for them came mainly from PW9 (Kaputula Mukabila) and PW14 (Mupeta Chibamba) for the petitioner and the 1<sup>st</sup> respondent himself and RW2 (Laban Chibuye). PW9 testified that he was a PF member and campaign manager for RW2 who stood as Councilor on PF ticket. He confirmed that RW2 was, at the same time, campaign manager for the 1<sup>st</sup> respondent, thereby making PW9 a member of the 1<sup>st</sup> respondent's campaign team. He testified that the 1<sup>st</sup> respondent gave him K1,000,000 for the purpose of buying and inducing voters despite their party affiliation and as a result he formed a team, which undertook patrol campaigns.

His evidence was that the 1<sup>st</sup> respondent bought 70 exercise books for the purpose in which they entered the voters' cards and NRCs of those who surrendered their voters' cards. The exercise books were put in evidence. The voters who surrendered their cards were paid K5,000 and those who recruited the voters to surrender their cards were paid K10,000 per voter. The foregoing evidence of payment was confirmed by PW14 who also confirmed that RW2 was the campaign manager for the 1<sup>st</sup> respondent.

One day PW9 fell out of favour with his bosses and RW2 fabricated an assault case and reported him to the police where he was detained. He produced a police bond as part of his evidence.

The 1<sup>st</sup> respondent, in rebuttal, testified that he did not know PW9; that PW9 never came to his home and that he never gave him money. He was supported by RW7 (Rosemary Sabora) who denied ever receiving K400,000 from the 1<sup>st</sup> respondent. She also denied buying 70 exercise books. Further, RW2 denied that PW9 was in the campaign team of the 1<sup>st</sup> respondent but in his campaign team; that he threw him out when he discovered that he was demanding too much.

The learned trial Judge went through the evidence and took into account the demeanour, the probabilities and other considerations to assess the credibility of witnesses. One distinct feature he found was that the 1<sup>st</sup> respondent's witnesses made mere denials because they did not want to appear to have participated in bribing voters, a fact admitted by the petitioner's witnesses. The learned trial Judge found PW9 to be a candid and frank witness who impressed the court.

On ground four, in which the 1<sup>st</sup> respondent disputed the lower court's finding that the petitioner was called a prostitute and a liar, the evidence of the petitioner was spearheaded by PW11 (Koombs Malambo), PW13 (Felix Mwangi), PW18 (Philimon Kalunga) and the petitioner herself. According to the evidence, PW11 worked for the petitioner at McDaniels Restaurant at Kansenshi Shopping Centre in Ndola.

Ten days prior to the elections, PW11 testified that the 1<sup>st</sup> respondent's blue landcruiser, No. ACE 1394, with a public address system (PAS), came to the restaurant four times a day and parked in front of the restaurant. On all those occasions, the cadres chanted PF slogans, saying that the petitioner was a prostitute who was not married and, therefore, not fit to rule the people. Besides, they labeled the petitioner as an insane person.

PW13 testified that a week or two before the elections he was at the petitioner's residence at Kansenshi Shopping Centre when he heard a PF announcer's voice through the PAS calling the petitioner a prostitute, a liar and a thief. He later recognized the announcer as RW11 (Josephat Changwe) whom he had known before. He remonstrated with him about the vulgar remarks and he just drove off. The evidence of PW13 was supported by the petitioner.

PW18 testified that Laban Chibuye, RW2, took him to the residence of the 1<sup>st</sup> respondent where he heard the 1<sup>st</sup> respondent telling those in his campaign team to go out there and tell the people not to vote for the petitioner because she was a prostitute and a liar who had nothing else to do for the people. The message was later repeated by the 1<sup>st</sup> respondent at Dag Hammerskjoeld and Twapia.

In his evidence in rebuttal, the 1<sup>st</sup> respondent denied that he called the petitioner a prostitute as alleged by PW18. He also denied that his landcruiser was ever parked at the restaurant of petitioner.

The learned trial Judge considered the evidence relating to the allegation that the 1<sup>st</sup> respondent and his campaign team called the petitioner a prostitute and a liar. He found PW18 to be a credible witness and accepted his testimony

that the 1<sup>st</sup> respondent called the petitioner a prostitute and liar at three meetings. The learned trial Judge warned himself to treat the evidence of PW11, an employee of the petitioner, with caution because he was a witness with an interest to serve.

The foregoing notwithstanding, the trial court found no bias in his testimony and accepted his evidence that the 1<sup>st</sup> respondent's landcruiser used to park at the petitioner's restaurant where derogatory remarks about the petitioner were made by those inside the vehicle. The learned trial Judge also accepted the evidence of PW13 that Josephat Change, RW11, called the petitioner a liar and a prostitute in his presence while using the landcruiser. The learned trial Judge concluded that this was the strategy of the 1<sup>st</sup> respondent to undermine the petitioner in her campaigns.

On ground five, which includes ground six as well, the 1<sup>st</sup> respondent is saying that the learned trial Judge was wrong in holding that there was removal of the petitioner's campaign materials and defacing of her portraits, which acts had a probable effect on the election in Ndola Central Constituency. The evidence in support of the tearing down of posters came from the petitioner herself. On the 19<sup>th</sup> August, 2006, the petitioner found someone, who later turned out to be Clara Kafula, RW15, tearing her posters in the Kansenshi area. She reported to the police and RW15 was picked up, detained and charged with conduct likely to cause the breach of the peace. The petitioner tendered a police report to that effect, which confirmed her story before the trial court.

The evidence of the 1<sup>st</sup> respondent, in rebuttal, came from RW15. She testified that she removed posters belonging to Nawa, an MMD aspiring

candidate, out of frustration. She confirmed that she did so on the 19<sup>th</sup> August, 2006 and that she was a PF supporter. When she was cross-examined, she confirmed that she was detained at Kansenshi Police Station and that she later paid an admission of guilty fine.

The learned trial Judge considered the evidence from both sides. He accepted the police report tendered in evidence by the petitioner and rejected the evidence of RW15 that the posters she tore were for Newa. He accordingly found that the posters that were torn were for the petitioner for which RW15 was arrested. The learned trial Judge found RW15 to be very proud of what she did and was not, in any way, ashamed or remorseful for her conduct. He upheld the allegation.

Although counsel for the 1<sup>st</sup> respondent talked of Clare Mazuba as RW10 under ground six, the truth is that the heads of argument actually refer to the evidence of RW15, Clara Kafula. RW10, according to the record of appeal, was Wilfred Yambani Njovu. Having clarified the position and bearing in mind the findings of the trial court our views is that ground six was superfluous.

From the analysis of the evidence and the findings of the learned trial Judge under grounds three, four and five, it is clear to us that the grounds of appeal were challenging the findings based on facts and on the credibility of witnesses. On the findings based on the credibility of witnesses, the legal position is that there is nothing we can do because we, as an appellate Court, cannot assume the role of a trial court. The learned trial Judge saw and observed the demeanour of witnesses in a live trial and had, therefore, the best opportunity to assess and know which witnesses were up to no good and those who were telling the truth.

On the findings of fact, the law in Nkhata and 4 Others -Vs- the Attorney General <sup>(3)</sup> and several other cases is very clear. We have said before and we repeat here that no appellate court will reverse findings of fact by a trial court unless it is satisfied that the findings in question were either perverse or made in the absence of any relevant evidence or upon a misapprehension of facts or were findings which on a proper view of the evidence no reasonable trial court, acting correctly, could reasonably make.

In the heads of argument, no attempt was made to highlight evidence in support of grounds three, four and five to show that the findings of the trial court were either perverse or made in the absence of any relevant evidence or upon a misapprehension of facts. If the findings of fact by the lower court had been shown to be at variance with the evidence on record the (findings of fact) would have become findings of law or findings of mixed law and fact warranting the intervention of this court. Grounds three, four and five are dismissed.

Having dealt with grounds three, four and five, the partial background to the legal argument posed in ground one is established for the disposition of the ground of appeal. The legal issue in this ground of appeal stems from the fact that the learned trial Judge nullified the election of the 1<sup>st</sup> respondent without first considering whether the evidence adduced in the election petition was enough to prove that the majority of voters were prevented from voting for a candidate whom they preferred.

The relevant section of the Electoral Act under which the argument of the 1<sup>st</sup> respondent is anchored is Section 93(2) (a) and (c). Sub-section (2) (a) and (c)

of Section 93 reads:-



93(2) - The election of a candidate as a member of the National Assembly shall be void on any of the following grounds which is proved to the satisfaction of the High Court upon the trial of an election petition, that is to say-

- (a) that by reason of any corrupt practice or illegal practice committed in connection with the election or by reason of other misconduct, the majority of voters in a constituency were or may have been prevented from electing the candidate in that constituency whom they preferred;
- (b) .....
- (c) that any corrupt practice or illegal practice was committed in connection with the election by or with the knowledge and consent or approval of the candidate or of that candidate's election agent or polling agent.

We have perused the judgment of the learned trial Judge and we are satisfied that there is nowhere in the judgment where he states that by reason of the corrupt practices or illegal practices committed by the 1<sup>st</sup> respondent in connection with the election or by reason of other misconduct the majority of the voters were or may have been prevented from electing the candidate whom they preferred. However, in consideration of the evidence before the learned trial Judge, the view we hold is that the omission was not fatal.

Under grounds three, four and five, we have alluded to the findings of the learned trial Judge, which show that the 1<sup>st</sup> respondent, with his knowledge or through his agents, participated in the corrupt and illegal practice of bribing voters by inducing them to surrender their voters' cards for a payment. We have also alluded to the electoral misconduct committed by the 1<sup>st</sup> respondent or his election agents of maligning the petitioner by publicly calling her a prostitute, liar and a person not fit to lead and represent the people of Ndola Central Constituency in the National Assembly.

We are particularly concerned that the message, couched in obscene language, was relayed on the public address system mounted on the 1<sup>st</sup> respondent's landcruiser and had the potential of reaching out to a very wide audience. The evidence further shows that the 1<sup>st</sup> respondent, on his own account, repeated the insults of calling the petitioner a prostitute and liar at three different meetings. This was very debasing of a woman in the position of the petitioner seeking political office. There was evidence of removing and defacing the campaign posters of the petitioner, which, though not wide spread, was accepted by the learned trial Judge.

The other evidence adduced by the petitioner and accepted by the learned trial Judge was that on the 9<sup>th</sup> of September, 2006 there was a meeting at the 1<sup>st</sup> respondent's residence at House No. 32, Damie Street, Northrise in Ndola. At that meeting, there were drinks, beer and food served and the people were singing party songs. Apart from drinking and eating, the organizers were collecting NRCs and voter's cards, including those of PW16 (Mambwe

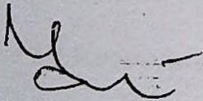
Machungwa), which have never been returned. This evidence was accepted by the learned trial Judge as evidence of treating.

Generally, there was evidence of wide spread distribution of money to induce voters to vote for the 1<sup>st</sup> respondent. The money came from the 1<sup>st</sup> respondent. In the view we take, there was enough evidence of corrupt and illegal practices connected with the election, including other misconduct, before the learned trial Judge leading to the only conclusion that the majority of the voters in the constituency were prevented from electing the candidate whom they preferred. Ground two is unsuccessful as well.

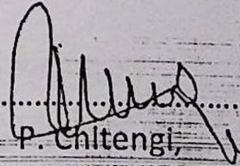
On the totality of the evidence, the appeal is dismissed. Costs shall follow the event, to be taxed in default of agreement.



E. L. Sakala,  
CHIEF JUSTICE



F.N.M. Mumba,  
SUPREME COURT JUDGE



P. Chitengi,  
SUPREME COURT JUDGE



S. S. Silomba,  
SUPREME COURT JUDGE



C.S. Mushabati,  
SUPREME COURT JUDGE

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ELECTORAL COMMISSION OF ZAMBIA

2<sup>ND</sup> RESPONDENT

CORAM: SAKALA, CJ, MUMBA, CHITENGI, SILOMBA AND MUSHABATI, JJS

On the 25<sup>th</sup> June and 19<sup>th</sup> August, 2008

For the Appellant: Mr. B. Mutale, SC, of Ellis and Company,  
Assisted by Mr. Mwila Chitabo of Chitabo Chiinga Associates

For the 1<sup>st</sup> Respondent: Mr. S.C. Malama, SC, of Jacques and Partners  
Assisted by Mrs. Kunda

For the Respondent: Mr. M. Mukwasa, State Advocate

**JUDGMENT**

SILOMBA, JS, delivered the Judgment of the Court.

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