IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/030**

AT THE DISTRICT REGISTRY

HOLDEN AT MANSA

(ELECTION JURISDICTION)

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
24 NOV 2026
CIVIL REGISTRY
MANSA HIGH COURT
P.O. BOX 710006, MANSA

IN THE MATTER OF: ARTICLE 73(1) OF THE CONSTITUTION OF ZAMBIA (AMENDMENT ACT NO. 2 OF 2016 OF THE LAWS OF ZAMBIA

IN THE MATTER OF: SECTIONS 72, 92, 96, 97, 98, 99 AND 100(2) (a) OF THE ELECTORAL PROCESS ACT NO. 35 of 2016 OF THE LAWS OF ZAMBIA

IN THE MATTER OF: PART III OF THE HIGH COURT (ELECTION PETITION) RULES 2026, OF THE LAWS OF ZAMBIA

IN THE MATTER OF: AN ELECTION PETITION RELATING TO BANGWEULU CONSTITUENCY PARLIAMENTARY ELECTIONS HELD ON 13TH AUGUST, 2026

BETWEEN:

REUBEN CHAMA (MALE) **PETITIONER**

AND

HAPPY MAMPA (MALE) **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

Coram: Chigali Mikalile, J. this 24th day November, 2026

For the Petitioner: Mr. S.M. Mwila - Messrs. M.K. Achiume & Advocates

For the 1st Respondent: Mr. B. Phiri -Messrs Mwelwa, Phiri & Partners & Mr. T. Mubita Messrs. NM Mbuyi Legal Practitioners

For the 2nd Respondent: Mr. R. Mwala – Messrs. Roy Mwala & Co. Legal Practitioners

THE HIGH COURT OF ZAMBIA
ONE NATION

Legislation

1. Constitution of Zambia (Amendment) Act No. 2 of 2016.
2. Electoral Process Act No. 35 of 2016.
3. Electoral Process (Amendment) Act No. 12 of 2026.

Cases

1. Margaret Mwanakatwe v. Charlotte Scott & Another, Appeal Nos. 14 and 18/2016, Selected Judgment No. 50/2018
2. Giles Chomba Yamba Yamba v. Kapembwa Simbao & Others, Selected Judgment No. 6/2018
3. Jere & Others v Zulu, CCZ/A 28/2021, [2022] ZMCC 36
4. Mutapwe v. Shomeno, Appeal No. 19/2017
5. Shamwana & Others v. The People (1985) Z.R. 41 (S.C.)
6. Bowman Lusambo v. The Attorney General, 2023/CCZ/001
7. Christopher Lubasi Mundia v. Sentor Motors Limited (1982) Z.R. 66
8. Lewanika & Others v. Chiluba (1998) Z.R. 79
9. Saul Zulu v. Victoria Kalima, SCZ Judgment No. 2/2014
10. L. A. Mumba v. P. W. M. Daka, SCZ Appeal No. 38/2003
11. Chileshe Mpunga v. Jean Ngandwe & ECZ, 2021/CCZ/A0032
12. Mazoka and Others v Mwanawasa & Others (2005) Z.R. 138
13. Afrope Zambia Limited v. Chate and Others, Appeal No. 160/2013

Introduction

1. By this petition, Reuben Chama challenges the election of the 1st respondent, Happy Mampa, as Member of Parliament for Bangweulu Constituency at the general elections held on 13th August, 2026.

Petitioner's case

2. By his petition filed on 31st August, 2026, Reuben Chama challenges the election of the 1st respondent, Happy Mampa, as Member of Parliament for Bangweulu Constituency following the election held on 13th August, 2026. He alleges irregularities in the verification, totalling and declaration of results, including material discrepancies between the polling station results and the constituency totalling record, which he contends affected the outcome. In particular, he alleges that, at some polling stations, the votes allocated to the 1st respondent exceeded the total number of votes cast.
3. The petitioner contends that the returning officer failed to discharge his duties and contravened the provisions of sections 72, 92, 96 and 97(2)(b) of the Electoral Process Act No. 35 of 2016. He accordingly seeks a declaration that the 1st respondent's election is void or, alternatively, that he, the petitioner, was duly elected Member of Parliament for Bangweulu Constituency.

4. The affidavit verifying the petition was sworn by the petitioner who deposed that he contested the Bangweulu Constituency parliamentary election held on 13th August, 2026 as an Independent candidate. The other candidates included the 1st respondent, Happy Mampa, who contested on the United Party for National Development ticket.
5. The verification and totalling of results commenced at the Samfya Town Council Chamber in the presence of

candidates, agents and other accredited stakeholders. Between 14th and 15th August, 2026, results from 99 of the 112 polling stations were presented for verification, although only results from 96 polling stations were printed and publicly announced. He further deposed that results from 13 polling stations remained outstanding for verification and announcement.

6. According to the petitioner, on 15th August, 2026, the Returning Officer, Mr. Kabo Milton, announced that the 2nd respondent had instructed him to close the totalling centre and defer the outstanding verification and announcement to 10:00 hours the following day. Armed police officers required the stakeholders to leave, while the ballot boxes, Gen 20 Forms and other electoral materials remained in the custody of the returning officer and the 2nd respondent's officers.
7. The petitioner averred that, upon returning on 16th August, 2026, he and other stakeholders were denied access to the Totalling Centre. Although the District Electoral Officer, Mr. Paul Kabwebwe, assured them that the outstanding results were available, the returning officer declined to proceed without further instructions from the 2nd respondent. The Centre was not reopened for stakeholders to witness verification of the outstanding results. Nevertheless, at about 18:00 hours, the returning officer announced final results for all 112 polling stations, declaring the 1st respondent elected with 13,012 votes against the petitioner's 10,734 votes, a margin of 2,278 votes.

8. The petitioner stated that his subsequent comparison of the polling station results with the constituency totalling record revealed material discrepancies which inflated the 1st respondent's votes. He exhibited the original Gen 20 Forms collectively marked "RC1" and the Record of Proceedings at the Totalling of Votes marked "RC2". He identified the affected polling stations as Kaishe 1, Sakala 2, Ninge 1, Mufimba 1, Yongolo 1, Chesemba 1, Chinsanka 1, Njipi 2 and Mwelela, whose results, he alleged, had not been openly verified and announced before the centre closed.
9. By way of illustration, the petitioner deposed that "RC1" recorded 78 votes for the 1st respondent at Njipi Primary School 2, whereas "RC2" recorded 328 votes, an increase of 250 votes and a figure exceeding the total of 222 votes cast at that station. Similarly, at Ninge Primary School 1, "RC1" recorded 145 votes for the 1st respondent, while "RC2" recorded 545 votes, an increase of 400 votes and a figure exceeding the total of 529 votes cast. He maintained that these examples accounted for an increase of 650 votes and illustrated wider discrepancies at the affected polling stations.
10. The petitioner contended that the interruption of verification, exclusion of stakeholders and use of figures differing from the original Gen 20 Forms undermined the transparency, accuracy and integrity of the totalling and declaration process. He maintained that these irregularities contravened the prescribed electoral procedures and were material and capable of affecting the declared outcome. He

accordingly asserted that the 1st respondent's election was void.

1st Respondent's Case

11. In his answer, the 1st respondent, Happy Mampa, maintains that he was duly elected Member of Parliament for Bangweulu Constituency. He states that, to the best of his knowledge, the counting, verification and announcement of results proceeded without incident and that the delay in entering and printing results from three polling stations was not irregular, as data entry takes time.

12. Regarding the closure of the Totalling Centre, deployment of armed police officers, exclusion of stakeholders and postponement of verification and announcement of outstanding results, the 1st respondent states that these matters were outside his knowledge, control or authority and could not properly be attributed to him.

13. The 1st respondent denies that his votes were inflated or exceeded the total votes cast at any polling station and puts the petitioner to strict proof. He maintains that the announced results were accurate and that the Record of Proceedings, signed by the returning officer and reflecting results from all 112 polling stations, represented the true and correct record. He further states that he neither participated in nor exercised control over the counting or allocation of votes.

14. The 1st respondent maintains that the electoral officers acted within their lawful authority and that his declaration as the successful candidate was based on the votes counted and totalled from all 112 polling stations. He accordingly seeks a declaration that he was duly elected Member of Parliament for Bangweulu Constituency, together with costs.

15. In his affidavit in opposition, the 1st respondent confirmed that the persons identified by the petitioner contested the Bangweulu Constituency parliamentary election. Following the close of polling on 13th August, 2026, votes were counted before the constituency results were totalled at the Samfya Town Council Chamber. To the best of his knowledge and observation, the announcement of results before the suspension proceeded without incident.

16. Regarding the closure of the totalling centre, removal and exclusion of stakeholders, and communications with the electoral officers, the 1st respondent largely made no comment, stating that these matters were within the peculiar knowledge of the petitioner, the returning officer or the 2nd respondent. He nevertheless stated that the announcement of results resumed after the 2nd respondent lifted the twenty-four-hour suspension.

17. The 1st respondent deposed that duly authorised electoral officials announced the results and that he was neither responsible for nor involved in their announcement. He admitted the official results under which he received

13,012 votes against the petitioner's 10,734 votes and was declared elected by a margin of 2,278 votes.

18. As to the alleged discrepancies between the original Gen 20 Forms and the constituency totalling record, including the alleged inflation of votes at the identified polling stations, the 1st respondent made no comment, maintaining that these matters were within the 2nd respondent's peculiar knowledge. He similarly made no comment on their alleged effect on the outcome and characterised the petitioner's assertions concerning statutory obligations, non-compliance and nullification as legal arguments and prayers.

2nd Respondent's Case

19. In its answer, the 2nd respondent, ECZ, denies the alleged irregularities in the verification, totalling and declaration of results. It maintains that the temporary suspension of verification and announcement, and the deployment of police officers, were necessitated by security concerns. It further states that the process resumed upon lifting the suspension, with accredited stakeholders permitted access to the totalling centre.

20. The 2nd respondent denies the alleged discrepancies between the polling-station results and the constituency totalling record, maintaining that the recorded and announced results were compiled from official Gen 20 Results Forms and accurately reflected the votes cast. It accordingly contends that the 1st respondent was declared duly elected in good faith and that the election was

conducted and concluded in accordance with the prescribed electoral process.

21. The 2nd respondent's affidavit in opposition was sworn by Kabo Milton, the Returning Officer for Bangweulu Constituency. He averred that recording results takes time and that verification and announcement of results were suspended nationwide at approximately 14:00 hours on 14th August, 2026 owing to a volatile security situation, persistent threats of violence against polling staff and theft of electoral materials at certain polling stations.

22. He stated that police officers were consequently deployed to the totalling centre and that he, together with polling staff and stakeholders, was instructed to leave and await further instructions. He denied having possession of the ballot papers and Gen 20 Results Forms for the outstanding polling stations, stating that these remained in the custody of the respective presiding officers at those stations.

23. According to the deponent, the suspension was lifted at approximately 20:00 hours on the same day, whereupon verification and announcement of the outstanding results resumed immediately in the presence of all stakeholders. He maintained that the centre was open to all accredited representatives in accordance with the 2nd respondent's guidelines and that he subsequently declared the final results outside the centre.

24. The deponent denied the alleged discrepancies and maintained that the results entered in the Record of Proceedings were compiled from official Gen 20 Results

Forms received from all polling stations in the constituency. He stated that he declared the 1st respondent duly elected in good faith and that the announced figures accurately reflected the polling station results. He accordingly maintained that the election was conducted and concluded in accordance with the prescribed electoral process. According to him, the petition lacked merit and ought to be dismissed.

Trial Course

25. The petitioner testified on his own behalf and called four other witnesses. The 1st respondent also testified on his own behalf and called two witnesses while the 2nd respondent called one witness.

Petitioner's Evidence

26. The petitioner, Reuben Chama (PW1), testified that he contested the parliamentary election for Bangweulu Constituency as an independent candidate. Other candidates included Moses Chabala of Zambia Must Prosper, Derrick Chanda of Citizens First, Anthony Kasandwe of the National Reconcilaition Party for Unity and Prosperity and the respondent. According to PW1, he attended the verification and totalling of results at the Samfya Town Council Chamber. Results from 99 of the 112 polling stations had been presented for verification by 15th August, 2026. Of those, the results from 96 stations were printed, publicly announced and accepted by the stakeholders present. The results from 3 of the 99 stations

were omitted from the printout, while those from a further 13 stations remained outstanding for verification and announcement.

27. PW1 stated that on 15th August, 2026, the returning officer, Mr. Kabo Milton, informed those present that ECZ had instructed him to close the totalling centre and resume proceedings at 10:00 hours the following day. Armed police officers then directed the stakeholders to leave. The ballot boxes and Gen 20 Forms relating to the outstanding results remained in the custody of the returning officer and other electoral officers. PW1 said he could not observe how those materials were handled in his absence.

28. PW1 returned with other stakeholders at about 09:00 hours on 16th August, 2026, but the police denied them entry. The District Electoral Officer, Mr. Paul Kabwebwe, informed them that the results from the 13 outstanding stations were ready for verification and announcement. When they approached the returning officer, however, he told them that he would announce the results only upon receiving instructions from the Commission. According to PW1, the centre did not reopen at the appointed time and he had no opportunity to witness the verification or individual announcement of the outstanding results before the final declaration.

29. At about 18:00 hours that day, the returning officer announced results said to cover all 112 polling stations and declared the 1st respondent, Happy Mampa, duly elected with 13,012 votes against PW1's 10,734 votes.

30. Following the declaration, PW1 compared the original Gen 20 Forms obtained from his polling agents ("RC1" in his affidavit) with the signed Record of Proceedings at the totalling of votes obtained from the returning officer ("RC2"). He identified discrepancies at nine polling stations namely Kaishe 1, Sakala 2, Ninge 1, Mufimba 1, Yongolo 1, Chesembe 1, Chinsanka 1, Njipi 2 and Mwelela. These are among the stations whose results had not been openly verified and announced before the interruption of the totalling process.

31. By way of example, he stated that at Njipi Primary School 2, the Gen 20 Form in "RC1" recorded 78 votes for the 1st respondent, whereas the constituency record credited him with 328 votes against a recorded total of 222 votes cast. At Ninge Primary School 1, the Gen 20 Form recorded 145 votes for the 1st respondent, whereas the constituency record credited him with 545 votes against a recorded total of 529 votes cast. The two entries thus credited the 1st respondent with a combined 650 votes more than the corresponding Gen 20 Forms showed.

32. PW1 maintained that the interruption of the proceedings and his exclusion from the centre prevented him from checking and questioning the outstanding entries before the declaration. He relied on a station-by-station reconciliation of the figures for both candidates to show the overall effect of the alleged discrepancies. He maintained that the declared result did not reflect the true outcome and sought a declaration that the 1st respondent's election was void or, alternatively, that he himself was duly elected.

33. Under *cross-examination*, PW1 confirmed that he contested the election as an independent candidate and appointed two polling agents at each of the 112 polling stations. He acknowledged that he was not present at every station during the counting, verification and announcement of results and did not personally witness the preparation and signing of all the Gen 20 Forms. His knowledge of what occurred at stations where he was absent came from his polling agents. He acknowledged that he had filed no documentary proof of their appointment or accreditation.

34. PW1 confirmed that the polling stations in dispute were those identified in his affidavit verifying facts. Although he had indicated that he would produce the original Gen 20 Forms, he acknowledged that all the forms exhibited were photographs and that he had filed neither an original nor any duplicate issued by a presiding officer to his agents. He further acknowledged that neither his affidavit nor his witness statement identified the devices used to take the photographs and that the photographs themselves did not show when or where they were taken.

35. Regarding Njipi 2, PW1 identified the photograph in "RC1" as the document he received from his polling agent. He explained that the agent had been denied a duplicate and had photographed the form using a phone. He said his agents signed the forms for Njipi 2 and Mufumba 1, although he needed to consult his list to identify them. As for Ninge 1, PW1 recalled only the agent's first name, John. He said the agent photographed the form and acknowledged that the agent did not sign it. PW1 maintained that he could

read the figures and names in the photograph, although it did not show the presiding officer's name and was dark at the bottom.

36. PW1 identified Chola as his polling agent for Kaishe 1 and acknowledged that the photograph of the form was faint and cut off some words at the bottom. He said the photograph for Yongolo 1 was taken from a duplicate, but accepted that it was incomplete and did not show the Gen 20 heading, who witnessed the form or the presiding officer's signature. As for Sakala, he acknowledged that the date was faint, the writing at the bottom was illegible and the photograph did not allow him to identify which polling agent had witnessed the form.

37. PW1 maintained that he sought to have the 1st respondent's election declared void and to be declared duly elected in his place. He acknowledged that he was third behind Anthony Kasandwe, the former Member of Parliament for Bangweulu Constituency, who had received more votes than him and whom he had not joined to the petition. Although PW1 initially said he was not aggrieved by Kasandwe's result, he later stated that the figures did not appear genuine in light of the support he had observed while campaigning across the ten wards. He gave no specific example of a discrepancy in Kasandwe's tally and confined his challenge to the 1st respondent's election.

38. PW1 stated that if the Court declined to declare him duly elected, he wished the results to be nullified and a by-election held. He acknowledged that the petition did not expressly seek a by-election. He also confirmed that the

Electoral Commission of Zambia (ECZ) conducts elections and provides pre-election training, which he had not attended. He accepted that the ECZ's documents were the official electoral records.

39. PW1 initially maintained that there were problems both at the polling stations and at the totalling centre. He said his agents had been denied copies of the Gen 20 Forms and had taken photographs of them by phone. He later clarified that he accepted the polling station figures shown in the photographs and that his complaint concerned the difference between those figures and the results announced at the totalling centre. He confirmed that the figures in the Gen 20 Forms exhibited by the ECZ corresponded with those in the Record of Proceedings, whereas the figures in the forms he exhibited differed from that record.

40. PW1 stated that he did not object when the announcement of results was suspended on 15th August, 2026 and he was told that it would resume at 10:00 hours the following day. He explained that he had followed the ECZ's instructions and that his concerns arose later. He confirmed that results reached the totalling centre in phases and that results from 13 polling stations remained unverified at the time of the suspension. He maintained that he had seen the ballot boxes for the outstanding stations at the Centre while the earlier results were being announced and that the boxes and related Gen 20 Forms remained with the Returning Officer and other ECZ officers when the police made him leave. He acknowledged that he had produced no document, photograph or recording to

corroborate his account and stated that he had brought his agent who had been at the Centre as a witness.

41. PW1 maintained that he saw ballot boxes in the room where he and the other stakeholders were seated at the totalling centre. He could not recall seeing all 13 boxes at once and said that an ECZ officer whose name he could not remember had told him that all the outstanding results had arrived. He could not confirm whether everyone had left the centre when directed to do so, as people were leaving one by one.

42. PW1 stated that he understood the procedure for raising his grievance and that it required him to write to the returning officer. He acknowledged that he had produced no written complaint before the Court and had instead complained to the District Electoral Officer, whom he was not calling as a witness.

43. When referred to the 2nd respondent's supplementary bundle, PW1 confirmed that the document for Kaishe at page 1 bore the signatures of party representatives, agents and monitors. He also confirmed that the documents for Kaishe 2 and Sakala Primary 1 were signed. He noted that the document at page 8 bore the signature of only one agent.

44. There was no *re-examination* of PW1.

45. PW2 was Elias Chola who told Court that he was the petitioner's polling agent at Kaishe polling station and his evidence concerned the results for that station. He stated that he signed the Gen 20 Form at the polling station and received a copy, which enabled him to identify the form and confirm the figures recorded on it.

46. According to PW2, the Gen 20 Form relied upon by the petitioner as part of exhibit "RC1" recorded 82 votes for the 1st respondent, Happy Mampa, out of 363 votes cast. The corresponding entry in the constituency Record of Proceedings at the Totalling of Votes ("RC2") credited the 1st respondent with 382 votes. PW2 pointed out that this was 300 votes more than the figure on the form he had signed and exceeded the total number of votes recorded as cast at Kaishe 1 by 19.

47. When *cross-examined*, PW2 acknowledged that he had filed no letter of appointment and that the ECZ had not formally accredited him. He maintained that he signed a Gen 20 Form at Kaishe and identified Alex Nsefu as the presiding officer. Although his evidence in chief indicated that he had received a copy, he stated that he had received neither the original nor a copy at the polling station. He accepted that the original was held by the ECZ and contained the official and correct results.

48. PW2 confirmed that the document for Kaishe 1 in exhibit "RC1" was a photograph he had not taken and that the original form referred to in his witness statement was not before the Court. He further stated that he had never previously seen the constituency Record of Proceedings at the Totalling of Votes ("RC2") and had not personally compared it with the Gen 20 Form for Kaishe.

49. The witness was not *re-examined.*

49. John Chibwe (PW3) gave evidence concerning the parliamentary election results at Ninge Primary School 1

(Ninge 1). He stated that he personally heard the presiding officer announce the results at the polling station. The figures he witnessed being counted or announced were 248 votes for Anthony Kasandwe, 145 for Happy Mampa, 83 for Reuben Chama, 16 for Derrick Chanda and 5 for Moses Chabala.

50. Referring to the petitioner's affidavit and the corresponding entries in the Gen 20 Form ("RC1") and the constituency Record of Proceedings at the Totalling of Votes ("RC2"), PW3 stated that the constituency record credited the 1st respondent with 545 votes. He pointed out that this was 400 votes more than the 145 recorded on the polling-station form and exceeded the recorded total of 529 votes cast at the station by 16. On that basis, he alleged that the constituency entry had been fabricated.

51. When *cross examined*, PW3) stated that the petitioner appointed him as his polling agent for Ninge 1 and that ECZ accredited him. He acknowledged that he had filed no documentary proof of either his appointment or his accreditation.

52. PW3 maintained that he arrived at Ninge 1 at about 06:00 hours on 13th August, 2026 and witnessed the voting, counting, verification and announcement of results, as well as the entry and signing of the results. He said he saw the Gen 20 Form at the station but did not sign it because the ECZ did not give it to the polling agents to sign. He acknowledged that neither his name nor his signature appeared on the document relied upon by the petitioner or

on the document at page 5 of the 2nd respondent's supplementary bundle.

53. PW3 confirmed that the document in exhibit "RC1" to which he referred in his witness statement was a photograph. It bore one witness's signature and showed the name "Ninge" without the stream number. He acknowledged that he saw both that photograph and the constituency Record of Proceedings at the Totalling of Votes ("RC2") for the first time during cross-examination.

54. PW3 stated that he had lodged an electoral complaint with the ECZ but acknowledged that the complaint document had not beef filed before Court.

55. The witness was not *re-examined.*

56. PW4 was Jackson Mwewa whose testimony was that he represented the petitioner at the Civic Centre, which served as the totalling centre for Bangweulu Constituency. After voting closed on 13th August, 2026, he went there with others to receive the Gen 20 Forms from the polling stations. They stayed overnight to monitor the totalling process. It was his evidence that a teacher visited the Centre more than once that day and, on one occasion, brought Gen 20 Forms that PW4 believed were false. According to PW4, the teacher was apprehended and taken into police custody.

57. On 14th August, 2026, officials of ECZ suspended the announcement of results pending receipt of further Gen 20 Forms. This surprised him because, according to him, the presiding officers from the stations whose forms were awaited were already present. On the evening of 15th

August, 2026, he and others were made to leave, and the premises were locked.

58. PW4 returned at about 10:00 hours on 16th August, 2026 and found the doors open and a heavy police presence. The results from 13 outstanding polling stations were due to be announced at that time, but those present were told to await directions from the returning Ooficer. At about 18:00 hours, the returning officer announced the constituency results, including those from the 13 outstanding stations, and declared the winner in the presence of heavily armed police officers. PW4 stated that he did not witness any verification of the outstanding results by the stakeholders before the announcement.

59. Under *cross-examination*, PW4 stated that the petitioner appointed him as his representative at the totalling centre and that ECZ accredited him. He, however, did not file documentary proof of his appointment or accreditation. He stated that his role was confined to the totalling centre, and he did not attend the counting, verification or announcement of results at any of the 112 polling stations. He confirmed that he did not sign, receive or handle any Gen 20 Form and therefore had no polling-station records against which to verify the results at the Centre.

60. PW4 stated that the teacher came to the Centre more than three times and carried a laptop bag. ECZ officials showed those present the forms the teacher had brought, described them as false and refused to accept them. He saw

the teacher being apprehended and taken away by the police.

61. Regarding the suspension of the announcement on 14th August, 2026, PW4 said he was surprised because he believed that all the presiding officers had brought their Gen 20 Forms. He acknowledged, however, that he did not know whether some officers had arrived without their forms. He confirmed that ECZ had told those present that results from 13 polling stations had yet to arrive.

62. In continued cross-examination, PW4 explained that there were two suspensions on 14th August, 2026. The first was a nationwide suspension which, according to ECZ, was prompted by security concerns. Proceedings resumed when that suspension was lifted. PW4 said it was the second suspension that surprised him. On that occasion, the ECZ informed those present that results from 13 polling stations were still outstanding.

63. PW4 stated that the stakeholders remained inside the totalling centre while awaiting the outstanding results. On 15th August, 2026, ECZ officials and the police directed everyone to leave. He confirmed that no proceedings were underway at the time.

64. PW4 confirmed that the ECZ had trained him on how to lodge a complaint. He did not present a written complaint concerning the teacher, the totalling process or the suspensions. He explained that presiding officers record each candidate's votes and the total votes cast on the Gen 20 Forms, which are then taken to the totalling centre. He

agreed that the figures on those forms should correspond with the entries in the constituency Record of Proceedings.

65. The witness was not *re-examined.*

66. PW5 was Mukelizi Muwile, who told Court that he was a representative of the petitioner, Reuben Chama, in the Bangweulu Constituency parliamentary election. He testified that he arrived at the constituency totalling centre at about 10:00 hours on 16th August, 2026, when the results from 13 polling stations were due to be announced. Upon arrival, he and those accompanying him were told to await directions from the returning officer. They remained at the premises until about 18:00 hours. During that period, he observed a heavy police presence.

67. At about 18:00 hours, the returning officer announced the results from the 13 polling stations. He said that no verification of those results by the stakeholders took place in his presence before the announcement. He also witnessed the returning officer declare the winner in the presence of heavily armed police officers.

68. Under *cross-examination*, PW5 stated that ECZ issued him an accreditation badge. He acknowledged that he had filed neither proof of his appointment nor the accreditation badge in Court and that he had received no training from the Commission.

69. PW5 confirmed that he was stationed at the totalling centre and did not witness the counting, verification or announcement of results at the polling stations, or the preparation and signing of the Gen. 20 Forms. Although he stated that the petitioner's team had some of those forms,

he conceded that he personally had none and was therefore unable to verify the results submitted by the presiding officers.

70. PW5 confirmed that his testimony concerned the events of 16th August, 2026. He explained that a few police officers had been present earlier, but that their numbers increased on that day, when heavily armed officers were deployed. He described their presence as intimidating and said he had nowhere to report the matter. He maintained that no verification took place before the results were announced and that, in his view, verification could not take place in his absence. He nevertheless acknowledged that the police had at one point chased everyone away and that he did not know what happened inside while he was outside.

71. There was no re-examination.

Respondents' Evidence

72. RW1 was the 1st respondent, Happy Mampa, who stated that he contested the Bangweulu Constituency parliamentary election held on 13th August, 2026, and was declared the successful candidate. He explained that votes were counted at the respective polling stations and the results were then tallied at the Samfya Town Council Chamber. To the best of his knowledge and observation, the counting, verification and announcement of results proceeded without incident until ECZ suspended electoral activities on security grounds. After ECZ lifted the

suspension, the authorised electoral officials resumed the process and announced the remaining results.

73. RW1 stated that he took part in the election solely as a candidate and had no control over the counting, verification, totalling or announcement of results. He attributed the closure of the totalling centre and decisions concerning security and access to the responsible authorities. He denied directing the returning officer to suspend the process, close the centre or determine how the results were to be verified or announced. He also denied deploying police officers or instructing them to remove the petitioner or any other stakeholder from the premises.

74. As to the disputed results, RW1 denied that his votes had been inflated at any of the eight polling stations identified by the petitioner or that the votes attributed to him exceeded the total votes cast at any polling station. He stated that he had no knowledge of any inflation or alteration of votes and denied altering any result or electoral document, or procuring any addition to his votes or deduction from those of another candidate. He maintained that the official tally from all 112 polling stations showed that he had obtained the highest number of votes. He accordingly asked the Court to dismiss the petition with costs and uphold his election.

75. RW1 produced the bundle of documents he filed on 2nd October, 2026.

76. Under *cross-examination*, RW1 confirmed that he appointed representatives and agents who were trained and accredited by the ECZ, including on how to lodge

complaints. Their role was to monitor proceedings and report irregularities to enable him to make a formal complaint. He stated that he was unaware of any complaint lodged at the polling stations or the totalling centre.

77. RW1 described the Gen. 20 Form as the official ECZ document recording the votes obtained by each candidate. He agreed that the figures on those forms should be transferred to the totalling centre and reflected in the Record of Proceedings. He confirmed that the forms in the ECZ's supplementary bundle were signed and explained that the signatures signified that the signatories had witnessed and confirmed the recorded details. When shown the forms exhibited to the petitioner's affidavit, he stated that he had not seen them before. Although they resembled Gen. 20 Forms, he could not confirm them and maintained that he would rely on those produced by the ECZ. He acknowledged that his agents supplied him with forms in some instances, but said they had not supplied documents like those shown to him.

78. RW1 acknowledged the suspension of the electoral process and stated that he was absent when those at the totalling centre were asked to leave. He confirmed that results arrived in phases, that some remained outstanding on 15th August, 2026, and that there was a temporary suspension on security grounds. He agreed that the ECZ did not require his consent before implementing security measures and that everyone left when the suspension took effect. He stated that he did not know the Returning Officer

and denied that the results had been manipulated in his favour.

79. In further cross-examination, RW1 confirmed that he contested on the UPND ticket and that the party won none of the councillor seats in the constituency's ten wards. He maintained that he knew of no inflation or alteration of results and believed the announced figures were correct because his agents were present at all polling stations and the totalling centre and had reported no complaints. He acknowledged that his witness statement contained no comparison of the disputed figures, explaining that he was unaware of any discrepancies. He also confirmed the delay in announcing results from 13 polling stations. Although he did not personally witness their verification, he stated that his agents did.

80. Further in cross-examination, RW1 was shown two sets of Gen. 20 Forms relating to Ninge polling station. He confirmed that the petitioner's document recorded 145 votes for him, while the ECZ document recorded 545. Both documents recorded the same figures for the other candidates, namely 248 for the NRPUP candidate, 83 for the petitioner, 16 for the CF candidate and five for the ZMP candidate. He also confirmed that the petitioner's document showed 529 total votes cast. Although he questioned his knowledge of that document, he accepted that, if only 529 votes had been cast, a candidate could not have obtained 545 votes.

81. Regarding Njipi, RW1 stated that the polling station was situated in Nkatasha Ward. When questioned about

the spelling of its name on the ECZ document, which counsel read as "Injipi", he maintained that it referred to Njipi Primary School. He rejected the suggestion that the ECZ did not know the polling station.

82. RW1 then compared the documents relating to Njipi 2. He confirmed that the petitioner's document recorded 78 votes for him and 222 total votes cast, whereas the ECZ document credited him with 328 votes. He acknowledged that both documents recorded identical figures for the other candidates, namely 96 for the petitioner, 35 for Anthony Kasandwe, 8 for Derrick Chanda and 1 for Moses Chabala. He accepted that his figure alone differed, but stated that he did not know the source of the petitioner's document.

83. When asked whether the higher figures in the ECZ documents formed part of the final tally used to declare him the winner, RW1 maintained that he relied on the ECZ results as the official results and that all 112 polling stations were included. Pressed further, he stated that the figures shown in the ECZ documents should have been used because they came from the Commission.

84. The witness was not *re-examined.*

85. RW2 was Foloko Mabo, who served as an election observer for the UPND at Kaishe Primary School 1 polling station. He testified that counting commenced at 18:30 hours in the presence of observers and polling agents representing the various candidates and concluded at 02:00 hours the following morning. They remained at the polling station overnight until 08:00 hours on 14th August, 2026, when the ECZ collected the ballot boxes for transportation

to the totalling centre. They left the station thereafter. He maintained that, to the best of his knowledge, the results announced by the Commission were true and correct.

86. Under *cross-examination*, RW2 stated that his role was to observe the electoral process and he denied that any violence had been reported or any complaint lodged at the station.

87. RW2 explained that signing a Gen 20 form signified confirmation that its contents were correct. He identified the form at page 1 of the 2nd respondent's supplementary bundle as the one he had signed and stated that he had signed no other document. He explained that the form recorded the votes obtained by each political party and the number of persons who voted. He agreed that the results on the form should correspond with those recorded at the totalling centre and confirmed that ECZ was responsible for generating Gen 20 forms.

88. He further stated that the presiding officer entered the results in the agents' presence and that he personally completed his own details. When shown the Gen 20 form for Kaishe 1 annexed to the petitioner's affidavit, bearing the name "Nsofu Alex", he stated that he was seeing it for the first time and denied that the signature appearing on it was his.

89. RW2 acknowledged his signatures on the form in the respondents' bundle and on his witness statement. Although he initially stated that he had one signature, he subsequently said that he had several and explained that the manner in which he wrote could vary between

documents. Despite confirming his support for UPND, he denied having an interest in securing its victory in the presidential, parliamentary, council and mayoral elections.

90. RW3 was Charity Sabuni, who told court that she was one of the election observers accredited to the UPND at the Bangweulu Constituency totalling centre. She testified that she arrived at the centre at approximately 18:00 hours on 13th August, 2026, but observers were initially required to wait outside because the premises were still being used as a polling station. They were admitted later that night after their accreditation documents had been checked by police officers and confirmed by the presiding officer.

91. She testified that on the afternoon of 14th August, 2026, they were informed that ECZ had suspended electoral activities countrywide following concerns from various polling stations. All observers remained at the centre awaiting resumption. Although the suspension was lifted at approximately 22:00 hours that day, activities only resumed at 03:00 hours on 15th August, 2026, as results from some polling stations were still outstanding. She attributed the delays to poor roads and the need to access some areas by boat.

92. RW3 further testified that the declaration of the winner was scheduled for 10:00 hours on 17th August, 2026, but the outstanding results only arrived at approximately 17:00 hours. According to her, the process was thereafter concluded to everyone's satisfaction, and an ECZ officer announced Happy Mampa as the winner in the presence of observers and other stakeholders.

93. Following the announcement, they were asked to sign documents reflecting the results announced. However, representatives of other political parties and candidates refused to sign.

94. Under *cross-examination*, RW3 confirmed that she was at the totalling centre on the night of 14th August, 2026. She acknowledged the national suspension that day and stated that everyone walked out of the centre. She also confirmed a further suspension on 15th August, 2026, before results from all polling stations had been counted. She did not know its cause but observed ECZ and police officers when the process was stopped, after which everyone again left the centre.

95. She stated that the suspension was lifted on 16th August, 2026, when police and ECZ officers invited them back into the centre. The available results were counted while they awaited those still outstanding. She confirmed that the winner was announced orally on 16th August, 2026, and the documents were signed on 17th August, 2026. She was unaware of any complaint lodged at the totalling centre.

96. Further in cross, RW3 disclosed that she was the UPND District Chairlady and acknowledged that her duties included ensuring that electoral activities ran smoothly. She confirmed that Bangweulu had ten wards and that UPND maintained a parallel vote tabulation system. However, she could neither identify the polling stations whose results were outstanding at the time of suspension nor recall their number or the constituency's total number of polling stations.

97. Regarding her assertion that the process concluded to everyone's satisfaction, she explained that she meant all political parties present were satisfied. She nevertheless admitted that she had not personally seen the Gen 20 forms when ECZ announced the final totals. Asked how she satisfied herself that the results were correct, she referred to a notebook in which she had recorded figures.

98. RW3 identified the documents signed after the announcement as declaration forms but clarified that she had not personally signed them, as persons senior to her were responsible for doing so. When asked whether she had produced any document bearing her signature in relation to the constituency, she referred to her witness statement.

99. The witness was not *re-examined.*

100. The 2nd respondent's witness (RW4) was Kabo Milton, the returning officer for Bangweulu Constituency. He testified that he conducted the election in accordance with the Constitution, the Electoral Process Act, applicable regulations and ECZ directions. Before the election, stakeholders were educated on their rights and obligations, while electoral officers underwent training on the Commission's guidelines.

101. It was his testimony that a nationwide security threat led ECZ to suspend the counting and announcement of results for approximately six hours. Police officers were deployed to safeguard electoral staff and stakeholders. He maintained that, notwithstanding their presence, the totalling centre remained accessible to all accredited representatives of organisations, political parties and

candidates. The process resumed after ECZ announced that the threat had been contained and lifted the suspension.

102. He further testified that verification and announcement of the constituency results took place in the presence of all stakeholders. After counting and tallying the votes, he declared the 1st respondent duly elected, having obtained the majority of valid votes cast. He stated that he received no objections thereafter from presiding officers or any other person. He maintained that ECZ had taken the necessary measures to ensure a free, fair, transparent and credible election and that the announced results accurately reflected the votes cast in the constituency.

103. RW4 also tendered the 2nd respondent's bundle of documents and supplementary bundle of documents in evidence.

104. When *cross examined*, RW4 confirmed that ECZ was responsible for conducting elections in Zambia including training electoral staff and accrediting stakeholders. He explained that training covered polling, counting, packing electoral materials, delivering results to the returning officer and referring grievances to the appropriate authorities.

105. He stated that electoral complaints were required to be submitted in writing to the District Conflict Management Committee, which considered them and communicated its resolutions in writing. According to him, this procedure also applied to complaints arising during voting, counting, verification and announcement of results.

106. RW4 explained that his duties as returning officer included receiving completed Gen 20 forms, polling station records of proceedings and rejected ballot paper account forms.

107. He testified that results began arriving on 13th August, 2026, and continued arriving the following day. They were verified, announced and entered by his assistants and technical support staff until approximately 14:00 hours on 14th August, when ECZ directed that verification and announcement cease because of nationwide security concerns. The process resumed at approximately 20:00 hours that day and continued until 01:00 hours on 15th August.

108. RW4 explained that they stopped at 01:00 hours because all results then available had been verified and announced, although results from approximately thirteen polling stations remained outstanding. He attributed the delay to transport shortages, stating that the constituency had 112 polling stations but fewer than twenty small vehicles, each capable of accommodating the personnel and materials from only one polling station.

109. In further cross-examination, RW4 gave differing dates for the resumption of verification and announcement of results. He initially confirmed that the process resumed at approximately 08:00 hours on 15th August, 2026, with outstanding results verified and announced as they arrived. Later, he stated that verification resumed at 08:00 hours on 16th August, 2026. He maintained that verification concluded at approximately 16:00 hours on 16th August,

and the winners were announced between 17:00 and 18:00 hours.

110. He acknowledged that police numbers increased before the announcement. He attributed this to security concerns and confusion arising from delays in receiving results from thirteen polling stations, which prompted ECZ to request reinforcement. He further stated that electoral materials were secured in sealed ballot boxes or packed in envelopes and retained by ECZ at district or constituency level.

111. When shown the petitioner's exhibit relating to Njipi Primary School, RW4 could read the school's name but could not clearly identify the polling-station code or confirm that it related to Njipi Primary School 2. He acknowledged that it was a photograph of what appeared to be a Gen 20 form, that its upper and lower portions were dark, and that he could not identify all its signatories. He agreed that comparison with the original form was necessary to establish its completeness and accuracy.

112. RW4 also identified photographs appearing to relate to Mufumba, Yongolo Primary School 1, Ninge and Kaishe 1 polling stations. Regarding Ninge, he agreed that the form appeared to bear the signature of only one polling agent.

113. On his appointment, RW4 stated that he was a teacher who had been trained as a District Election Trainer before becoming returning officer. He confirmed that Paul Kabwebwe had previously been returning officer, assisted by Jonathan Chibuta and Mr. Mapulanga. Although he initially said he had brought proof of his appointment, he

admitted that it had not been filed. He explained that he regarded his appointment by ECZ as a well-known fact and subsequently stated that he had forgotten to file the document. He confirmed that he was the officer who declared Happy Mampa elected Member of Parliament for Bangweulu Constituency.

114. In further cross-examination, RW4 denied having any blood relationship with Happy Mampa. He confirmed that polling station results had to correspond with those entered at the totalling centre. Verification included checking the names of the presiding officer and polling station. He explained that errors in polling station names could be resolved by reference to their unique codes, with corrections made by the officer responsible for IT.

115. When referred to the form at page 7 of the 2nd respondent's supplementary bundle, RW4 maintained that it related to Njipi Primary School 2, despite questions concerning the spelling of the station's name. He confirmed that this was the document used to compile that station's results.

116. Comparing that form with the petitioner's exhibit RC1, RW4 read the petitioner's figures as: Moses Chabala—1; Derrick Chanda—8; Anthony Kasandwe—35; Happy Mampa—78; and Reuben Chama—96. The corresponding figures in the 2nd respondent's form were identical except that Happy Mampa was recorded as having obtained 328 votes. He acknowledged that only the 1st respondent's figures differed.

117. RW4 read the total votes cast on the petitioner's form as 222. When subsequently asked whether a candidate could obtain 258 votes at a station with 222 registered voters, he agreed that this was impossible. The figure of 258 used in that question differed from the 328 he had earlier read from the 2nd respondent's Njipi form.

118. Regarding Yongolo, RW4 read the petitioner's figures as: Moses Chabala—0; Derrick Chanda—5; Anthony Kasandwe—72; Reuben Chama—104; and Happy Mampa—58. The 2nd respondent's form contained the same figures for the other candidates but recorded 258 votes for Happy Mampa. He confirmed that both forms bore the same presiding officer's name and related to the same polling station, with a difference of 200 votes affecting only the 1st respondent. He acknowledged that the form in his bundle was witnessed by one UPND supporter, but stated that a single witness did not invalidate a Gen 20 form.

119. RW4 reiterated that results from thirteen polling stations had been delayed by inadequate transport and also accepted that some stations were distant and required boat transport. He confirmed that he declared Happy Mampa duly elected on 16th August, 2026, in the presence of representatives of political parties, the media and other organisations. He identified the declaration at page 31 of the 1st respondent's bundle as the document he had personally signed and used for that declaration.

120. In the final part of cross-examination, RW4 read the declaration recording that 1,350 ballot papers had been rejected as invalid and that 38,334 votes had been cast. The

document declared Happy Mampa duly elected Member of Parliament for Bangweulu Constituency and was dated 17th August, 2026. Despite that date, RW4 maintained that the correct date of declaration was 16th August, 2026.

121. In *re-examination*, he clarified that the first suspension occurred on 14th August, 2026, and was lifted the same day. The second suspension occurred on 15th August, 2026, and was lifted on 16th August, 2026.

Submissions

122. All the parties filed final submissions.

123. The petitioner submitted that the constituency totals did not faithfully reproduce the polling-station results and sought nullification of the 1st respondent's election or, alternatively, a declaration that he was duly elected upon an authenticated reconciliation. He alleged that, although 99 of the 112 station results had been presented and 96 printed and announced, the final declaration followed an interruption and exclusion of stakeholders without the promised verification of outstanding returns.

124. Relying on section 97(2)(b), read with section 97(4), of the Electoral Process Act and **Margaret Mwanakatwe v. Charlotte Scott & Another**[1] and **Giles Chomba Yamba Yamba v. Kapembwa Simbao & Others**[2], the petitioner acknowledged the requirement to prove non-compliance and its effect on the result to a fairly high degree of convincing clarity. He maintained that the complaint concerned ECZ's conduct and did not require proof of the 1st respondent's personal involvement. Citing **Jere and**

Others v. Zulu[3], he accepted that deliberate fabrication or conspiracy required independent, cogent evidence.

125. The petitioner challenged Mr. Kabo Milton's authority to declare the result, relying on his admission that Mr. Paul Kabwebwe was the returning oficer while he was a trainer of trainers. He argued that the declaration form did not establish a lawful appointment under sections 37 and 37A. He also highlighted the conflict between Mr. Kabo's evidence that he declared the winner on 16th August, 2026 and the declaration form dated 17th August, 2026, submitting that these matters undermined his account of verification and declaration.

126. Regarding the competing returns, the petitioner urged equal scrutiny of their station codes, streams, signatures, provenance and supporting testimony. He questioned the designation "INJIPI" instead of "NJIPI" and the witnesses' failure to read it as written, while accepting that a spelling error alone did not prove forgery. He further submitted that neither an ECZ security feature nor inclusion in an official bundle established numerical accuracy, and that any correction under section 76 required an explanation of its basis, authority and timing.

127. The petitioner alleged increases in the 1st respondent's votes from 145 to 545 at Ninge Primary School 1, from 78 to 328 at Njipi Primary School 2, and from 82 to 382 at Kaishe Primary School 1, totalling 950 votes. He contended that each disputed figure also exceeded the total votes cast shown on the corresponding station copy. He urged findings based on authenticated records for each pleaded

station, without extrapolation or double counting, while acknowledging that nullification would not itself establish his entitlement to be declared elected.

128. The petitioner highlighted two conflicting Yongolo Primary School 1 returns, recording 58 and 258 votes for the 1st respondent, with corresponding totals of 244 and 444 votes cast. He urged the Court to establish the genuine return and which figure entered the constituency total, submitting that a deduction of 200 votes would arise only if the higher figure was used and the lower figure proved authentic.

129. He argued that the 1st respondent's denial of personal involvement did not resolve inaccuracies in ECZ's collation. Similarly, Foloko Mabo's account of counting at Kaishe did not establish the accuracy of the subsequent constituency entry, while Charity Sabuni's explanation of security and transport delays did not answer the disputed figures or alleged later exclusion of stakeholders. Her acknowledgment that some representatives refused to sign also contradicted universal acceptance, although refusal alone did not invalidate the result.

130. On materiality, the petitioner submitted that deducting the alleged 950 additional votes at Ninge, Njipi and Kaishe would reduce the 1st respondent's total from 13,012 to 12,062, placing Anthony Kasandwe ahead by nine votes. A further deduction of 200 votes at Yongolo would increase that lead to 209. These calculations depended on proof that the disputed figures entered the declared total and that all other candidates' totals remained unchanged.

131. The petitioner maintained that his third-place position did not prevent him from seeking nullification where proven errors changed the winner. He nevertheless acknowledged that a declaration in his favour required a complete reconciliation establishing that he obtained the highest lawful total. He accepted that the legal burden remained his and that general unreliability or inadequate explanations could not replace proof of the authentic figures and their effect.

132. He accordingly sought nullification under section 97(2)(b), contending that proven discrepancies changing the winner could not be protected as harmless errors under section 97(4). Alternatively, he sought a declaration that he was duly elected if supported by the complete reconciliation, together with costs under section 109 and consequential statutory orders.

133. The 1st respondent submitted that the petitioner had failed to establish a factual or legal basis for the reliefs sought. Relying on **Mutapwe v. Shomeno**[4] he argued that the petitioner bore the burden of proving his allegations to a high degree of convincing clarity. He contended that the petitioner's own tabulation identified Anthony Kasandwe as the winner, thereby contradicting his prayer to be declared duly elected.

134. Concerning the appointment of the returning officer, Mr. Milton Kabo, the 1st respondent submitted that his deployment was necessitated by an accident in which the

initially appointed officer lost his wife. He argued that these circumstances were explained during cross-examination, rendering documentary proof of appointment unnecessary. Further, Mr. Kabo's experience as a trainer of electoral officers demonstrated his competence to conduct the election.

135. On the difference between the oral declaration made on 16th August, 2026 and the declaration form dated 17th August, 2026, the 1st respondent argued that this was a minor clerical error whose effect on the outcome had not been demonstrated. Relying on section 97(4) of the Electoral Process Act No. 35 of 2016, he submitted that an official's act or omission could not invalidate an election conducted substantially in accordance with the Act where it did not affect the result.

136. Regarding the alleged numerical inconsistencies, the 1st respondent challenged the authenticity of the photographed Gen 20 forms marked "RC1", arguing that the device used and the time, date and place of capture were unverified. He maintained that the petitioner's Record of Proceedings marked "RC2" agreed with the official Record of Proceedings and Gen 20 forms produced by the 2nd respondent. Consequently, there was no basis for preferring the photographs over the official electoral documents.

137. The 1st respondent further disputed the allegation that he received votes exceeding the number of registered voters at Kaishe Primary School 1. He argued that the official record did not support the allegation and that the petitioner

had failed to produce the official voters' register to substantiate it.

138. He also alleged that the petitioner was acting in collusion with Anthony Kasandwe, whose separate petition relied on identical photographs despite their deployment of independent election agents. He relied additionally on the petitioner's failure to pursue alleged discrepancies affecting Mr. Kasandwe's figures. Citing **Shamwana & Others v. The People**[5] and **Bowman Lusambo v. The Attorney General**[6], he invited the Court to take judicial notice of the related proceedings and shared evidence.

139. As to the person allegedly apprehended with pre-marked ballot papers, the 1st respondent submitted that the prompt intervention by the police and electoral officials demonstrated that electoral safeguards had operated effectively. He maintained that the incident did not affect the result and accordingly prayed for dismissal of the petition in its entirety with costs.

140. The 2nd respondent submitted that the petitioner's submissions introduced matters outside the pleadings, including challenges to the returning officer's appointment and authority, the withdrawal of the initially appointed officer, and requests concerning the safeguarding and comparison of electoral records. Relying on **Christopher Lubasi Mundia v. Sentor Motors Limited**[7] it argued that parties were bound by their pleadings and that counsel could not introduce evidence through submissions.

141. On the burden and standard of proof, the 2nd respondent relied on **Lewanika and Others v. Chiluba**[8],

Saul Zulu v. Victoria Kalima[9] and **L.A. Mumba v. P.W.M. Daka**[10]. It submitted that election petitions required proof above a balance of probabilities but below proof beyond reasonable doubt. Further, under section 97(2)(b), read with section 97(4) of the Electoral Process Act, the petitioner had to establish both identifiable non-compliance and its effect on the election result. It maintained that neither requirement had been satisfied.

142. Regarding the suspension of verification and totalling on 15th August, 2026, the 2nd respondent argued that the petitioner accepted the security reasons for the interruption. It maintained that the process resumed on 16th August, 2026, relying on Mr. Kabo's evidence that verification continued between 10:00 and 18:00 hours until the winner was announced, supported by Charity Sabuni's testimony and the 1st respondent's account.

143. The 2nd respondent challenged the authenticity and reliability of the petitioner's Gen 20 forms, describing them as illegible, unsigned, partly obscured or redacted, and obtained from unaccredited sources without an established chain of custody. It argued that their figures did not correspond with the Record of Proceedings. Conversely, its original forms bore party representatives' signatures and agreed with the official record. It also relied on Foloko Mabo's confirmation that he had signed forms contained in its supplementary bundle.

144. It further submitted that the petitioner's witnesses were partisan election agents whose evidence lacked independent corroboration. Relying on **Chileshe Mpunga**

v. Jean Ngandwe & ECZ[11], it argued that uncorroborated partisan testimony, hearsay and speculation could not discharge the requisite burden of proof.

145. Concerning the teacher allegedly apprehended with stolen or false Gen 20 forms, the 2nd respondent argued that the allegation was unsupported by a police report, a complaint to electoral officials or corroborating testimony. No connection had been established between those forms and the disputed results; moreover, the evidence indicated that the forms were confiscated and never used.

146. The 2nd respondent characterised the alleged misspelling of Njipi Polling Station as an immaterial clerical error, maintaining that the figures corresponded with the Record of Proceedings. On the declaration date, it invited the Court to take judicial notice of the declaration form in Cause No. 2026/HP/EP/003, which it said was signed on 16th August, 2026. It maintained that the winner was announced that day and that the date discrepancy did not affect the results.

147. Finally, relying on **Mazoka and Others v. Mwanawasa and Others**[12], the 2nd respondent argued that irregularities affecting all candidates equally did not, without proof of prejudice to the result, justify nullification. It also highlighted the absence of formal complaints under rules 12 and 13 of the Electoral Code of Conduct. It maintained that the election substantially complied with the law and prayed that the petition be dismissed in its entirety with costs.

Analysis and Decision

148. I have considered the evidence and the parties' final submissions. It is common cause that the petitioner and the 1st respondent contested the parliamentary election for Bangweulu Constituency. The 1st respondent was declared elected with 13,012 votes, while the petitioner received 10,734 votes and placed third.

149. The petitioner alleges that the votes credited to the 1st respondent at certain polling stations were inflated while the totalling centre was closed. He maintains that the results from those stations were among those that stakeholders had no opportunity to verify before the returning officer declared the final result. The 1st respondent denies that his votes were inflated and maintains that the decisions concerning the conduct of the election were those of the 2nd respondent. He disputes the authenticity of the petitioner's photographs of purported Gen 20 forms, which show lower vote totals for him at the polling stations in question. He contends that the Gen 20 forms produced by the 2nd respondent are authentic and should be relied upon because the figures they record correspond with those in the record of proceedings exhibited to the petitioner's affidavit.

150. From the foregoing, the main issue falling for determination is whether the petitioner has established that the votes credited to the 1st respondent were inflated and, if so, whether the inflation affected the outcome of the

election. In determining that issue, I bear in mind that the burden of proof rests on the petitioner.

151. The petition falls to be determined under section 97(2)(b) of the Electoral Process Act No. 35 of 2016, read with section 97(4). These provisions read as follows:

97(2) The election of a candidate as a Member of Parliament, mayor, council chairperson or councilor shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court or a tribunal, as the case may be, that –

(b)Subject to the provisions of sub section (4), there has been non-compliance with the provisions of the Act relating to the conduct of elections, and it appears to the High Court or tribunal that the election was not conducted in accordance with the principles laid down in such provision and that such non-compliance affected the result of the election; or

97(4) An election shall not be declared void by reason of any act or omission by an election officer in breach of that officer's official duty in connection with an election if it appears to the High Court or a tribunal that the election was so conducted as to be substantially in accordance with the provisions of this Act, and that such act or omission did not affect the result of that election.

152. Thus, the petitioner must establish non-compliance with a provision governing the conduct of the election, a departure from the principles underlying that provision, and an effect on the result.

153. Section 72(1), as amended by Act No. 12 of 2026, required the returning officer to tally the results received from the polling stations and to announce and declare the parliamentary result. That duty required the constituency

tally to reflect the votes actually recorded at each of the polling stations. As the Constitutional Court explained in **Jere & Others v. Zulu** (supra), the petitioner bears the burden of establishing the grounds of the petition to a standard higher than the ordinary balance of probabilities.

154. I note the 1st respondent's evidence that he was not involved in the totalling or declaration. However, that denial does not address the contention on the table. Section 97(2)(b) concerns the conduct of the election. The question is whether the statutory duty was breached and whether that breach affected the result.

155. It has been established that the documents exhibited to the petitioner's affidavit marked "RC1" are photographs of alleged polling station results forms (Gen 20 forms). These photographs and the returns produced by the 2nd respondent must be weighed against the testimony concerning their origin and the entries in the record of proceeding at totalling of votes, "RC2". The photographs may carry weight if a witness can reliably identify the Gen 20 form shown or independently confirm the result recorded on it.

156. The evidence has shown that the results on the Gen 20 forms produced by the 2nd respondent's and the results depicted on "RC2" are consistent. What ought to be determined, however, is whether or not the Gen 20 forms produced by the 2nd respondent accurately record the polling station counts.

157. In his illustration, the petitioner sought to establish through "RC1" that at Ninge Primary School 1, the 1st

respondent obtained 145 votes and yet 545 votes were recorded in the constituency record ("RC2"). His witness, PW3, testified that he heard the presiding officer announce the result and that 145 is what was announced in relation to the 1st respondent. According to the petition, the figure of 545 exceeds the 529 ballots said to have been cast at that stream. In cross examination, PW3 acknowledged that he saw the photograph of the Gen 20 in respect of Ninge ("RC1") for the first time in court. As the record stands, PW3's testimony as regards what he heard being announced is not supported by any tangible proof.

158. As regards Njipi Primary School 2, the petitioner's evidence was that "RC1" recorded 78 votes for the 1st respondent whereas the constituency record credited him with 328 votes against a recorded total of 222 votes cast. The returning officer, RW4, confirmed that "RC1" and the 2nd respondent's Gen 20 form in respect of Njipi recorded identical figures for every other candidate, while the 1st respondent's figure rose from 78 to 328 and further that the latter figure exceeds the alleged 222 registered voters.

159. I have not overlooked the differing station descriptions, "Njipi" and "Injipi" as highlighted by the petitioner. However, a careful scrutiny of "RC1" and the 2nd respondent's form reveals that both documents record the same code for the polling station. Without more, I am inclined to join hands with the 2nd respondent in its submission that the recording of "Injipi" was no more than an immaterial spelling error.

160. I note the matching figures for the other candidates and accept that it is an issue not to be overlooked. However, that evidence does not establish which Gen 20 form recorded the true count.

161. At Kaishe Primary School 1, the petitioner alleges that 82 votes became 382, although only 363 ballots were said to have been cast. The comparison is significant because the additional 300 votes would take the aggregate deduction beyond the declared lead. In his evidence in chief, PW2 said that he identified the Kaishe return because he had signed it and received a copy. In cross-examination, however, he said he had requested a copy and had not been given one. He also accepted that he had not taken the photograph relied upon. This contradiction quite clearly discredits PW2's identification.

162. The 1st respondent's witness, Foloko Mabo's evidence confirms that counting took place in the presence of agents. However, his evidence does not supply the Kaishe figures or resolve the discrepancy.

163. On the totality of the evidence herein, I am unable to hold that the petitioner has proved to the required standard that the 1st respondent received 82 votes at Kaishe 1 or that 300 votes should be deducted from his declared total.

164. As regards Yongolo Primary School 1, RW4 was referred to "RC1" which showed that the 1st respondent obtained 58 votes and yet the Gen 20 at page 8 of the 2nd respondent's bundle, which tallies with the constituency record ("RC2") showed that he had 258 votes and that the figures for the other candidates remained unchanged.

Nevertheless, the petitioner did not provide concrete proof that his record was the accurate version and not the 2nd respondent's version.

165. Even if one were to accept the petitioner's version as true, that is to say, that the 1st respondent was given additional 200 votes at Yongolo and additional 650 votes at Ninge and Njipi, the respondent's total would fall from 13,012 to 12,162. He would still lead the petitioner who received 10,734 votes, by 1,428 votes. The evidence concerning the remaining stations does not establish further adjustments to the required standard.

166. I have no doubt in my mind that the suspension and closure of the totalling centre interrupted the scrutiny of results by candidates and their representatives. PW4's unchallenged evidence that he was required to leave and return the following day is relevant to the opportunity for verification. However, It does not establish what occurred inside the centre during the closure or which entries, if any, were changed during that period.

167. I have also considered RW4's failure to produce his instrument of appointment and the discrepancy between his testimony that he declared the result on 16th August and the date of 17th August on the written declaration. These matters warrant caution in assessing his evidence. Having considered them, I remain satisfied that the disputed polling station results did not affect the outcome of the election.

168. I accordingly find that the petitioner has failed to establish that the alleged non-compliance affected the

result of the parliamentary election. The alternative prayer also fails. The petitioner received 10,734 votes, and the deductions he proposes from the 1st respondent's tally provide no basis for finding that he received the highest number of valid votes.

Conclusion and Orders

169. In the circumstances, the petition is dismissed for want of merit.

170. In the case of **Afrope Zambia Limited v. Chate and Others**[13] it was stated that it is a settled principle of law that a successful party will not normally be deprived of his costs unless there is something in the nature of the claim or in the conduct of the party which makes it improper for him to be granted costs. In view of the discrepancies disclosed by the evidence, I order that each party bears its own costs.

Delivered at Mansa this 24th day of November, 2026

.....

HIGH COURT JUDGE

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
24 NOV 2026
JUDGE
INDUSTRIAL RELATIONS DIVISION
P.O. BOX 34009, LUSAKA