REPUBLIC OF ZAMBIA
JUDICIARY
23 NOV 2026
HIGH COURT
DISTRICT REGISTRY CIVIL
P. O. BOX 60110, LIVINGSTONE

IN THE HIGH COURT FOR ZAMBIA **2026/PEP/01**
AT THE DISTRICT REGISTRY
HOLDEN AT MONGU
(Civil Jurisdiction)

IN THE MATTER OF:	**ARTICLE 51 OF THE CONSTITUTION OF ZAMBIA**
IN THE MATTER OF:	**SECTION 83 (1) (C), SECTIONS 96-100, OF THE ELECTORAL PROCESS ACT NO. 35 OF 2026, PART VIII AND PART IX**
IN THE MATTER OF:	**ARTICLE 70 OF THE CONSTITUTION OF ZAMBIA**
IN THE MATTER OF:	**THE PARLIAMENTARY ELECTION FOR MULOBEZI CONSTITUENCY HELD ON 13TH AUGUST 2026**

BETWEEN

TIMOTHY MWENDA ZAMBWE	**PETITIONER**
AND	
HASTINGS SILILO	**FIRST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	**SECOND RESPONDENT**

Before the Honourable Mr Justice K. Chenda on 23rd November 2026, at Livingstone in open Court.

For the Petitioner : Mr V. Kachaka of Victor Kachaka & Co. Legal Practitioners
For the First Respondent : Mr W. Nyirenda of Kayula & Associates
For the Second Respondent : Mr M. Lisimba of Mambwe, Siwila & Lisimba Advocates

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JUDGMENT

The Supreme Law:

(1) The Constitution, Chapter 1 of the Laws of Zambia as amended by (*inter alia*) Act No. 2 of 2016 and Act No. 13 of 2025

Primary Legislation:

(1) The Evidence Act, Cap. 43 of the Laws of Zambia

(2) The Electoral Process Act No. 35 of 2016, as amended by Act No.12 of 2026

(3) The Examinations Council of Zambia Act, Cap. 137 (repealed)

(4) The Zambia Qualifications Authority Act, No. 13 of 2011

(5) The Examinations Council of Zambia Act, No. 3 of 2023

(6) The Electoral Commission Act, No. 25 of 2016 as amended by Act No.5 of 2019

Subsidiary Legislation:

(1) The Electoral Process (General) Regulations S. I. No. 63 of 2016, as amended by S.I No. 39 of 2021

Administrative Circular:

(1) The Examinations Council of Zambia Guidelines for the Administration and Management of Examinations in Zambia (2022 Revision)-https://www.exams-council.org.zm/wpcontent/uploads/2022/11/GUIDELINES-FOR-THE-ADMINISTRATION-MANAGEMENT-OF-EXAMINATIONS-IN-ZAMBIA-REVISED-2022.pdf

Case Law:

(1) *Bizwayo Newton Nkunika v Lawrence Nyirenda & ECZ* - 2019/CCZ/005 at page J75-J76;

(2) *Akapelwa v AG & Ors.* (2008) Z.R. 201;

(3) *Machobane v The People* (1972) Z.R. 101;

(4) *ECZ v Sibetta* (2008) Z.R 182

(5) *Nkandu Luo & ECZ v Doreen Sefuke Mwamba & AG* - Selected Judgment No. 51 of 2018 at p. J50-51

(6) *In Re Clare, Eastern Division Case* (1892) 4 O'M & H 162 at 164

(7) *Morgan & Ors. v Simpson & Anr.* (1974) 3 All ER 722 at 731 from line h

(8) *Sibongile Mwamba v Kelvin M. Sampa & Anr.* Vol 3 (2007) ZR 284 at 316 -317

(9) *Galaunia Farms Limited v National Milling Company Limited* (2004) ZR1 at pages 9-10

(10) *Mwalimu Simfukwe v Evaristo David Kasunga* - Appeal No. 50 of 2013

(11) *Abiud Kawangu v Elijah Muchima* - Appeal No. 8 of 2017 (2016/CC/A039)

(12) *Joseph Malanji v Charles Abel Mulenga & Anr.* - 2021/CCZ/A0021 at J24

Authoritative Texts:

(1) Halsbury's Laws of England, 4th edition (2007) Reissue Vol. 15(3) (Elections and Referendums) para. 344

(2) Halsbury's Laws of England 5th edition (2013) Vol. 38A (Elections and Referendums), Lexis Nexis: London at p. 176, footnote 4

1. INTRODUCTION AND BACKGROUND

1.1 Zambia is a constitutional democracy and has three primary organs of government. Two of them derive their mandate directly from the citizenry through periodic elections, held every 5 years.

1.2 The said two organs are firstly the Executive for election of a Republican President as its head (and also for election of part of the local government office bearers). Secondly, is the Legislature for election of members of Parliament (singular "**MP**", plural "**MPs**") for all 226 constituencies in the country. The rest of the MPs and local government office bearers are selected through the newly introduced proportional representation system. This is in accordance with arts. 47 and 68 of the **Constitution of Zambia**[1] (the "**Constitution**").

1.3 When there are grievances over the electoral process, the stakeholders can have recourse to the Judiciary as an independent primary organ of government.

1.4 If it is a parliamentary election case, they typically arise from acts alleged to have been committed during the campaign period (when candidates are locked in a contest to sway the electorate), or allegedly committed on voting day itself. Common grievances are a losing party accusing the victor of engaging in improper tactics (such as bribery and violence) and that it made the playing field uneven, ultimately influencing the voters and / or outcome of the election. Sometimes even the eligibility of the winning candidate to hold office can be brought into issue.

1.5 In the case at hand, the Petitioner and First Respondent were the parliamentary election contestants for Mulobezi constituency, located in Mulobezi district of the Western Province of Zambia.

1.6 Following election day on 13th August 2026, the First Respondent was declared winner. Aggrieved by that, the Petitioner took out this action on 28th August 2026 by petition filed in the High Court at Mongu.

1.7 The gravemen of his complaint was two pronged; firstly that the First Respondent gained undue advantage by maligning the Petitioner during the campaign period, thereby unlawfully swaying the electorate. Secondly that the First Respondent was academically unqualified to be elected as MP.

1.8 The First Respondent contested the petition, through his answer and affidavit of 8th September 2026, accompanied by arguments. The First Respondent quite plainly denied having maligned the Petitioner. He also testified that he possessed the requisite academic qualification at the time of election.

1.9 The Second Respondent also opposed the petition, through its answer filed 16th August 2026, accompanied by an affidavit and arguments. It was the Second Respondent's position that it followed due process and that the First Respondent's paperwork was, on the face if it, valid even as far back as nomination stage. The Court was urged to dismiss the petition.

1.10 I heard the petition at Livingstone from 6th October 2026 to 8th October 2026 and this is the reserved judgment, divided into the following parts -

(i) introduction and background (above);
(ii) outline of the parliamentary electoral system
(iii) summary of material facts;
(iv) summary of evidence;

(v) closing submissions by counsel;
(vi) outline of the law on parliamentary election petitions;
(vii) analysis and findings; and
(viii) conclusion and orders.

2. OUTLINE OF THE ZAMBIAN PARLIAMENTARY ELECTORAL SYSTEM

2.1 This part is necessary to give proper context to this judgment, given the specific tier of election that is in issue.

2.2 The constitutional and legislative changes of 2025 and 2026, respectively, also reformed the parliamentary electoral system. It changed from a purely constituency based system to the following under art.47(2) of the **Constitution** as it now stands:

> *"(2)* ***Elections to the National Assembly shall be conducted under a mixed-member proportional representation electoral system, as follows****:*
>
> *(a)* ***first-past-the-post electoral system for Members of Parliament contesting for constituency-based seats****; and*
> *(b) proportional representation electoral system for women, youths and persons with disabilities, as prescribed.;"*(Emphasis added)

2.3 For purposes of this case, the relevant limb of the new mixed-member proportional representation electoral system is the one for MPs with constituency based seats. Art. 47(2)(a) reproduced above makes it clear that the electoral system for them shall be 'first-past-the-post'.

2.4 A useful description of the first-past-the-post voting system can be found in the **Halsbury's Laws of England**[1]:

> *"344. Elections taking place in a constituency or electoral area*
>
> ***Contested elections for the return of a member to represent a parliamentary constituency**, a local government electoral area (including London Assembly constituency) or a Welsh Assembly constituency **take place under a voting system where the result is ascertained by counting the votes given to each candidate and the candidate to whom the majority of votes has been given is declared to have been elected**."* (Emphasis added)

2.5 As well as in the footnote thereto wherein it is stated:

> *"**This voting system is known variously as the** 'simple majority', 'relative majority' or **'first past the post' system**. In none of these terms is it to be implied that the successful candidate has to receive more than a certain number (or more than 50%) of the votes cast before he can be declared to be elected."* (Emphasis added)

2.6 Evidently, it is a system that requires that every vote must be accounted for and that the one who gets a simple majority of those votes carries the day. That is the system which is relevant to determination of this case.

2.7 The 2025 constitutional amendments were preceded by even more extensive changes in 2016. The earlier changes included introduction of a minimum academic qualification for the office of MP. Article 70 of the **Constitution** in particular was amended to provide in sub-art. (1)(d):

> *"(1) Subject to clause (2),* ***a person is eligible to be elected as a Member of Parliament, if that person***-
>
> *(a) is a citizen;*
> *(b) is at least twenty-one years old;*
> *(c) is a registered voter;*
> *(d)* ***has obtained, as a minimum academic qualification, a grade twelve certificate or its equivalent****; and*
> *(e) declares that person's assets and liabilities, as prescribed."* (Emphasis added)

2.8 It follows that for one to be validly nominated as a candidate and later validly elected as MP, they should have attained a minimum academic qualification of a grade 12 certificate or its equivalent.

2.9 Turning now to the role of the Second Respondent being the Electoral Commission of Zambia ("**ECZ**"), part XVIII of the **Constitution**[1] covers commissions and in art. 229 re-creates the ECZ and prescribes its functions in the following wording -

"229.(1) There is established the Electoral Commission of Zambia which shall have offices in Provinces and progressively in districts.

(2) The Electoral Commission shall-
(a) implement the electoral process;
(b) conduct elections and referenda;
(c) register voters;
(d) settle minor electoral disputes, as prescribed;
(e) regulate the conduct of voters and candidates;
(f) accredit observers and election agents, as prescribed;
(g) delimit electoral boundaries; and
(h) perform such other functions as prescribed."

2.10 Quite clearly, the ECZ has the constitutional mandate to *inter alia* conduct and manage the electoral system for selection of constituency based MPs. It also extends to managing the key stakeholders who include voters, candidates, accredited agents and observers.

3. SUMMARY OF MATERIAL FACTS PLEADED

3.1 The crux of the Petitioner's grievance, as pleaded, was firstly that he was maligned by the First Respondent during the campaign period. In particular he alleged that the First Respondent was telling the electorate that the Petitioner was alien to Mulobezi and hailed from Lukulu. Further that if elected he was going to divert constituency development funds to benefit Lukulu instead of Mulobezi.

3.2 The Petitioner averred that through that tactic, the First Respondent gained undue advantage thereby unlawfully swaying the electorate and emerging victorious in the polls. The second limb of grievance was that after the polls it was discovered by the Petitioner that the First Respondent allegedly used a grade 12 certificate of someone else to file his nomination to contest as MP. It was insinuated that the First Respondent was academically unqualified to be elected as MP.

3.3 The essence of the First Respondent's opposing pleading was a bold denial of having maligned the Petitioner or engagement in any form of misconduct. He also refuted having used another person's grade 12 certificate and averred that he acquired his own and used it to successfully file his nomination with ECZ.

3.4 In its pleadings, the ECZ asserted that the First Respondent's nomination was duly accepted on the basis of credentials presented and there was no objection from the Petitioner or anyone else. The ECZ stated that it had no notice of any alleged irregularity with the First Respondent's credentials. The ECZ averred that it acted diligently, impartially and in good faith in the nomination process, without any negligence or wrongdoing on its part.

3.5 During the pre-trial stage of the case, the Petitioner elected to abandon the allegations of misconduct initially levelled against the First Respondent.

3.6 After conclusion of all preparatory steps, the matter was set down for trial which progressed as set out in the next part of this judgment.

4. SUMMARY OF EVIDENCE

4.1 The Petitioner testified on his own behalf and called 4 supporting witnesses. The First Respondent testified as sole witness on his own behalf and the Second Respondent similarly called one witness. A summary of the evidence received from them is as follows.

4.2 *Mr. Timothy Mwenda Zambwe (the "Petitioner" or "PW1") testified as the first witness on his own behalf.* It was his evidence in chief that he was a candidate in the August 2026 general elections specifically for the Mulobezi Constituency Parliamentary seat.

4.3 He stood under sponsorship of the United Party for National Development (UPND) whilst the First Respondent who was his competitor was declared winner on 15th August 2026.

4.4 The Petitioner testified that thereafter the UPND district secretary Mr Mbangu (PW2) informed him that there was a qualification anomaly on the part of the First Respondent. Basically, that the First Respondent is allegedly not the one who sat for the exam that resulted in the grade 12 certificate that he used to file his nomination as a parliamentary candidate.

4.5 Mr Mbangu gave the Petitioner the following documents in that regard and they appear in his affidavit verifying facts:

(i) statement of results filed at nomination;
(ii) copy of NRC for the First Respondent;
(iii) provisional register for Examinations Council of Zambia GCE candidates for Matilyo Secondary School, Kapiri Mposhi;
(iv) entry form to enter for examinations room; and
(v) attendance register for all subjects sat for by the First Respondent.

4.6 It was his evidence that though the names "Sililo Hastings" were the same, there were discrepancies between the nomination records of the First Respondent and the provisional register of the Examinations Council of Zambia.

4.7 In particular the date of birth was different in that the First Respondent's NRC showed 1975 whilst the provisional register showed 2003. The NRC numbers were also different and the signatures too.

4.8 Based on this he decided to petition the First Respondent's election as he believed the First Respondent was unqualified to stand as MP. He however wishes to abandon the ground of what he termed hate speech, in paragraph 6 of the petition.

4.9 *The Petitioner was cross-examined firstly by Mr Nyirenda for the First Respondent* during which he testified:

4.9.1 Mr Mbangu did not disclose to the Petitioner where he got the documents over the First Respondent's qualifications;

4.9.2 he is aware that it is prohibited by schools and the Examinations Council of Zambia to write exams on behalf of another;

4.9.3 he has never come across any person besides the First Respondent who is claiming the results for the exams at Matilyo Secondary School;

4.9.4 exhibit "TMZ1"in his affidavit verifying facts is the one he relies on for the discrepancies but he has not verified who entered the information and would not know if they made an error in data entry;

4.9.5 he did not engage the National Registration Office to ascertain the names attached to the one on the documents in issue;

4.9.6 he is not a handwriting expert and did not get any expert evidence to prove that it is not the First Respondent who signed the attendance register; and

4.9.7 there is no other person who has appeared to claim they signed the attendance register.

4.10 *The Petitioner was also cross-examined by Mr Lisimba for the Second Respondent.* He testified that at the stage of filing nominations, he did not know about the issues relating to the First Respondent's qualifications nor whether the Second Respondent knew about them.

4.11 *The Petitioner was not re-examined.*

4.12 *The Petitioner's second witness was Mr Collins Mbangu ("PW2"). It was his evidence in chief* that he was the UPND secretary in Mulobezi, and that in 2016 the First Respondent's application to stand as MP was rejected by UPND because of a suspicious grade 12 certificate. The First Respondent eventually left UPND.

4.13 In August 2026 after the First Respondent was declared as winner, an informer shared information and documents that the First Respondent was not the one who sat for the exam certified in the papers he relied on for nomination.

4.14 He compared the documents with those filed at ECZ and saw discrepancies in the NRC no. and age. He reported it to the Police and also shared the information and documents with the Petitioner.

4.15 *When cross-examined by Mr Nyirenda for the First Respondent, Mr Mbangu testified:*

4.15.1 he became suspicious of the First Respondent's qualifications as far back as 2016 but only reported it to the Police in 2026 after the First Respondent won the elections;

4.15.2 he was one of the campaign leaders for the Petitioner and could not believe that the Petitioner had lost;

4.15.3 the relevant documents were availed to him by an informant whose name he will not disclose;

4.15.4 exhibit "EMZ1" in the Petitioner's affidavit is computer generated but he does not know who entered the information; and

4.15.5 he is aware that at nomination stage, candidates' qualifications are verified by the Examinations Council of Zambia and the Zambia Qualifications Authority. However, he is not aware that the First Respondent's papers were verified by them and declared to be his.

4.16 *When cross-examined by Mr Lisimba for the Second Respondent, PW2 testified* that he was the district party secretary for UPND.

4.17 *PW2 was not re-examined.*

4.18 *The Petitioner's third witness ("PW3") was Ms Sheba Haboombe*, a 45-year-old teacher at Matilyo Secondary School, Kapiri Mposhi. *It was her testimony in chief* that she was also the school accountant. Part of her duties as an accountant were to receive GCE candidate registration forms and the monies for it, followed by forwarding them to the guidance teacher for processing.

4.19 She testified that in 2025, a Hastings Sililo approached her office with a view to rewriting some subjects for GCE. He filled out the form, copy of which appears as "TMZ6" in the Petitioner's affidavit verifying facts. The original was taken by the Police.

4.20 The form was to sit for 6 subjects English, Maths, Civic Education, Religious Education, Silozi and Biology. The NRC no. written by the candidate was 338743/64/1 and the date of birth was left blank.

4.21 *When cross-examined by Mr Nyirenda, it was Ms Haboombe's testimony* that she could not recall the face of the Mr Hastings Sililo candidate. Further that she did not see any other person coming to the school to claim that the results were his.

4.22 She also conceded that "TMZ6" did not bear the signature of Hastings Sililo nor date of birth. She took the form "TMZ6" to the guidance teacher but it was not signed 'collected' by them instead endorsed "not registered" "double registration".

4.23 Ms Haboombe admitted that she would not know if there was another form subsequently submitted for registration.

4.24 *When cross-examined by Mr Lisimba for the Second Respondent, Ms Haboombe testified* that a Mr Hastings Sililo sat for exams at her school.

4.25 When shown a letter dated 5th May 2026 from Examinations Council of Zambia, exhibited in the First Respondent's bundle of documents, she conceded that it was addressed to the Second Respondent confirming that a Mr Hastings Sililo whose NRC, exam number and year of exam had a grade 12 certificate.

4.26 *Ms Haboombe was re-examined by Mr Kachaka and clarified* that her interest in the accounts department was collection of money hence her acceptance of a form with missing details. The rest of the registration details are for the guidance teacher. The letter from Examinations Council of Zambia confirmed that the bearer whose details were stated had a grade 12 certificate.

4.27 *The Petitioner's fourth witness ("PW4") was Mr Fred Mwansa,* a 59 year old teacher at Matilyo Secondary School. *In his evidence in chief,* he stated that he was also the school's guidance teacher. He received "TMZ6" from PW3 and called the number appearing for details of the missing NRC number which were then provided.

4.28 He attempted to do the preliminary registration on the Examinations Council of Zambia portal but it was rejected stating that the candidate already had a preliminary registration at Mumba Chala Secondary School, Ngaba District. He called the candidate who later had the earlier school delete his entry.

4.29 Thereafter PW4 completed the preliminary registration of the candidate on the portal. PW4 eventually generated a provisional register and invited the candidates to come and verify their details and sign against their names. Some did and others like Mr Hastings Sililo did not verify their details. The provisional register was tendered into evidence by him and admitted as "PD1".

4.30 He testified that the name Hastings Sililo appears at p.8 of 9 and is blank on the signature part as no one came to verify the details.

4.31 *When cross-examined by Mr Nyirenda for the First Respondent,* Mr Mwansa conceded that no one other than the First Respondent had claimed the GCE results at the school.

4.32 He also admitted that "TMZ6" was blank on the part to show that it was collected by the guidance teacher also that it did not bear any stamp for the school despite them existing.

4.33 It was his evidence that he corrected the NRC no. of Mr Hastings Sililo on "TMZ6" at the instance of the latter based on a telephone call but none of them counter signed against it.

4.34 He does not know who actually filled in "TMZ6" since it was just given to him by PW3.

4.35 Mr Mwansa conceded that the provisional register (PD1) had errors which included:

(i) p.1 of 9, line 13 from top on details of DOB;

(ii) p.3 of 9, line 1 from top on details of DOB;

(iii) p.2 of 9, line 1 from top on details of DOB which show the candidate as having been born in 2015, making them only 11 years old this year;

(iv) p.3 of 9, lines 8 and 14 from top have errors on sex column; and

(v) p.5 of 9, line 6 from top has an error on "other names" column 3.

4.36 Mr Mwansa insisted that despite Mr Hastings Sililo not coming to verify he told Mr Mwansa his NRC number through the telephone.

4.37 *When cross-examined by Mr Lisimba for the Second Respondent, Mr Mwansa/PW4 testified* that he completed registration for Mr Hastings Sililo as a GCE candidate for 2025 and that records show he wrote the exams. He has been a teacher for 32 years and has never seen a 10 year old grade 12 candidate. Their average age is 17. He therefore questioned the 2015 date of birth in the provisional register as it could not be the correct age.

4.38 *Mr Mwansa was re-examined and clarified* that according to him, the provisional register (PD1) did not have a lot of errors.

4.39 *The Petitioner's fifth witness ("PW5") was Mr Victor Blasterson Ngandu* the Head teacher of Matilyo Secondary School. *He was not a credible witness owing to the following. His demeanour was plagued with failure to face the Court when answering, extended pauses as if to think, evasiveness even on non-contentious questions and a general approach to seemingly advance a somewhat scripted narrative instead of confining himself to facts actually perceived by him. I attach very little weight to his evidence which is summarised as follows.*

4.40 He testified in chief that he was the chairperson of the school as a GCE exam centre. It was his evidence that after the grace period given for verification had lapsed, the provisional register was given to him, he signed and stamped it. The information was given to the Examinations Council of Zambia which issued subject registers that were kept by him as chairperson.

4.41 The exam subject registers for the 6 subjects wrote by Mr Hastings Sililo were produced by him and admitted into evidence as "PD2a" to "PD2j" respectively. They are signed by candidates against their names for subjects sat for.

4.42 Candidates are allowed into the exam room when invigilators check their NRC numbers against their exam numbers. The NRC is supposed to be put on the candidate's table when writing the exam.

4.43 The signatures against the name of Mr Hastings Sililo on "PD2a-j" are similar, and the exam number on all for him is 8575690127.

4.44 He remembers seeing a Mr Hastings Sililo in the exam room for Silozi as sole candidate. He appeared to be less than 25 years old when PW5 went to his desk.

4.45 *When cross examined by Mr Nyirenda for the First Respondent, Mr Ngandu's testimony was gravely plagued by the issues already observed in the opening part of the summary of his evidence.*

4.46 He testified that he saw the NRC of Mr Hastings Sililo when he went to his exam desk. According to him there was another Mr Hastings Sililo who claimed the GCE results but that his telephone was unreachable. The exam subject registers do not contain NRC numbers.

4.47 He disagreed that the form "TMZ6" had to be signed by both of the school's officers specified. According to him the form was signed by Mr Hastings Sililo by virtue of his name appearing on it.

4.48 All pages of the provisional register are stamped by the school stamp to confirm that they are official documents. "TMZ6" is not date stamped by the school.

4.49 He agreed that Examinations Council of Zambia has a mechanism for verifying that grade 12 results belong to a particular individual. He was not aware that the results for a Mr Hastings Sililo had been verified as belonging to the First Respondent.

4.50 *Mr Ngandu (PW5) was also cross-examined by Mr Lisimba for the Second Respondent and testified* that a Mr Sililo Hastings indeed sat for exams at Matilyo Secondary School.

4.51 The letter exhibited by the First Respondent in his affidavit was dated 5th May 2026 from Examinations Council of Zambia and confirmed that the First Respondent, holder of NRC number 330743/67/1 had a grade 12 certificate. It is the same number as that on the NRC exhibited by the First Respondent and on the ZAQA certificate of results too.

4.52 He found it difficult to answer whether the ECZ was unreasonable to accept the nomination of the First Respondent when presented with the aforesaid paperwork.

4.53 *Mr Ngandu was not re-examined* and on that note the Petitioner closed his case.

4.54 *Mr Hastings Sililo (the "First Respondent" or "RW1") testified as sole witness* on his own behalf.

4.55 *It was his testimony in chief* that he is a 51 year old commercial farmer, resident of Mulobezi District and MP for Mulobezi Constituency.

4.56 He testified that in 2025 he decided to rewrite GCE and registered to sit for exams at Matilyo Secondary School, Kapiri Mposhi in the following subjects:

(i) English
(ii) Civic Education
(iii) Maths
(iv) Silozi
(v) Religious Education
(vi) Biology

4.57 He sat for the exams in 2025 as scheduled and when the results were published, he downloaded a statement of results from the Examinations Council of Zambia portal.

4.58 A copy of it appears as exhibit "SH4" in his affidavit of 8th September 2026 and the original was tendered by him into evidence, admitted as "RD1".

4.59 He took the statement of results to the Examinations Council of Zambia for verification, was issued with a letter of confirmation dated 5th May 2026 exhibited by him as "SH5" in his affidavit of 8th September 2026.

4.60 He later filed his nomination with the Second Respondent as an independent parliamentary candidate. He contested in the 2026 elections and won.

4.61 After reporting to the National Assembly, he was told that they all had to have their qualifications verified by ZAQA.

4.62 He took his NRC and statement of results to ZAQA and was given a certificate of verification, copy of which he exhibited as "SH6" in his affidavit of 8th September 2026.

4.63 When questioned about exhibit "TMZ6" from the Petitioner's affidavit, he testified that he is not the one who filled it out. He filled a similar form and signed it, he also endorsed his number 0971798112.

4.64 He refuted the testimony of PW4 that he had left the date of birth portion blank and had to be called for its details. He also denied that he engaged the school to correct his NRC number on the form.

4.65 The First Respondent refuted PW5's testimony that the Mr Hastings Sililo who wrote the exams was under 25 years old. He insisted that he is the one who sat, he signed off on the subject registers after being allowed in by the invigilators who checked his NRC as a pre-condition to entering the exam room.

4.66 The First Respondent testified that PW5 was not there in the exam room for Silozi but only invigilators and Police officers.

4.67 He testified that contrary to the testimony of PW2, the issue about his grade 12 certificate was only brought up in 2026 after he won the election not in 2016.

4.68 *The First Respondent was cross-examined firstly by Mr Kachaka for the Petitioner.* He testified that he did not fill out "TMZ6" but a similar form which he has not brought to Court.

4.69 He did not register for GCE at Mumba Chala School before Matilyo Secondary School and was not visited by PW5 whilst in the exam room. He was 50 years old in 2025 and has a son Hastings Muzanga Sililo born in 1997.

4.70 He testified that Matilyo Secondary School has been compromised and has fabricated a story about him.

4.71 The statement of results exhibited by him as "SH4" is the one he used for verification at the Examinations Council of Zambia and nomination at ECZ.

4.72 The document he has in relation to his academic qualifications is not a grade 12 certificate but a statement of results. According to him, his statement of results is equivalent to a grade 12 certificate and is the foundation of his claim to have a grade 12 certificate.

4.73 He conceded that the confirmation letter from the Examinations Council of Zambia ("SH5") did not mention the word "equivalent" also that his statement of results indicated that it is not a certificate.

4.74 The First Respondent testified that he was very popular in the Mulobezi Constituency and had wanted to contest as MP in 2016 and 2021 but could not do so because of the legal requirement for a grade 12 certificate or equivalent qualification. He therefore decided to make a plan for the 2026 election.

4.75 The First Respondent testified that the confirmation letter ("SH5") was used at nomination stage to show his verified qualifications and the Second Respondent relied on it to clear his nomination.

4.76 He had presented his NRC and the statement of results to ZAQA before ZAQA certified his qualifications as verified.

4.77 The First Respondent conceded that to date he still has not gotten his grade 12 certificate.

4.78 *When cross-examined by Mr Lisimba for the Second Respondent, the First Respondent testified* that at point of filing his nomination with the Second Respondent he presented the following documents which were duly accepted (i) NRC (ii) voters card (iii) statement of results (iv) confirmation letter, all exhibited in his affidavit.

4.79 *The First Respondent was not re-examined* and on that note closed his case.

4.80 *The Second Respondent called Mr Mwiya Kabangu ("RW2") as its sole witness.* He was a 34 year old teacher in Mulobezi District. *He testified in chief* that he was the returning officer for the Mulobezi parliamentary elections in 2026, contested by 5 candidates who included the Petitioner and First Respondent.

4.81 He stated that on 21st May 2026 the First Respondent presented his credentials to him for nomination. In particular there was the First Respondent's NRC, voters card, GCE statement of results and letter of confirmation from the Examinations Council of Zambia, copies of which he said appear in the First Respondent's affidavit of 8th September 2026 as exhibits.

4.82 After scrutinising those documents and those relating to the First Respondent's supporters, he (Mr Kabangu) validated the nomination of the First Respondent as a candidate. The First Respondent had also paid the nomination fee and was duly receipted for it (as per copy marked "SH7" in the First Respondent's affidavit).

4.83 Mr Kabangu also confirmed that he adopted the contents of his affidavit of 16th September 2026.

4.84 *When cross-examined by Mr Kachaka for the Petitioner*, Mr Kabangu testified that there is a difference between a grade 12 certificate and its equivalent. Further that as returning officer he had a duty to check at nomination stage whether an applicant had presented one of the two qualifications.

4.85 Mr Kabangu testified that exhibit "SH4" in the First Respondent's affidavit was a GCE statement of results and expressly stated that it was not a certificate.

4.86 He agreed that exhibit "SH5" was a confirmation letter from the Examinations Council of Zambia confirming that an attached grade 12 certificate had been verified and yet the attachment was not a grade 12 certificate but the statement of results.

4.87 Mr Kabangu testified that on nomination day he decided to treat the GCE statement of results as equivalent to a grade 12 certificate based on the confirmation letter. He however conceded that the confirmation letter did not use the word "equivalent".

4.88 *Mr Kabangu was also cross-examined by Mr Nyirenda for the First Respondent during which he testified* that the reason he validated the nomination of the First Respondent was because:

(i) he confirmed that the exam number on the statement of results and in the confirmation letter matched; and
(ii) the NRC number in the confirmation letter and on the First Respondent's NRC matched.

4.89 *When re-examined by Mr Lisimba for the Second Respondent, Mr Kabangu clarified* that the confirmation letter "SH5" confirmed that the bearer had a grade 12 certificate. He was satisfied by it since it came from the examinations body. He insisted that he did his duty as returning officer.

4.90 On that note the Second Respondent closed its case.

5. CLOSING SUBMISSIONS BY COUNSEL

5.1 After conclusion of trial, the Petitioner tendered final submissions on 15th October 2026 to which the First Respondent reacted with opposing submissions on 26th October 2026.

5.2 The focus of the Petitioner's final submissions was as follows. Article 70(1) and 72 of the **Constitution** and the case of ***Bizwayo Newton Nkunika v Lawrence Nyirenda & ECZ***[1] were relied on to support the argument that the First Respondent did not possess a qualification equivalent to a grade 12 certificate at the time of the Mulobezi Constituency parliamentary election of August 2026.

5.3 The Petitioner contended that the First Respondent's evidence concerning his grade 12 examination results was questionable, as several inconsistencies cast doubt on whether the First Respondent personally sat for the examinations reflected in the statement of results exhibited as "SH4".

5.4 The Petitioner argued that it was unusual for the First Respondent to have written his examinations at a school in Central Province, hundreds of kilometres away from his constituency in Western Province, when he could conveniently have registered locally.

5.5 The Petitioner contended that the First Respondent's rejection of entry form "TMZ6" allegedly brought into focus another Hastings Sililo, born on 11th February 2003, who had a different NRC number and signature and whom the school expected to sit for the examinations which individual had his double registration regularised, obtained an examination number and actually sat the examinations.

5.6 The Petitioner further contended that the three signatures on the examination registers differed from the First Respondent's NRC signature exhibited as "SH1" in the First Respondent's affidavit in opposition.

5.7 The Petitioner also argued that the First Respondent did not produce any documents relating to his previous examination attempts, which could have verified the examination number appearing on "SH4", particularly in light of his alleged rewriting of examinations in 2025. It was the Petitioner contention that the actual candidate may have been procured by the First Respondent to sit the examinations and therefore had no interest in claiming the results.

5.8 The Petitioner submits that the alleged clearance of "SH4" by the Electoral Commission of Zambia without documentary confirmation from the Examination Council of Zambia (that the results were equivalent to a grade 12 certificate) was odd as the returning officer allegedly lacked the knowledge of alternative verification procedures to declare the First Respondent's nomination successful.

5.9 The Petitioner also submitted that in the circumstances, taken cumulatively, raised reasonable doubt as to whether the First Respondent personally sat the examinations and invited this Court to find that the First Respondent's evidence concerning his educational qualifications was unreliable.

5.10 The First Respondent tendered his final submissions on 26th October 2026 and argued that the allegations sought to impeach his qualifications required cogent, firm, and unequivocal evidence. The case of ***Akapelwa v AG & Ors.***[2] was relied on.

5.11 The First Respondent argued that the Petitioner had the duty to prove beyond reasonable doubt that the First Respondent fraudulently procured another person to sit the examination on the First Respondent's behalf.

5.12 The First Respondent further argued that the Petitioner's reliance on the alleged visual difference between the signature of the First Respondent's NRC and the examination subject attendance register is unsafe and legally insufficient to find a criminal impersonation without a forensic handwriting analysis or expert opinion and therefore the Petitioner's claim on the issue remained mere conjecture and speculation. The First Respondent relied on s.48 of the **Evidence Act**[1].

5.13 The First Respondent also argued that the Petitioner's primary witness PW5 demonstrated an evasive, hesitant and uncooperative demeanor, rendering his testimony unreliable, untrustworthy and lacking probative value. The case of ***Machobane v The People***[3] was cited to buttress the point.

5.14 The First Respondent submitted that his grade 12 certificate was formally submitted to both the Examinations Council of Zambia and ZAQA for verification and authentication who confirmed their authenticity and officially validated the results in the name of Hastings Sililo. He relied on art 70(1)(d) of the **Constitution,** the **repealed Examinations Council of Zambia Act**[3], the **Zambia Qualifications Authority Act**[4] and the case of ***ECZ v Sibetta***[4].

5.15 The First Respondent further submitted that the Petitioner failed to prove any alleged impersonation or fraud or even that the First Respondent did not hold the requisite qualifications under art. 70(1) of the **Constitution.** The First Respondent prayed that the petition should be dismissed.

6. THE LAW ON PARLIAMENTARY ELECTION PETITIONS

6.1 The law relating to the subject is largely codified with the primary legislation being the **Electoral Process Act**[2] (the "**EPA**"). Some of the salient provisions of the **EPA** relevant to this case are:

(i) an interested person may petition the High Court to challenge the outcome of a parliamentary election within 14 days of the results (s.96 (1),97 (1) and 100 (3));

(ii) interested persons for that purpose/with locus to petition include (s. 98) –

a) registered voters;
b) persons who were eligible to be nominated to contest in the election;
c) candidates who contested in the election; and
d) the Attorney General.

(iii) there are three grounds on which parliamentary election results can be nullified -

a) misconduct committed by the victorious candidate (or for which they or their official agent are blameworthy) which misconduct hindered or may have hindered the majority of the electorate in voting for their preferred candidate (s.97(2)(a);

b) procedural irregularity in the conduct of the election which affected the outcome (s. 97 (2) (b)); and

c) eligibility of the victorious candidate (s. 97 (2)(c)).

(iv) the High Court must determine the petition within 90 days of filing and either declare the election result as void or declare any candidate as duly elected (s. 99 and s. 106(1)).

6.2 I will now proceed to examine the grounds for nullification in detail and also the burden of proof.

Misconduct

6.3 The **EPA** particularises some of the forms of misconduct as:

(i) bribery (s.81)
(ii) impersonation (s. 82)
(iii) undue influence (s. 83)
(iv) publishing false statements about opposing candidates (s. 84)
(v) tampering with ballot boxes/paper (s. 87)
(vi) solicitation or lobbying for votes on election day within 400 metres of a polling station (s.89(1)(e)).

6.4 Section 97(2)(a) of the **EPA**, which designates misconduct as a ground for petition was the subject of judicial interpretation by the Constitutional Court in the case of ***Nkandu Luo & ECZ v Doreen Sefuke Mwamba & AG.***[5]

6.5 From the provisions of the **EPA** and the said jurisprudence, it can be concluded that as far as misconduct (in a parliamentary election challenge) goes, a petitioner must prove:

(i) *there was an act of misconduct* relating to the election;

(ii) *the actor* was either a candidate or someone else clothed with the knowledge, consent or approval of the candidate or that of their election or polling agent (in other words a connection or link of culpability between the misconduct and a candidate);

(iii) *the magnitude* of the act of misconduct was that it was widespread; and

(iv) *the effect* of the act was that it prevented/swayed or may have prevented/swayed the majority of voters in the constituency from electing their preferred candidate.

Procedural irregularity

6.6 Section 97(2)(b) of the **EPA** stipulates:

"97. (1) ---.

(2) ***The election of a candidate as a Member of Parliament***, *mayor, council chairperson or councillor* ***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-***

(a)---

(b) subject to the provisions of subsection (4), ***there has been non-compliance with the provisions of this 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****;"* (Emphasis added)

6.7 The above provision is to be read with the proviso under s.97(4) which states:

"*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***." (Emphasis added)

6.8 The learned authors of **Halsbury's Laws of England**(2) explain what is meant by 'the result' in a challenge of the election procedure as:

"***The result means the success of one candidate over another*** *and not merely an alteration in the number of votes given to each candidate."* (Emphasis added)

6.9 The said authors go on to cite the case of ***Clare, Eastern Division Case***[6] as authority for the proposition.

6.10 As for what amounts to substantial conformity with the law, the English case of ***Morgan & Ors. v Simpson & Anr.***[7] is useful because of the similarities between s.37(1) of the **Representation of People Act**, 1949 and s. 97(4) of our **EPA** and I quote Stephenson, L.J. who succinctly put it that:

> *"**For an election to be conducted substantially in accordance with that law there must be a real election by ballot and no such substantial departure from the procedure** laid down by Parliament **as to make the ordinary man condemn the election as a sham or a travesty** of an election by ballot."* (Emphasis added)

6.11 The principle has been applied in Zambia in ***Sibongile Mwamba v Kelvin M. Sampa & Anr.***[8] where the Constitutional Court endorsed the said English case before pronouncing:

> *"This shows that the threshold is high if the Court is to nullify an election based on the fact that the election was not conducted substantially in conformity with the law. **It should be of such a scale or level or of such a nature that it can be said to amount to a travesty of an election or a sham**."* (Emphasis added)

6.12 It is therefore incumbent upon a petitioner relying on this ground to:

(ii) specify a provision of the **EPA** (or related legislation, primary or secondary) which prescribes an electoral process/procedure;

(iii) prove that there was an occurrence in respect of the election which occurrence did not comply with that procedural prescription; and

(iv) prove that due to the occurrence the election was a sham or travesty as it was not conducted substantially in accordance with the **EPA**; and

(v) prove that the procedural anomaly affected the outcome of the election in terms of the success of one candidate over the other(s).

Eligibility

6.13 The **EPA** in s.97(2)(c) stipulates:

> *"(c) the candidate was at the time of the election a person not qualified or a person disqualified for election."*

6.14 As stated in the early part of this judgment, the qualifications for election as MP are prescribed in art. 70(1) of the **Constitution.**

6.15 The grounds for disqualification from being elected as MP are also codified and I cite the provisions of art. 70(2) of the **Constitution** as:

> "*(2)* ***A person is disqualified from being elected as a Member of Parliament if that person***
>
> (a) *is validly nominated as a candidate in a presidential election;*
> (b) *is a public officer or Constitutional office holder;*
> (c) *is a judge or judicial officer;*
> (d) *has a mental or physical disability that would make the person incapable of performing the legislative function;*
> (e) *is an undischarged bankrupt;*
> (f) *is serving a sentence of imprisonment for an offence under a written law;*
> (g) *has, in the immediate preceding five years, been removed from public office on grounds of gross misconduct; or*
> (h) *holds or is acting in an office, as prescribed, the functions of which involve or are connected with the conduct of elections.*" (Emphasis added)

6.16 Quite clearly, a petitioner seeking nullification of a Parliamentary election result under s. 97(2) (c) of the **EPA** must prove that on the day of voting the victorious candidate was ineligible for election as either:

(i) they did not meet the qualifications set by art. 70(1) of the Constitution; or

(ii) they were otherwise barred from being elected because of their status which falls in the categories listed in art. 70(2) of the Constitution.

Burden and standard of proof

6.17 In ***Galaunia Farms Limited v National Milling Company Limited***[9], the Supreme Court re-affirmed that the burden of proof in a civil case lies with he who alleges.

6.18 Closer to this case is the decision of the Constitutional Court in ***Nkandu Luo & ECZ v Doreen Sefuke Mwamba & AG***[5] earlier cited, wherein it was categorically stated that onus is on a Petitioner to prove that there is cause for nullification of a parliamentary election under section 97(2) of the **EPA**.

6.19 Turning to the standard of proof, the Supreme Court in ***Mwalimu Simfukwe v Evaristo David Kasunga***[10] (decided prior to enactment of the **EPA**) did canvass the principle that the standard of proof to be discharged by a petitioner in election petitions is higher than on a balance of probabilities.

6.20 The said case was cited and the principle entrenched by the Constitutional Court, post enactment of the **EPA** in the decision in ***Abiud Kawangu v Elijah Muchima***.[11], and re-affirmed in ***Joseph Malanji v Charles Abel Mulenga & Anr.***[12].

6.21 It follows therefore that the Petitioner as proponent bears the burden to prove his case against the Respondents and to do so beyond a simple balance of probabilities.

7. ANALYSIS AND FINDINGS

7.1 I have closely studied the material on record, evidence, competing submissions and relevant law. After a careful consideration, my decision is as set out below.

The contention of eligibility

7.2 It has already been alluded to in this judgment that art.70(1)(d) of the **Constitution** introduced a minimum academic qualification for the office of MP.

7.3 In the case of ***Bizwayo Newton Nkunika v Lawrence Nyirenda & ECZ***[1] the Constitutional Court had occasion to interpret the said provision and I quote the pronouncement of Musaluke JC as follows -

> "9.2 ***The term 'grade twelve (12) certificate' used in Article 70(1)(d) of the Constitution is synonymous to the term 'school certificate'*** *when read with section 6 of the Constitution of Zambia Act No.1 of 2016.*

9.3 ***The word 'equivalent' to a grade twelve (12) certificate as envisaged in Article 70(1)(d) relates to qualifications that are comparable in value, amount, meaning and functions and are neither inferior nor superior to a school certificate****. The qualifications may include academic qualifications that have been obtained in other jurisdictions but which are equivalent to a school certificate in Zambia.*

9.4 ***A General Certificate of Education (GCE) is equivalent to a grade twelve (12) certificate as envisaged by Article 70(1)(d) of the Constitution if the number of subjects passed and the grades obtained satisfy the requirements for obtaining a school certificate****.*

9.5 ***a tertiary, vocational, craft, trade or apprenticeship certificate is not equivalent to a grade twelve certificate*** *(school certificate) as it is not comparable in value, amount, meaning and function to a grade twelve (12) certificate."* (Emphasis added)

7.4 It follows therefore that there was a mandatory requirement for the First Respondent to have held either a grade 12 certificate or its equivalent at the time of his election as MP for Mulobezi constituency.

7.5 The aforesaid criterion was brought into contention by the Petitioner in paras., 17-21 of his petition, reproduced as:

> *"17. That even though the First Respondent successfully filed in his nomination, evidence has surfaced showing that the purported grade 12 certificate that he used to successfully file in his nomination was not his.*

18. *That the First Respondent's purported grade 12 certificate shows the name Sililo Hastings but it refers to a Sililo Hastings who was born on 11th February 2003, male, whose National Registration Card number 332743/64/1 as per Examinations Council of Zambia 2025 GCE examinations candidate provisional register (Final) 7569 for Matilyo Secondary School GCE Kapiri Mposhi district in the Central Province of the Republic of Zambia.*

19. *That the First Respondent's national registration card, whose number is 330743/67/1 and not 332743/64/1, shows that he was born on 24th April 1975 and not on 11th February 2003.*

20. *That the First Respondent successful filed in his nominations using a purported grade 12 certificate that he presented as if were his when in fact not.*

21. *That the Second Respondent allowed the First Respondent to successfully file in his nomination and take part in the parliamentary election."*

7.6 The First Respondent's reaction to the allegations was pleaded as follows in paras. 9-14 of his answer:

"9. *In answer to paragraph 17 of the election petition, the First Respondent denies the contents thereof and will aver at trial that the filed grade 12 certificate is one which was acquired by him, thus, his legal academic qualification.*

10. *In answer to paragraph 18 of the election petition, the First Respondent denies all the allegations contained therein and puts the Petitioner to strict.*

11. *Further in answer to paragraph 18 of the election petition, the First Respondent avers that both the national registration card and the grade 12 certificate which was filed with the Second Respondent is rightfully his.*

12. *In answer to paragraph 19 of the election petition, the First Respondent will aver at trial and show that the same allegation is false and without basis.*

13. *In answer to paragraph 20 of the election petition, the First Respondent denies the contents thereof and puts the Petitioner to strict proof.*

14. *In answer to paragraph 21 of the election petition, the First Respondent will aver at trial that he was allowed to file and successfully filed his nomination with the Second Respondent because he is and was at all material times, qualified with his own credentials to file in his nomination."*

7.7 The Second Respondent's position on the contention was contained in paras. 12-15 of its answer reproduced as:

"12. Paragraph 17 of the petition is denied. The Second Respondent avers that at the material time of filing his nomination, the First Respondent lodged with the returning officer a nomination paper and affidavit in the prescribed form together with a purported certified copy of a grade 12 certificate or its equivalent, which documents appeared regular and complete on their face, and that the Second Respondent had no notice, knowledge or reasonable means of knowledge, at the time of nomination or at any time prior to the filing of this petition, of any alleged irregularity or want of authenticity in respect of the said certificate.

13. *Paragraphs 18 and 19 of the petition are matters not within the Second Respondent's personal knowledge, and the Petitioner is put to strict proof of the matters alleged, including the identity, particulars and provenance of the documents pleaded and exhibited.*

14. *Paragraph 20 of the petition is denied. If, which is not admitted, the certificate presented by the First Respondent at nomination was not his own, the Second Respondent avers that this was a matter peculiarly within the knowledge of the First Respondent and not a matter of wrongdoing on the part of the Second Respondent, who acted in good faith and in the ordinary course of its statutory duty on the documents presented to it.*

15. *Paragraph 21 of the petition is denied. The Second Respondent avers that it lawfully permitted the First Respondent to contest the election upon a nomination that was, on its face and to the knowledge of the Second Respondent at the material time, regular and compliant with the Electoral Process Act No. 35 of 2016 and the Electoral Process (General) Regulations, and that no objection to the said nomination was raised by the Petitioner or any other person within the time or in the manner prescribed by law."*

7.8 From his pleadings, evidence, line of cross examination and submissions, the Petitioner has essentially asserted that the First Respondent did not possess a grade 12 certificate at the time of election.

7.9 This contention is split into two: (i) a scandal based limb which accuses the First Respondent of having fraudulently obtained the qualification by master-minding an imposter to write the examination on his behalf; and (ii) a bold assertion that the First Respondent does not possess the qualification. In other words, one questions the authenticity of the qualification and the other questions its very existence.

7.10 I will address them in that order and for clarity of reference, **'ECZ'** shall continue to mean the Second Respondent whilst **'Examinations Council of Zambia'** will be abridged to **'Examinations CZ'**.

7.11 I have carefully sifted through the body of evidence and note the following which is pertinent. Firstly the Examinations CZ GCE exams provisional register was heavily relied on by the Petitioner to capitalise on a discrepancy between the NRC number thereon (attributed to the First Respondent) and his actual NRC number.

7.12 However, I have discounted it for being unreliable because:

7.12.1 there is no evidence that the First Respondent endorsed the details on the provisional register as being correct;

7.12.2 PW4 admitted that the provisional register had multiple errors on it;

7.12.3 there is no evidence that the errors on the provisional register were rectified; and

7.12.4 moreover the finalised register was not produced before Court.

7.13 Further, the evidence shows that -

7.13.1 none of the witnesses (other than PW5) claim to have seen a person other than the First Respondent sit for exams at Matilyo Secondary School using the name 'Hastings Sililo';

7.13.2 none of the witnesses (other than PW5) claim that a person other than the First Respondent laid claim to the results of 'Hastings Sililo' from Matilyo Secondary School;

7.13.3 PW5 was found by this Court to be a less than credible witness and seemingly possessed with creating a certain narrative, making his evidence very unreliable;

7.13.4 the confirmation letter from Examinations CZ to ECZ dated 5th May 2026 connects to the First Respondent through the NRC number thereon by matching with that on his NRC (see exhibit "SH5" and "SH1" in his affidavit opposing petition); and

7.13.5 the said letter also connects the First Respondent to the transcript of results from Matilyo Secondary School through the matching exam numbers (see exhibit "SH4").

7.14 Thus in the absence of any credible evidence to rebut it, it is safe and sound to conclude that the nexus between:

7.14.1 the First Respondent, on the one hand; and

7.14.2 on the other hand, the set of documents comprising (the letter from Examinations CZ, the First Respondent's NRC and the transcript of results),

is cogent evidence supporting a finding that the First Respondent is rightfully credited with the results from exams sat for at Matilyo Secondary School.

7.15 I therefore find it to be a baseless and concocted accusation that the First Respondent had utilised another person to write the GCE examinations on his behalf or otherwise used the results of another person in his quest for the position of MP.

7.16 I further find that the First Respondent took the commendable initiative of seeking to upgrade his education, which yielded fruit as can be gleaned from his transcript of results.

7.17 Turning now to the second limb of the contention (which questions the very existence of the qualification), relevant evidence came from the First Respondent himself. He testified when cross examined (by the Petitioner's Counsel) *inter alia*:

7.17.1 that his GCE statement of results was equivalent to a grade 12 certificate (it is exhibited as "SH4", in his affidavit);

7.17.2 that the confirmation letter from the Examinations CZ relating to his statement of results did not contain the word equivalent (exhibited as "SH5", in his affidavit);

7.17.3 that his GCE statement of results expressly indicated on the bottom that it was not a certificate;

7.17.4 that what he had presented to the Second Respondent when filing his nomination was his GCE statement of results, the letter of confirmation from the Examinations CZ, his NRC and voter's card; and

7.17.5 that even as at date of testimony, he did not have a grade 12 certificate.

7.18 There was also the following evidence from Mr Kabangu, the Returning Officer, when cross examined:

7.18.1 that there was a difference between a grade 12 certificate and its equivalent;

7.18.2 that the letter of confirmation from the Examinations CZ was couched to confirm existence of a grade 12 certificate but what was attached was the First Respondent's GCE statement of results not a grade 12 certificate;

7.18.3 that at nomination stage and based on the letter of confirmation from the Examinations CZ, he decided to treat the First Respondent's GCE statement of results as equivalent to a grade 12 certificate; and

7.18.4 that he conceded that the letter of confirmation from the Examinations CZ did not refer to it being equivalent.

7.19 Based on the First Respondent's own evidence and that of the ECZ as aforesaid, I find that the First Respondent did not possess a grade 12 certificate on 13th August 2026.

7.20 I now turn to consider whether the First Respondent's statement of results otherwise qualified as the equivalent of a G12 certificate.

7.21 A pertinent foundation question would be whether a statement of results and a certificate are the same thing (whether for grade 12, GCE or both).

7.22 The **Examinations Council of Zambia Act**[5] continued the existence of the Examinations Council and in s.4 (i) prescribed its functions as including awarding certificates to candidates who pass examinations.

7.23 The term examination is for its part defined in s.2 as 'an assessment administered by the Council for the award of a certificate'.

7.24 According to s. 25 of the **Examinations Council of Zambia Act**, upon completion of marking of an examination and compilation of results, the Minister of Education is mandated to make a general announcement to the public about them. Thereafter, the Council is mandated to publish the results.

7.25 Also noteworthy is s.2 of the **Electoral Commission Act**[6], which defines school certificate as the certificate awarded by the Examinations CZ to a candidate who passes such subjects, (in the grade 12 examinations conducted by the Examinations CZ), as the Examinations CZ requires for the award of the certificate.

7.26 As at time of writing this judgment, there was no subsidiary legislation available to flesh out the above statutory provisions and govern the issuance of a grade 12 certificate and general certificate of education.

7.27 Therefore, recourse has been had to the **Examinations Council of Zambia Guidelines for the Administration and Management of Examinations in Zambia (2022 Revision)**[1] which provide as follows in 19.0 and 20.6:

> *"19.0 RELEASE OF EXAMINATION RESULTS AND CERTIFICATES*
>
> *19.1 All results shall be released directly to the Ministry in charge of Education.*
>
> *19.2 All certificates shall be released directly to the Ministry in charge of Education.*
>
> *20.6 Statements of results are valid only until certificates are printed."*

7.28 From the normative and administrative provisions outlined above it can be discerned that the sequence of relevant events from point of examination to certification is as follows.

7.29 Candidates are assessed by the Examinations CZ through examinations administered by it.

7.30 After marking and compilation of the examination results, there is a Ministerial announcement, followed by publishing the results by Examinations CZ through means that include statements of results.

7.31 The statement of results are not certificates but simply publications of the results.

7.32 The Examinations CZ proceeds to award certificates to candidates who passed their examinations in such subjects and to such extent as the Examinations CZ requires for award of the certificates.

7.33 The statement of results ceases to be valid upon award of a certificate.

7.34 Quite clearly, the normative framework recognises the distinction between a statement of results and a certificate. The former is simply an instrument for publishing the outcome of the examination for a candidate whilst the latter is a formal award conferred on a successful candidate whose results meet a certain threshold.

7.35 Back to the case before Court, the letter of confirmation from the Examinations CZ was worded as follows -

"Haile Selassie Avenue
P.O. Box 50432
Lusaka
Zambia

Tel.+260 211 252544,254629/252582/256464
E-mail, info@exams-council.org.zm
Website: www.exams-council.org.zm
Facebook: www.facebook.com/examscouncilzambia

All correspondence should be addressed to the Executive Director

Your Ref:

Our Ref:

ECZ/101/1/20

5 May 2026

The Chief Electoral Officer
Electoral Commission of Zambia
Elections House
Haile Selassie Avenue
P.O. Box 50274
LUSAKA

RE: LETTER OF CONFIRMATION

This is to confirm that the bearer of this letter, according to the Examinations Council of Zambia records, has a Grade 12 Certificate as per attached bearing the following details:

SURNAME *(As it appears on Certificate)*	:	***SILILO***
FORENAME(S) *(As it appears on Certificate)*	:	***HASTINGS***
NRC NUMBER	:	***330743/67/1***

YEAR	*EXAMINATION NO.*
2025	***8575690127***

This Confirmation Letter is valid up to the end of the petition period for the 2026 General Elections*, thereafter, it cannot be used for any other elections."* (Emphasis added)

7.36 It has already been observed that what was attached to this letter was not a certificate but the First Respondent's statement of results which itself indicated in bold that "***THIS IS NOT A CERTIFICATE***".

7.37 Even the statutory regime for verification and evaluation of qualifications in Zambia fortifies this point. In particular the **Zambia Qualifications Authority Act**[4] defines 'qualification' in s. 2 as '*a certificate, a diploma or degree awarded by an awarding body on successful completion of a learning programme*'.

7.38 Also useful is the definition of 'awarding body' in s.2 of the same Act as '*an institution issuing qualifications formally recognising the achievement of an individual following a standard assessment procedure*'.

7.39 Thus, loosely speaking the sequence preceding a certificate (grade 12 or GCE) is: (i) an individual enrolls for the requisite exam; (ii) sits for it; (iii) passes such subjects and with such grades as the law requires to meet the threshold for a certificate; (iv) issued with a statement of results; and (v) eventually awarded with a certificate (grade 12 or GCE) by the Examinations CZ as awarding body. I will call this the '*G12 or GCE equivalent certification steps*', for convenience.

7.40 Considering the foregoing and the normative framework appraised earlier, the letter of confirmation from the Examinations CZ was grossly misleading to the First Respondent (when handed to him as bearer) that by virtue of his statement of results he possessed a grade 12 certificate or its equivalent.

7.41 It was also grossly misleading to the ECZ as addressee, which is infact confirmed by Mr Kabangu who testified that as Returning Officer he had no basis to question a letter from the examinations body itself and that he therefore treated the First Respondent's statement of results as the equivalent of a grade 12 certificate.

7.42 For the avoidance of doubt, the evidence shows that both the First Respondent and ECZ were (without proven fault on their part) grossly misled by the Examinations CZ through the confirmation letter.

7.43 The evidence also shows that the First Respondent fulfilled (i)-(iv) of the *G12 or GCE equivalent certification steps*, which practically means that (on the face of it) he satisfied the requirements for obtaining a general certificate of education equivalent to a grade 12 certificate. However he has not yet met no. (v) of the *G12 or GCE equivalent certification steps*.

7.44 Therefore, the First Respondent is (on the face of it) entitled to be awarded a general certificate of education equivalent to a grade 12 certificate, but has not yet been conferred.

7.45 Inevitably, I find it proven beyond a simple balance of probabilities that on election day 13th August 2026, the First Respondent did not possess a grade 12 certificate or its equivalent certificate.

7.46 Ultimately, I also find that the First Respondent did not meet the eligibility requirement under article 70(1)(d) of the **Constitution** at the time of his election as MP for Mulobezi constituency.

8. CONCLUSION AND ORDERS

8.1 The Petitioner initially challenged the election of the First Respondent as MP for Mulobezi constituency on two of three possible grounds namely:

(i) misconduct; and

(ii) eligibility.

8.2 The misconduct ground was abandoned while the one for eligibility was vigorously prosecuted and defended.

8.3 The outcome of that duel is that it has been proven to the satisfaction of this Court that at the time of his election, the First Respondent was not eligible for election on account of his not meeting the minimum academic qualification set by article 70(1)(d) of the **Constitution**.

8.4 The petition succeeds on that ground and I invoke sections 97(2)(c) and 99(a) of the **EPA**, and hold that the election result for Mulobezi constituency, following voting on 13th August 2026, is void. Consequently, the declaration of the First Respondent as MP, made on 15th August 2026, is hereby nullified.

8.5 At this point I hasten to echo that the First Respondent and Second Respondent were innocently affected by the lapse on the part of the Examinations CZ in its certification processes.

8.6 Perhaps the time has come for creation of subsidiary legislation to prescribe elaborate steps for award of certificates and to prevent members of the public (and institutions dealing with them) from being misled as to whether one possesses a certification or not.

8.7 In the circumstances, it is fair and just that the discretion vested in this Court (by s.109 of the **EPA**) to deal with costs of the petition be exercised by ordering, as I hereby do, that each of the parties shall bear their own costs of this action.

Dated this ---------- 23rd ---------- **day of** ---------- November ----------**2026.**

K. CHENDA
Judge of the High Court