

THE REPUBLIC OF ZAMBIA

IN THE LOCAL GOVERNMENT ELECTIONS TRIBUNAL  
AT THE SUBORDINATE COURT REGISTRY  
HOLDEN AT LUSAKA  
(Constitutional Jurisdiction)

2021/P/LGET/010

IN THE MATTER OF: THE LOCAL GOVERNMENT PETITION RELATING  
TO NGWERERE WARD 22 ELECTIONS HELD ON  
12<sup>TH</sup> AUGUST, 2021

AND

IN THE MATTER OF: ARTICLE 159 OF THE CONSTITUTION OF ZAMBIA,  
THE CONSTITUTION OF ZAMBIA ACT

AND

IN THE MATTER OF: SECTION 81, 82, 83, 84, 86, 87, 89, 91, 92, 94,96,  
97, 98,99,100 AND 110 OF THE ELECTORAL ACT  
NO. 35 OF 2016

AND

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

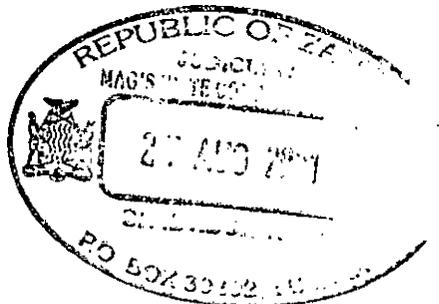
BETWEEN: -

BOYD KHONDOWE

AND

ADRIAN BANDA

ELECTORAL COMMISSION OF ZAMBIA (ECZ)



PETITIONER

1<sup>ST</sup> RESPONDENT

2<sup>ND</sup> RESPONDENT

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ELECTION PETITION

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The Petition of **BOYD KHONDOWE** of House No. 32/12 Luangwa Compound Garden of Lusaka District and Province of the Republic of Zambia **SHOWETH** that:

1. Your Petitioner **BOYD KHONDOWE** is a person who was a candidate in the Local Government Election in the **NGWERERE WARD 22** of Mandevu Constituency

situate in the Lusaka District of the Lusaka Province of the Republic of Zambia having been adopted and sponsored by the **UNITED PARTY FOR NATIONAL DEVELOPMENT (UPND)** and having been validly nomination on the 19<sup>th</sup> day of May, 2021.

2. And your Petitioner states that the Election was held on the 12<sup>th</sup> August, 2021 when the Returning Officer declared **ADRIAN BANDA** of **PATRIOTIC FRONT (PF)** as being duly elected.
3. Your Petitioner states that in the Election referred to in paragraph 2 hereof the following were the candidates, namely:

- i. **PETITIONER UNITED PARTY FOR NATIONAL DEVELOPMENT (UPND)**
- ii. **1<sup>st</sup> RESPONDENT PATRIOTIC FRONT (PF)**
- iii. **NGOMA SICILY INDEPENDENT**
- iv. **BUNGA TREVOR INDEPENDENT**
- v. **KAKOMA ALFONSO SOCIALIST PARTY (SP)**
- vi. **MFUNE PATSON DEMOCRATIC PARTY (DP)**

4. Your Petitioner will aver that the said Election was conducted by the 2<sup>nd</sup> Respondent, an independent and autonomous Electoral Management Body created by the Constitution of Zambia Chapter 1 of the Laws of Zambia.
5. The Electoral Commission of Zambia through its Returning Officer **MR. CLIFFORD CHIRWA** declared the results on 16<sup>th</sup> August, 2021 of the said Local Government elections as follows:

- |      |                       |                    |
|------|-----------------------|--------------------|
| i.   | <b>ADRIAN BANDA</b>   | <b>7,166 Votes</b> |
| ii.  | <b>BOYD KHONDOWE</b>  | <b>4,266 Votes</b> |
| iii. | <b>NGOMA SICILY</b>   | <b>905 Votes</b>   |
| iv.  | <b>BUNGA TREVOR</b>   | <b>639 Votes</b>   |
| v.   | <b>KAKOMA ALFONSO</b> | <b>195 Votes</b>   |
| vi.  | <b>MFUNE PATSON</b>   | <b>94 Votes</b>    |

6. Your Petitioner will contend that the declaration of the 1<sup>st</sup> Respondent as duly elected Member of the Lusaka Council for **NGWERERE WARD 22** was invalid by reasons of the non-compliance with provisions of the Constitution and the non-compliance of the provisions of the Electoral Process Act No. 35 of 2016 and the procedure prescribed and the said act.

**PARTICULARS OF FAILURE TO COMPLY WITH THE CONSTITUTION OF ZAMBIA AND THE ELECTORAL PROCESS ACT.**

- i. On 15<sup>th</sup> June, 2021 the 2<sup>nd</sup> Respondent suspended all manners of Political campaigns for Patriotic Front (PF) and United Party for National Development (UPND) from 15<sup>th</sup> June to 28<sup>th</sup> June, 2021.
- ii. Despite the aforementioned suspension of all manners of Political Campaigns, the 1<sup>st</sup> Respondent herein and his party Patriotic Front (PF) continued with campaigns activities thereby disadvantaging the Petitioner as well as interfering with the independence or impartiality of the Electoral Commission of Zambia.
- iii. During the gazetted campaign period herein, the 1<sup>st</sup> Respondent and his party cadres or agents without lawful authority destroyed, mutilated, defaced or removed all campaign posters, billboards for the Petitioner and his party thereby misrepresenting the facts and inducing or procuring in the minds of the voters that the Petitioners was not a serious contender and therefore not entitled to votes at the election.
- iv. On different days but during the campaign period, the 1<sup>st</sup> Respondent was seen bribing voters through the distribution of mealie meal and by giving voters money on the voting day in exchange for votes thereby corruptly and fraudulently obstructing voters both at the Polling Station and on their way to the Polling Station thereby influencing voters from voting for a candidate of their choice for Ngwerere Ward 22.
- v. There was wide spread issuance of fake Gen-20 Forms that contained fake and different figures and the same were swapped with the legitimate Gen-20 Forms during counting. On the polling day the 12<sup>th</sup> August, 2021, the Respondent and his party cadres or agents were seen changing figures at the Totaling Centres, Olympic Youth Development Center (OYDC) for Mandevu Constituency whilst working with some officials from the Electoral Commission of Zambia, the 2<sup>nd</sup> Respondent herein. This brought

about a fracas amongst voters and as a result the Petitioner's Polling Agents were assaulted and driven out of the Totaling Centres. This left the ECZ and the 1<sup>st</sup> Respondent's Agents at the said Totaling Centre and when the figures were announced, they were totally different from those earlier verified by the Petitioner's Agents.

- vi. There was widespread intimidation and violence by the 1<sup>st</sup> Respondent's cadres or agents during campaigns and as such the Petitioner and his team could not go out to campaign for fear of being attacked/assaulted by the Respondent's cadres.
- vii. On 31<sup>st</sup> May, 2021 whilst conducting the campaigns and putting posters for United Party for National Development (UPND), the Petitioner and his team were attacked by the 1<sup>st</sup> Respondent's cadres or Agents where the Petitioner's car was extensively damaged and the Petitioner sustained multiple injuries on the body.
- viii. Further the Petitioner was abducted, tortured and beaten by the Respondent's agents using a chain whereby he was taken to their camp and detained for a full day before he escaped. The Petitioner was admitted at Chipata Level 1 Hospital and after being discharged was bedridden for 2 weeks at home.

7. Your Petitioner states that as a consequence of the aforesaid illegal practices committed by the 1<sup>st</sup> Respondent herein and his agents, the majority of the voters' in NGWERERE WARD 22 and/ or polling stations were prevented from exercising their freedom in electing a candidate of their choice.

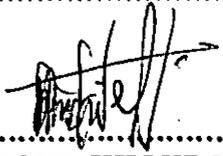
8. In the circumstances, the Petitioner contends that the Respondent was not duly elected in terms of the Constitution and the provisions of the Electoral Process Act.

**THEREFORE, YOUR PETITIONER PRAYS THAT THE COURT MAY GRANT HIM THE FOLLOWING REMEDIES:**

- i. *A declaration that the election of the 1<sup>st</sup> Respondent as a Member of the Lusaka City Council for NGWERERE WARD 22 is null and void.*

- ii. *An Order that the declaration that the winning of the 1<sup>st</sup> Respondent was null and void and must be set aside.*
- iii. *A declaration that the election is invalid by the reason of Non-compliance with the Constitution and with the Electoral Process Act and the procedure for the conduct of the election prescribed by the Electoral Commission of Zambia pursuant to the provisions of the Electoral Process Act No. 35 of 2016.*
- iv. *An Order that the 1<sup>st</sup> Respondent be disqualified from being a candidate in the bye-election for not complying with the provisions of the Constitution and the Electoral Process Act.*
- v. *An Order that the 1<sup>st</sup> Respondent bears the Costs in this cause.*
- vi. *Any other relief the Court may deem fit.*

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

  
**SIGNED BY:.....**  
**BOYD KHONDOWE**

Per:   
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**LUSAKA**

**ADVOCATES FOR THE PETITIONER**