IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/003**

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**

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

IN THE MATTER OF: **PART III OF THE HIGH COURT (ELECTION PETITION) RULES 2026**

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

BETWEEN

ANTHONY KASANDWE (MALE) **PETITIONER**

AND

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

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

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

For the Petitioner: Mr. J. Tembo, Mr. C. Zulu & Ms. P. Chipota – Messrs. Linus & Partners

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 & Company

---

JUDGMENT

THE HIGH COURT OF ZAMBIA
ONE DISTRICT ONE ZAMBIA ONE NATION
REGISTRY - MANSA

Statutes referred to:

1. The Constitution of Zambia (Amendment) Act No. 2 of 2016
2. The Electoral Process Act No. 35 of 2016
3. The Electoral Process (Amendment) Act No. 12 of 2026
4. The Electoral Process (General) (Amendment) Regulations, S.I No. 63 of 2016

Cases referred to:

1. Margaret Mwanakatwe v. Charlotte Scott & Attorney General, Selected Judgment No. 50/2018
2. George Bienga v. The People (1978) ZR 32
3. Tresford Chali v. Bwalya Ngandu, Appeal No. 84/2014
4. Mutapwe .v Shomeno, Appeal No. 19/2017
5. Lewanika & Others v. Chiluba (1998) ZR 79
6. Saul Zulu v. Victoria Kalima, SCZ Judgment No. 2/2014
7. L.A. Mumba v. P.W.M. Daka, SCZ Appeal No. 38/2003
8. Mazoka & Others v. Mwanawasa & Others (2005) ZR 138
9. Abuid Kawangu v. Elijah Muchima, 2016/CC/A039
10. Giles Yamba Yamba v. Kapembwa Simbao & 2 Others, CC/A20/2016
11. Steven Masumba v. Elliot Kamondo, Selected Judgment No. 53/2017
12. Webster Chipili v. Nyirenda, Appeal No. 35/2003
13. Sibongile Mwamba v. Kelvin Sampa & Another, Appeal No. 2/2017

Introduction

1. By this petition filed on 27th August, 2026, Anthony Kasandwe challenges the election of Happy Mampa, the 1st respondent, as Member of Parliament for Bangweulu Constituency in Samfya District. The petitioner and the 1st respondent were among five

candidates who contested the parliamentary election held on 13th August, 2026. The Electoral Commission of Zambia (ECZ), the 2nd respondent, declared the 1st respondent, who contested on the United Party for National Development (UPND) ticket, duly elected with 13,012 votes against the petitioner's 12,071 votes. The petitioner alleges discrepancies in the declared results and procedural irregularities in the conduct of the election.

2. Both respondents oppose the petition. In its answer filed on 4th September, 2026, the 2nd respondent maintains that the election was conducted in accordance with the law. The 1st respondent, in his answer filed on 11th September, 2026, denies wrongdoing and maintains that he was duly elected.

Petitioner's Case

3. According to the Petition, the Bangweulu Constituency seat was contested by Chabala Moses of Zambia Must Prosper (ZMP), Chanda Derrick of Citizen First (CF), the petitioner who stood under the National Reconciliation Party for Unity and Prosperity (NRPUP), the 1st respondent under the UPND and Chama Reuben who was an independent candidate.
4. Following the election, results from 99 of 112 polling stations were verified and accepted by the stakeholders. However, only results from 96 of the 99 polling stations were printed and announced by the returning officer at the totalling centre at Samfya Town Centre Council Chamber. The petitioner stated that he and the 1st respondent were the top two contenders for the seat, with the petitioner receiving a total of 10,572 votes while the 1st respondent had 9,805 votes. This put the petitioner in the lead with 767 votes.

5. On 15th August, 2026, the returning officer, Kabo Milton, informed all the stakeholders present that he had been instructed by the 2nd respondent to close the totalling centre and postpone all election related business, that is, verification and announcement of election results to the following day at 10:00 hours. Following the announcement, armed Zambia Police Service officers moved in and instructed everyone to leave the totalling centre and come back the next day.
6. On 16th August, 2026 the petitioner and other stakeholders were refused entry into the totalling centre. The stakeholders therefore called upon the District Electoral Officer Mr. Paul Kabwebwe, who advised that the results for the 13 polling stations were ready for verification. Unfortunately, the verification and announcement of results did not take place at 10:00 hours as agreed. Instead the totalling centre was never opened.
7. It was only after 18:00 hours on 16th August, 2026 that the returning officer without verification and announcement of results from the remaining 13 polling stations proceeded to announce the final results for the 112 polling stations for Bangweulu Constituency. The 1st respondent was declared duly elected with a total of 13,012 votes whilst the petitioner received a total of 12,071 votes with a difference of 941 votes.
8. Following the announcement of the results, the parties were availed with the record of proceedings at the totalling centre of votes duly signed by the returning officer representing elections for all the 112 polling stations. However, a perusal of the results recorded did not represent the true reflection of the votes announced.

9. The petitioner further highlighted that there were discrepancies with respect to votes counted from 8 of the 13 polling stations. Particularly Kaishe 1, Sakala 2, Ninge, Mufimba, Yongolo 1, Chesemba, Chinsanka 1 and Njipi 1. The 1st respondent was given inflated figures from the actual votes received against the figures on the actual Gen 20 forms. In some polling stations, the 1st respondent was given votes that exceeded the total number of votes cast by the registered voters.

10. He contended from the forgoing, that the declaration of the 1st respondent as winner was based on election results which included discrepancies and did not reflect accurate and verified votes counted for all the 112 polling stations in the constituency. The Petitioner was in fact the duly elected Member of Parliament.

11. According to the petitioner, the conduct of the 2nd respondent's returning officer contravened the provisions of sections 72, 92, 96 and 97 (1) and (2)(b) of the Electoral Process Act No. 35 of 2016. He thus prayed that the election of the 1st respondent be declared void or that the petitioner be declared duly elected.

12. In his affidavit verifying facts, the petitioner mostly resonated his averments in his petition. After highlighting the 8 polling stations with discrepancies, the petitioner, by way of illustration deposed that at Ninge Polling Station, the Gen 20 Form showed that the 1st respondent had obtained 145 votes, while the record of proceedings credited him with 545 votes, exceeding the 529 votes cast at that station. Similarly, at Kaishe 1 Polling Station, the Gen 20 Form showed 82 votes for the 1st respondent, while the record of

proceedings credited him with 382 votes, exceeding the 363 votes cast.

13. The petitioner contended that the returning officer postponed the announcement of results, failed to verify and announce the results from 13 polling stations, and declared the 1st respondent elected on figures that did not accurately reflect the votes cast across the constituency's 112 polling stations. He maintained that this conduct contravened the electoral rules and rendered the 1st respondent's election as Member of Parliament for Bangweulu Constituency void. He accordingly sought the reliefs set out in the petition.

1st Respondent's Case

14. In his answer filed on 11th September, 2026, the 1st respondent stated that he was the successful candidate in the parliamentary elections for Bangweulu Constituency held on 13th August, 2026 and duly declared as such by the 2nd respondent.
15. The 1st respondent accepted that initially only 96 of the 99 polling station results were printed and announced by the returning officer. He added that there was no irregularity arising from the fact that the results of the remaining three polling stations had not been entered and printed at that stage.
16. He also accepted that he and the petitioner were top contenders for the parliamentary seat. He clarified that a total of 13 polling station remained unverified at the point when the petitioner was leading. He emphasised that the results announced at that stage were not

the final declared results and he was ultimately duly declared elected upon the completion of the electoral process.

17. He also stated that the alleged instruction by the returning officer to close the totalling centre and postpone verification and announcement of results were to the peculiar knowledge of the returning officer and the 2nd respondent. In the same vein, he also argued that the deployment of armed police officers and the removal of stakeholders were both in no way within his control or authority and cannot be attributed to him.

18. The 1st respondent maintained a similar position in relation to the alleged refusal of the petitioner and the stakeholders from entering the totaling centre, the visit to the District Electoral Officer, whether the results for the remaining 13 polling stations were ready for verification and announcement and the alleged refusal of the returning officer to announce the results from the remaining 13 polling stations pending instruction from the 2nd respondent.

19. The 1st respondent verily believes that results announced were the true, correct and accurate results and that the officers of the 2nd respondent acted within their lawful powers and authority. He denied the assertion that the results were improperly obtained. He averred that the record of proceedings relating to the tallying of votes was duly signed by the returning officer and reflected the votes from all the 112 polling stations and thus represented the true and correct record of the votes announced.

20. Further, the 1st respondent denied the assertion that he was allocated inflated figures at Kaishe 1, Sakala 2, Ninge, Mufimba , Yongolo 1, Chesemba, Chinsanka 1 and Ninjpi 1 polling stations stating that he had no knowledge of any inflation or alteration of

votes and that the results announced were the results returned through the electoral process. He asked that the petitioner be put on strict proof thereof. He emphasised that he neither participated in nor exercised control over the counting verification or allocation of votes.

21. According to the 1st respondent, his declaration as the successful candidate was based on the total votes counted from all 112 polling stations by the electoral officers who are duly vested with the authority to conduct the counting, verification and tallying of the votes. He contended that the returning officer performed his duties in accordance with the Act. Premised on the forgoing, the 1st respondent prayed for a declaration that he was duly elected as Member of Parliament for Bangweulu Constituency and costs of these proceedings.
22. In the affidavit in opposition to the affidavit verifying facts, the 1st respondent deposed that throughout the electoral process, his observation was that the election was conducted in an orderly manner. He emphasised that he neither conducted the counting of votes, prepared the Gen 20 forms, controlled the totalling centre nor directed the returning officer in the performance of his duties.
23. He acknowledged that on 14th August, 2026 before the returning officer completed announcement of the results, a directive was issued by the 2nd respondent ordering that all electoral activities be suspended nationwide due to security reasons. Consequently, only officers in charge of the election including the police officer remained at the totaling centre.
24. He averred that the announcement of results resumed immediately upon the lifting of the suspension with all the stakeholders in

attendance. Subsequently, on 16th August, 2026 around 18:00 hours, the returning officer announced the total results from all the polling stations. He was duly declared as the winner of the election after tallying all the 112 polling stations from Bangweulu Constituency.

25. He further averred, based on advice from his counsel, that there was no irregularity on the part of the 2nd respondent in the conduct of their electoral duties.

2nd Respondent's Case

26. In its Answer, the 2nd respondent stated that it is a statutory body established under Article 229 of the Constitution (Amendment) Act No. 2 of 2016 whose functions include the conduct of Presidential, Parliamentary and Local Government elections.
27. The 2nd respondent accepted that 96 results were printed out of the 99 verified polling station results and this was owing to the fact that that the returning officer (IT) and the technical support officer were still actively entering data into the system. The 2nd respondent admitted that according to the results announced at that point, the petitioner was in the lead.
28. The 2nd respondent assailed the assertion that the announcing of results was suspended on 15th August, 2026. It was stated that the announcement of election results was suspended nationwide at approximately 14:00hours on 14th August, 2026 due to a volatile security situation, persistent threats of violence against polling staff and the theft of election materials at certain polling stations.
29. It was acknowledged that due to the forgoing, Zambia Police Service entered the totalling centre to address the security concern.

Nevertheless, at that point, the returning officer did not have in his possession ballot papers or Gen 20 forms for the remaining unannounced polling stations. According to the 2nd respondent, the said materials were in possession of the respective presiding officers who were waiting to be demobilised.

30. The 2nd respondent assailed the averment that the stakeholders were denied access to the totalling centre on 16th August, 2026. It was instead stated that the totaling centre was opened to all the accredited representatives of organisations, political parties and candidates in full compliance with the 2nd respondent's guidelines. In addition, the verification and announcement of results for the remaining 13 polling stations were conducted inside the totalling centre after they were received from respective polling station.

31. The 2nd respondent affirmed that the 1st respondent was duly elected member of parliament. It maintained that the results captured in the record of proceedings were compiled from the official Gen 20 forms received by the returning officer from the polling stations. Additionally, the declaration by the returning officer was a true reflection of the results of the poll in Bangweulu parliamentary election.

32. The 2nd respondent was adamant that the counting, recording and tallying of votes in the Bangweulu constituency was conducted in conformity with the electoral laws and procedure. In the premises, the petitioner was not entitled to any of the reliefs sought from this Court.

33. The 2nd respondent's affidavit in opposition was deposed to by Kabo Milton who told court that he was employed by the 2nd respondent as returning officer for Bangweulu Constituency. He averred that

contrary to the petitioner's assertions, the election for Bangweulu Constituency was conducted in conformity with the electoral laws and procedures. The rest of his averments were as stated in the Answer and will therefore not be repeated. He added that the declaration of the 1st respondent as duly elected Member of Parliament was in good faith.

Reply

34. In reply to the 2nd respondent's answer and affidavit in opposition, the petitioner clarified that the events he was referring to had nothing to do with the nationwide suspension but the separate action which took place on 15th August, 2026 at which time the returning officer, Milton Kabo, informed all stakeholders that he was instructed by the 2nd respondent to close the totaling centre and postpone the verification and announcing of the election results to the following day.
35. In the accompanying affidavit, the petitioner highlighted that the announcement alluded to was in the video recording marked "AK1a". He further alluded to another video of the 1st respondent addressing his supporters (marked as exhibit "AK1b") in which he also confirmed the closure of the totalling centre on 15th August, 2026.
36. The petitioner reiterated that from the time the totalling centre was closed on 15th August, 2026, it was never opened. Subsequently on 16th August, 2026 around 18:00 hours the 2nd respondent just came and declared the 1st respondent as the winner without verification of the results from the remaining 13 polling stations by stakeholders.

37. The petitioner referred to the results at Kaishe Primary School to highlight the discrepancy in the result announced by the 2nd respondent. He exhibited a video of the presiding officer announcing the results at the said polling station and the Gen 20 form for the polling station which were marked "AK1c" and "AK2" respectively.

Trial Course

38. The petitioner called 7 witnesses while the 1st respondent called 3 witnesses and the 2nd respondent called 1 witness.

Petitioner's Evidence

39. The first petitioner's witness (PW1) was Chola Christopher of Kalebwe village. He informed the court that he was appointed by NRPUP as a polling agent at Kaishe Primary School 1 Polling Station. It was his evidence that the presiding officer at the said polling station was Alex Nsefu who opened the polling station at 06:00 hours and closed at 18:00 hours. Counting of results commenced around 19:00 hours with the stakeholders involved.

40. According to PW1, the results were as follows; the petitioner obtained 140 votes, the 1st respondent of UPND got 82 votes, Reuben Chama, the independent candidate got 109, Chanda Derrick of CFP got 4 votes and Chabala Moses of ZMP had 1 vote. The total number of votes cast was 363. It was his evidence that he was present at all times during voting, counting and announcement of results. He asserted that the Gen 20 form depicted at page 13 of the petitioner's bundle of documents is a true

reflection of the results at Kaishe 1 and he signed on it as polling agent.

41. He further testified that he was subsequently surprised to discover that the record of proceedings produced by the 2nd respondent reflected different results for the polling station. According to PW1, that record indicated that the 1st respondent had obtained 382 votes, while the petitioner was second with 140 votes. He contended that the 1st respondent had been wrongly credited with 300 votes. To underscore the alleged discrepancy, PW1 pointed out that the 382 votes attributed to the 1st respondent exceeded the total number of votes cast at the polling station, which he gave as 363 votes.

42. Under *cross examination* by Mr. Mubita, the witness confirmed that he supported the petitioner's candidacy for parliamentary election. He further confirmed that he was appointed polling agent for the NRPUP by the petitioner and councilor but that he had not produced the letter of appointment or any document establishing that he was an accredited polling agent.

43. In further cross examination, he affirmed that he was at the polling station at 06:00 hours and that he remained there throughout the voting period. He confirmed that after election results for Kaishe 1 were announced, he was availed with an original Gen 20 form.

44. Under cross-examination by Mr. Mwala, PW1 explained that his duties as a polling agent included ensuring that voters cast their votes in accordance with the prescribed procedures and that election officials complied with the laid-down electoral requirements. He added that he had a register and participated in verifying the voting process. The witness acknowledged that the 2nd

respondent was responsible for conducting the elections. Nevertheless, he maintained that the Court should accept the results presented by the petitioner and his witnesses in preference to those reflected in the 2nd respondent's records.

45. PW1 further disclosed that he had undergone training as a polling agent approximately one week before the election. He acknowledged that there was a body to which he could have taken his grievance regarding the Gen 20 he believed to be the correct one before commencing proceedings in Court.

46. When asked what made the Gen 20 form he relied upon an original document, PW1 explained that the 2nd respondent was responsible for making the form official and that the polling agents had been informed by the 2nd respondent that the document issued to them was the original. He acknowledged that not every person present signed the Gen 20 form. He also stated that election observers and security personnel were present at the polling station the entire time.

47. When asked to specify his complaint concerning the parliamentary election, PW1 explained that the votes announced at the polling station differed from those subsequently announced at the totalling centre. He proceeded to clarify the results he had recorded at the polling station, which he said accounted for a total of 363 votes. According to the witness, the results were as follows: petitioner obtained 140 votes; Reuben Chama obtained 109 votes; Derrick Chanda obtained 4 votes; Moses Chabala obtained 1 vote; and the 1st respondent obtained 82 votes. He further indicated that there were 27 spoilt ballots, bringing the total to 363 votes.

48. Under further cross-examination, PW1 acknowledged that the record of proceedings shown to him originated from the ECZ. He also accepted that the figures reflected in that record had been obtained from the respective polling stations.

49. PW2 was Clement Kaoma of Matunda Village who told Court that he was appointed as a polling agent for NRPUP at Sakala 2 Polling Station where the presiding officer was Adrian Mpundu. PW2 testified that the results announced by the presiding officer were as follows: the petitioner obtained 97 votes; the 1st respondent obtained 145 votes; Reuben Chama obtained 65 votes; Derrick Chanda obtained 5 votes; and Moses Chabala obtained 2 votes. He also testified that the presiding officer announced the said results as they appear on page 25 of the petitioner's bundle of documents.

50. Under *cross-examination*, PW2 identified the document appearing at page 25 of the petitioner's bundle as his identification document. He maintained that he had been appointed as a polling agent for the NRPUP by Councilor Chabala. However, he conceded that his letter of appointment had not been produced in evidence.

51. PW2 stated that he was present at Sakala Primary School, having arrived at 06:00 hours. He explained that voting commenced at 06:30 hours and closed at 18:00 hours. Counting of the votes began at 19:00 hours and concluded at approximately 01:00 hours. He added that when the results were announced, he was given an original copy of the Gen 20 form.

52. During further cross-examination, PW2 disclosed that he underwent training as a polling agent. He explained that where a candidate had a complaint, the candidate or the representative

could raise a hand to alert the presiding officer. He said he exercised this right on about two occasions.

53. PW3 was Joseph Mwansa of Mashikini Village who told Court that he was one of the polling agents appointed by NRPUP and was based at Yongolo Primary School 1 polling station at which the presiding officer was Pukeni Baldwin. It was his evidence that he was present throughout the voting, counting and announcement of results.

54. It was also his evidence that the results of the parliamentary election announced at the polling station were as follows: 72 votes for the petitioner; 58 votes for the 1st respondent; 104 votes for Reuben Chama; 5 votes for Chanda Derrick; and no votes for Moses Chabala. The total number of votes cast was stated to be 244.

55. Under *cross-examination*, PW3 admitted that he did not have his appointment letter with him and conceded that the relevant accreditation documents had not been included in the petitioner's bundle of documents.

56. Under further scrutiny, PW3 maintained that he was present at the polling station throughout the voting and counting processes. He explained that voting commenced at 06:00 hours and ended at 18:00 hours, while the counting of votes commenced at approximately 18:00 hours and continued until about 22:00 hours. Further, he was given what he termed an original copy of the Gen 20 after the counting and announcement. He stated that there were no problems experienced at the station.

57. PW4 was Power Lwamba, of Chilumbu village, Samfya District. It was his evidence that he was a polling agent for NRPUP at Njipi Primary School 2 Polling Station whose presiding officer was

Jonathan Sabi. According to him, the results of the parliamentary election, as announced by the presiding officer and as they appear at page 16 of the petitioner's bundle, were as follows: 35 votes for the petitioner; 78 votes for the 1st respondent; 96 votes for Reuben Chama; 8 votes for Derrick Chanda; and 1 vote for Moses Chabala.

58. During *cross-examination* by Mr. Mubita, PW4 conceded that no identification document had been produced before the Court to confirm his identity. He confirmed that he had not included his appointment letter in the petitioner's bundle of documents. He nevertheless maintained that the polling agents had been accredited by the 2nd respondent although no document had been produced to establish his accreditation.

59. In further cross-examination, PW4 confirmed that he was present during the counting of votes and the announcement of the results at Njipi 2. He stated that he arrived at the polling station at 05:45 hours, that voting commenced at 06:00 hours and that it closed at 18:00 hours. According to him, the counting of votes commenced at 01:00 hours and concluded at 03:30 hours. He further confirmed that polling agents representing other political parties and candidates were present at the polling station.

60. PW4 initially stated that he had been given a copy of the Gen 20 form which had been signed by him and other polling agents. However, he subsequently retracted that position and conceded that he had not signed the Gen 20 form.

61. Under cross-examination by Mr. Mwala, PW4 explained that his role as a polling agent was to observe the voting process, ensure that peace prevailed and monitor whether the 2nd respondent's officials were performing their duties as required. PW4 further

affirmed that the polling agents had undergone training conducted by an officer. He explained that they had been instructed to record any concerns in a notebook and discuss the said concerns with the presiding officer. However, the notebook intended for recording complaints was not used because, according to him, no issues arose at the polling station.

62. During further cross-examination, PW4 confirmed that the document at page 4 of the petitioner's bundle of documents, being the 2nd respondent's record of proceedings, reflected the results obtained by the candidates following the election at the polling station.

63. PW5 was Charity Ngele of Musonko Kaoma village, Bangweulu whose testimony was that she was a polling agent appointed by NRPUP and assigned to Ninge Polling Station. The results announced by the presiding officer for the Bangweulu parliamentary seat were as follows: 248 votes for the petitioner; 145 votes for the 1st respondent; 83 votes for Reuben Chama; 16 votes for Derrick Chanda; and 5 votes for Moses Chabala. It was her further evidence that the presiding officer refused to give the stakeholders copies of the Gen 20 forms but she managed to take a picture of the same with her phone. The said picture is at page 22 of the petitioner's bundle of documents. According to her, the total number of votes cast at that station was 592.

64. During *cross-examination*, PW5 maintained that she had been accredited as a polling agent by the 2nd respondent but conceded that she had not produced any evidence of such accreditation.

65. PW5 stated that she arrived at the polling station at 05:00 hours and that voting commenced at 06:00 hours. She confirmed that

she remained at the polling station throughout the voting process, which closed at 22:00 hours. She added that the counting of votes commenced at approximately 22:00 hours and concluded at 04:30 hours. According to her, the results were announced at 07:00 hours on 14th August 2026.

66. In further cross-examination, PW5 maintained that she was not availed a copy of the Gen 20 form but she managed to capture an image of the form after signing it with the consent of the presiding officer, Faith Kateule. When referred to a copy of the Gen 20 form at page 22 of the petitioner's bundle, she acknowledged that the copy was unclear but insisted that she had signed the form.

67. Under further cross-examination, PW5 stated that she had undergone training conducted by the Commission following her appointment. She explained that during the training, they were instructed that whenever issues arose, they could record them or seek assistance from the presiding officer. Following the refusal by the presiding officer to avail her a copy of the Gen 20, she phoned the petitioner and informed him of what had tra99nspired. She maintained that this was consistent with the instructions given to them during the ECZ training.

68. PW5 explained that the presiding officer was expected to receive and consider objections raised by polling agents. She stated that she had objected to the refusal to provide her with a copy of the Gen 20 form. However, this was done orally and was not reduced to writing.

69. PW6 was James Kapilila who told Court that he was the elected Council Chairperson for Samfya District on 13th August, 2026. He and the petitioner both contested the elections on the NRPUP ticket.

Between 13th and 16th August, 2026, he accompanied the petitioner to monitor voting and counting. Their party had appointed polling agents to observe the counting and announcement of results at various polling stations.

70. According to PW6, by the time the 2nd respondent announced a nationwide suspension on the morning of 14th August, 2026, the results had been announced at all 112 polling stations in Bangweulu Constituency and totalling had begun. The 2nd respondent lifted the suspension that afternoon. On 15th August, 2026, PW6 and the petitioner attended the totalling centre where the returning officer verified the results with political party representatives and other stakeholders. By about 22:00 hours, the stakeholders had verified and accepted the results from 99 stations, leaving 13 outstanding. The results entered into the ECZ system and printed for the parties covered 96 stations and showed the petitioner leading with 10,574 votes against the 1st respondent's 9,805.

71. At about 22:00 hours, the Assistant returning officer announced that the 2nd respondent had directed that totalling be suspended until 10:00 hours the following day. The parties had not agreed to the postponement. The stakeholders were asked to leave, while the returning officer and other ECZ officials remained with the ballot boxes and Gen 20 forms. PW6 mentioned that videos 1 and 2 in the petitioner's bundle recorded the announcement.

72. PW6 testified that when he, the petitioner and other stakeholders returned at 10:00 hours on 16th August, 2026, the police denied them entry. The District Electoral Officer, Paul Kabwebwe, assured them that the outstanding results were ready for verification with

the stakeholders. The returning officer, Milton Kabo, declined to proceed, saying that he was awaiting instructions from the 2nd respondent. According to PW6, the stakeholders did not participate in any further verification. At about 18:00 hours, they were informed that the results were ready for declaration. The returning officer declared the 1st respondent elected with 13,012 votes against the petitioner's 12,071, a margin of 941 votes. The returning officer alone signed the declaration.

73. It was PW6's evidence that he and the petitioner compared the record of proceedings with the Gen 20 forms and identified discrepancies at 7 of the 13 stations he said remained unverified. At Kaishe Primary School 1, the record credited the 1st respondent with 382 votes against 82 on the Gen 20 form. PW6 mentioned that video number 4 showed the presiding officer announcing the results at that station. At Sakala Primary School 2, the record showed 285 votes for the 1st respondent against 145 on the Gen 20 form. The corresponding figures were 545 and 145 at Ninge Primary School 1, and 258 and 58 at Yongolo Primary School 1.

74. At Njipi Primary School 2, PW6 stated that the record credited the 1st respondent with 328 votes and the petitioner with 8, while the Gen 20 form showed 78 and 35 votes respectively. At Chesemba Catholic Church, he alleged that the candidates' results had been transposed. The record credited the 1st respondent with 38 votes and the petitioner with 25, while the Gen 20 form showed 25 and 38 respectively. At Bulongwa Primary School 1, the record showed 5 votes for the petitioner against 54 on the Gen 20 form. Both documents recorded 101 votes for the 1st respondent. PW6 further alleged that the votes credited to the 1st respondent at Kaishe

Primary School 1, Ninge Primary School 1 and Njipi Primary School 2 exceeded the total votes cast at those stations, as shown on the forms he relied upon.

75. PW6 maintained that the discrepancies resulted in the 1st respondent being credited with 1,303 additional votes and the petitioner being deprived of 95 votes. He contended that correcting the results would have placed the petitioner ahead.

76. During *cross-examination* by Mr. Mubita, PW6 confirmed that he had been appointed as a polling agent and was also acting as the petitioner's election agent at the totalling centre. He conceded that his accreditation was not produced in the petitioner's bundle of documents. PW6 accepted that he had not visited all the polling stations on polling day nor was he present when the votes at the respective polling stations were counted. He also conceded that he had not personally heard the results announced at any polling station and further that he did not sign or receive any Gen 20 forms directly from the presiding officers. The Gen 20 forms he was relying on were all supplied by polling agents and he had not witnessed their preparation.

77. Under cross-examination by Mr. Mwala, PW6 confirmed that the 2nd respondent was the body mandated to conduct elections and had the authority to announce the winner of an election. He acknowledged that the 2nd respondent trained and accredited the participants on how to lodge complaints but stated that there had been no issues at the polling stations and that the prescribed process had been followed.

78. PW6 explained that the presiding officer was the head of the polling station and was responsible for signing official documents relating

to the electoral process including preparation of the Gen 20 forms. Following the announcement of the results at a polling station, the presiding officer issued Gen 20 forms to the stakeholders and displayed the results on the notice board for public viewing.

79. PW6 accepted that where concerns arose at a polling station, the presiding officer was responsible for communicating them to the returning officer. He stated that he was not aware of any polling agent who had formally lodged a complaint. He conceded that he had not taken photographs of all the results displayed at the polling stations for inclusion in the petitioner's bundle of documents.

80. When referred to page 4 of the petitioner's bundle of documents, which contained the record of proceedings from the totalling centre, PW6 accepted that the returning officer relied on the information received from the polling stations and used authenticated Gen 20 forms in the verification process.

81. Regarding the complaint forming the basis of the petition, PW6 explained that it concerned the manner in which the returning officer conducted the verification exercise. When referred to paragraph 42 of his witness statement, he maintained that there had been an inflation of results, contending that the polling agents were present at the polling stations and had witnessed the results announced there. He specifically alleged that the Gen 20 form from Yongolo differed from the results announced at the totalling centre.

82. When questioned about whether the 2nd respondent was required to consult the stakeholders, he answered affirmatively. PW6 confirmed that the totalling centre had been closed on 14th August 2026 and again on 15th August 2026. He explained that, whenever the totaling centre was open, stakeholders were expected to remain

present and observe the proceedings until the entire process was concluded. However, he accepted that exceptions to this requirement could arise such as security concerns.

83. PW6 explained that the role of the returning officer at the totalling centre was to receive the results from presiding officers, verify and tally them, and announce the final results. Any objections by stakeholders were expected to be raised at verification stage.

84. PW6 reiterated that his concern was that the results from the remaining 13 polling stations had not been verified in the presence of the other stakeholders. He stated that the complaint regarding this omission had been raised orally by representatives of the participating political parties.

85. Finally, PW6 acknowledged that not all representatives of political parties sign the Gen 20 forms.

86. PW7 was Anthony Kasandwe, the petitioner in this matter, who told Court that he was the person who signed the election petition filed on 27th August, 2026. It was his testimony that during the elections held in August, 2026, he was a registered voter and a candidate in the parliamentary election for Bangweulu Constituency, representing NRPUP.

87. He explained that his bundle of documents comprised copies of Gen 20 forms and a flash disk containing 5 video clips, 4 of which he personally recorded, while the third video was downloaded from the 1st respondent's Facebook page. He explained that the fourth video was recorded at Kaishe Primary School, while the fifth was recorded at the totalling centre using his Samsung S26 mobile phone. He transferred the videos from his mobile phone to his personal laptop and subsequently to the flash disk. Following an objection, which

was partly overruled, the flash disk was tendered in evidence save for the Facebook video allegedly obtained from the 1st respondent's Face book page.

88. Regarding the election, he testified that the polling stations closed at approximately 18:00 hours. According to him, his party had recruited polling agents for all the 112 polling stations in the constituency. Their responsibility was to monitor the electoral process and transmit the results to the party after they had been announced at the respective polling stations. PW6 was appointed as his election agent.

89. It was his testimony that later in the night of 13th August 2026, he began receiving election results from polling agents appointed by NRPUP, particularly those stationed at polling stations situated within approximately 15 to 20 kilometres. The verification, totalling and announcement of results commenced at the council chamber after the results had already been announced and displayed at the respective polling stations as required by law. The verification and announcement continued throughout the night of 13th August 2026 and into the morning of 14th August 2026.

90. Mid-morning of 14th August 2026, the 2nd respondent announced a nationwide suspension of the announcement of results on account of security concerns. By that time, all the results had been received at the totaling centre. According to him, the District Electoral Officer confirmed receipt of all the results on the morning of 15th August 2026, and this confirmation was captured in one of the video recordings.

91. PW7 further testified that later in the afternoon of 14th August ,2026, the nationwide suspension was lifted, following which the

verification and totalling exercise resumed. He stated that the tallying centre remained open until the morning of 15th August 2026, when two additional results were verified, totalled and announced. This brought the cumulative number of polling stations whose results had been verified, totalled and announced at the totalling centre to 99.

92. He explained that the verification exercise was conducted in the following manner: the presiding officer would arrive at the totaling centre with all the election materials used at the polling station, including the Gen 20 forms; in the presence of all stakeholders at the totalling centre, the presiding officer would open the envelope containing the sealed results and present them to the returning officer; the returning officer would then verify the results, announce the votes obtained by each of the contesting candidates and inquire from the stakeholders whether any of them had results that differed from those being presented; once the stakeholders confirmed that the results corresponded with the figures in their possession, the returning officer would announce the winner as previously declared at the polling station.

93. He added that the returning officer would thereafter transmit the results to the IT personnel, who would enter them into the electronic system. The system would then display the results, thereby confirming that the figures entered corresponded with those announced.

94. PW7 testified that after the results for the 99 polling stations had been announced, no further verification or announcement of results took place. He stated that the stakeholders subsequently demanded to be furnished with the record of proceedings to enable

them to verify the results announced up to that point. However, only results from 96 of the 99 verified had been printed. At that stage, he was leading the election, with results from 13 polling stations still outstanding. Some of the polling stations he identified were Yongolo 1, Kaishe 1, Njipi 1 and 2, Ninge 1, Sakala 2, Bulongwa 1, Chesemba 1 and Chinsanka 1.

95. According to PW7, at midday of 15th August, 2026, the District Electoral Officer, Mr. Kabwewe, informed the stakeholders that they did not have the results from the 13 outstanding polling stations. In explaining the reason for the delay, Mr. Kabwewe expressed disappointment that, despite having thoroughly trained the presiding officers, 13 of them had left with the election results. This was notwithstanding that the ballot boxes had been brought to the totalling centre at approximately 10:00 hours the previous day. PW7 testified that video number 5 contained the recording of the exchange and the same was played before Court.

96. PW7 further testified that at approximately 22:00 hours on the same day, when the stakeholders had become agitated over the failure to announce the outstanding results, the assistant to the returning officer, a Mr. Chibuta, without consulting the stakeholders, announced that the verification, totalling and announcement of results for the 13 polling stations would be adjourned to 16th August 2026. The officer indicated that he was acting on the instructions of the 2nd respondent and that the 2nd respondent could not be questioned regarding the decision to adjourn the exercise.

97. Videos 1 and 2 were played in Court and PW7 identified the first speaker in the video as Milton Kabo, the returning officer, who

mentioned that his voice was not okay and then he identified Mr. Chibuta, the assistant returning officer who made the announcement.

98. PW7 stated that shortly thereafter, armed police officers entered the totalling centre and instructed the stakeholders to vacate the premises, indicating that the exercise would resume the following day. He testified that the police insisted that everyone should leave despite the stakeholders raising concerns regarding the security of the election materials. According to PW7, he left and returned at approximately 10:00 hours the following morning, hoping that the exercise would resume. However, he found that the main entrance was manned by police officers and no stakeholder was permitted to enter.

99. At about 11:00 hours, PW7, together with his election agent, Mr. James Kapilila (PW6), went to the office of Mr. Kabwebwe and found the returning officer there. Mr. Kabwebwe instructed the returning officer to complete the exercise and the returning officer stated that the exercise would only be completed upon receipt of the results from all the 13 outstanding polling stations. The returning officer soon after left and proceeded to the totalling centre. He only emerged at 18:00 hours, to declare the winner. PW7 maintained that between 22:00 hours on 15th August 2026 and 18:00 hours on 16th August 2026, the stakeholders were denied access to the totalling centre and no results from the outstanding polling stations were verified, totalled or announced in their presence.

100. PW7 testified that when the returning officer came out with declaration forms for the election results, PW6 questioned him as to why he was proceeding to announce the results without

verification. Nevertheless, the returning officer commenced by announcing the results for councilors in the ten wards. According to PW7, the 1st respondent's party did not win any of the councillor seats.

101. The returning officer subsequently announced the parliamentary election results and declared the 1st respondent the winner. PW7 referred to the declaration at page 3 of his bundle of documents which showed that the 1st respondent obtained 13,012 votes and that the petitioner obtained 12,071 votes. He told Court that the difference between the two of them was 941 votes. He was aggrieved because, in his view, the announced results did not reflect what had transpired during the election. He maintained that he had emerged victorious.

102. He testified that at the time the tallying exercise was suspended, he was leading with 10,574 votes, while the 1st respondent had obtained 9,804 votes. He added that some of the Gen 20 forms from the polling stations also indicated that he had won, although those results had not been verified at the totalling centre.

103. Upon the eventual announcement of the results, he observed discrepancies between the figures announced at the totalling centre and those declared at the respective polling stations, as reflected in the record of proceedings.

104. By way of illustration, PW7 referred to Kaishe Primary School, where, according to the Gen 20 in his bundle, the 1st respondent, had obtained 82 votes, whereas the record of proceedings at page 7 reflected 382 votes. He stated that he had obtained 140 votes, and that his votes remained unchanged in the record of proceedings.

105. When referred to page 1 of the 2nd respondent's supplementary bundle of documents, PW7 maintained that the results reflected therein demonstrated that the 1st respondent's votes had been inflated. He explained that the total votes cast for the presidential election at that polling station were 363, which was also the total number of votes cast in the parliamentary election. He contended that the 382 votes attributed to the 1st respondent exceeded the total number of votes cast. He referred to the council chairperson and presidential Gen 20 forms at pages 14 and 15 of his bundle both of which record that a total of 363 votes were cast. According to him, these original duplicate Gen 20 forms were issued by the 2nd respondent to stakeholders. Video number 4 was played in Court and the presiding officer was heard announcing that 363 people voted and this number included 27 spoilt votes.

106. PW7 also referred to page 16 of his bundle in respect of Njipi 2 Primary School, which showed that the 1st respondent had obtained 78 votes. However, the record of proceedings at page 10 reflected that he had obtained 328 votes, while the petitioner had obtained 8 votes instead of 35 as per his copy of the Gen 20. According to him, this discrepancy resulted in an excess of 250 votes being attributed to the 1st respondent and a reduction of 27 votes from his own tally.

107. He further referred to Yongolo 1 at page 19 of his bundle which showed that he had obtained 72 votes, while the 1st respondent obtained 58 votes and the independent candidate had polled 104 votes. However, the 2nd respondent's record of proceedings reflected that the 1st respondent had obtained 258 votes. He showed Court

what he called the first copy of the results issued by the 2nd respondent.

108. PW7 also referred to Ninge 1 polling station, where he stated that he had obtained 248 votes, while the 1st respondent had obtained 145 votes. However, according to the record of proceedings, his votes remained at 248, whereas the 1st respondent was credited with 545 votes, representing an excess of 400 votes. He explained that the polling agent had not been issued with a Gen 20 form but had instead captured the results at the polling station (page 22 of the bundle).

109. PW7 further referred to Sakala 2 polling station, at page 25 of the petitioner's bundle which indicated that he had obtained 97 votes while the 1st respondent had obtained 145 votes. However, the record of proceeding at page 10 reflected his 97 votes, while it credited the 1st respondent with 285 votes, representing an excess of 140 votes. PW7 showed Court the duplicate Gen 20 in his possession.

110. PW7 also referred to Chesemba polling station, at page 29 of the petitioner's bundle, where the results indicated that he had obtained 38 votes while the 1st respondent had obtained 25 votes. However, the record of proceeding showed that results had been swapped while the other candidates' results remained the same. He explained that the Gen 20 at page 29 does not show the name of the polling station but he showed Court what he called the original duplicate in his possession.

111. According to PW7, when he added together the additional 300 votes for Kaishe, 140 votes for Sakala 2, 400 votes for Ninge, 250 votes for Yongolo 1 and 13 votes swapped from Chesemba, they

amounted to 1,313 votes. According to him, when this figure was deducted from the 1st respondent's declared total, the 1st respondent would have obtained 11,709 votes.

112. On the basis of the foregoing, PW7 maintained that the 1st respondent had not won the parliamentary election for Bangweulu Constituency. He, therefore, prayed that the election of the 1st respondent be declared void and that he be declared the winner.

113. Under *cross-examination* by Mr. Mubita, PW7 conceded that he did not personally observe the counting, verification and announcement of results at all the 112 polling stations. He accepted that he could only testify about what transpired at the polling stations where he was personally present. He stated that he observed the counting of votes at Kaishe and Sakala, while at the other polling stations he only visited during the voting exercise. He confirmed that he was present at the totaling centre. He also confirmed that the polling agents, the persons that were physically present at the respective polling stations, were in a position to give firsthand accounts of what transpired there.

114. PW7 explained that he had not produced documents relating to the appointment of the polling agents because they had been appointed by the party. He nevertheless accepted that the accreditation documents for the polling agents had not been filed before Court.

115. On the video recordings, PW7 accepted that he had not specified the dates on which the videos were recorded. He further conceded that the videos did not contain dates or timestamps and that there was no independent evidence before Court establishing when they were recorded.

116. Regarding the Gen 20 forms, PW7 accepted that he had not personally witnessed their preparation. He also conceded that he had not personally received the forms from the presiding officers. He explained that he received the forms from the polling agents and, in some instances, from his election agent. He maintained that the forms were original duplicates of those prepared at the respective polling stations.

117. When referred to the Gen 20 form for Ninge, PW7 accepted that the document was not clear. He stated that he was unaware that the polling agent for Njipi had testified that he witnessed and signed the document. He further accepted that the document did not indicate that a polling agent had witnessed it.

118. Under cross-examination by Mr. Phiri, PW7 conceded that he had not produced the metadata showing where the video recordings had been taken. He explained that the features appearing in one of the videos were identifiable as those of the new building at Kaishe Primary School. However, he accepted that school buildings could have similar structural features.

119. He further accepted that he had not conducted a reverse image search to verify the location where the videos were recorded. He also conceded that the videos did not show the angles of shadows from which the time of recording could be established. Nevertheless, he disputed the suggestion that it was difficult to determine the location and time at which the videos had been recorded. PW7 further accepted that he had not called an expert to examine and verify the authenticity of the videos tendered before Court.

120. Further in cross, PW7 accepted that he had compared the Parliamentary Gen 20 forms with the record of proceedings but had not undertaken a similar comparison for the Presidential and Council Chairperson positions.

121. When cross-examined by Mr. Mwala, PW7 reiterated that he was aggrieved because, in his view, the figures had been manipulated and did not reflect the will of the electorate. He maintained that the returning officer had manipulated the results, as the figures recorded in the record of proceedings differed from those appearing on the Gen 20 forms. He stated that the alleged manipulation could be discerned from the differences between the results announced at the totalling centre and those reflected in the Gen 20 forms received from the polling stations. He further contended that the situation was compounded by the failure to verify, total and announce the results from the remaining 13 polling stations at the totalling centre.

122. When asked about the basis for alleging manipulation, PW7 stated that he assumed that it had occurred at the totalling centre. He explained that by using the word "assumed", he meant that it appeared to him that manipulation had taken place. He further alleged that the manipulation affected 7 of the 13 outstanding polling stations.

123. PW7 reiterated that there had been a suspension of the verification, totalling and announcement of results. He stated that the reason communicated for the suspension was security concerns and there were no further details. He denied having been informed that the suspension was necessitated by incidents of violence. He also

accepted that he did not lodge a complaint regarding the suspension.

124. Regarding the suspension on 15th August, 2026, PW7 stated that he would not have been aggrieved had the suspension been on account of security concerns. He confirmed that all stakeholders had been asked to leave the totalling centre on that day, including the 1st respondent. Armed police officers enforced the directive and forcibly removed them from the premises.

125. PW7 further accepted that he was aware that a complaint could be lodged through the 2nd respondent, but acknowledged that he had not made any such complaint in this case. He explained that the police officers had come to remove them from the totalling centre because the verification, counting and announcement of results had been postponed to the following day. He added that, during elections, the police officers worked with the 2nd respondent.

126. PW7 confirmed that there had been no problems at the polling stations and that the dispute arose at the totalling centre. He stated that he was not aggrieved by the failure to issue the polling agent at Ninge with a Gen 20 form because the agent captured the results.

127. He accepted that the presiding officer takes the first original of the Gen 20 form to the totalling centre, while the second original remains with the polling agents for purposes of verification. He also acknowledged that the results are publicly displayed at the polling station. He maintained that both the Gen 20 forms contained in the 2nd respondent's bundle of documents and those contained in the petitioner's bundle of documents were official documents. He further explained that the forms in the petitioner's possession

formed part of the official process of verifying and transmitting election results. When referred to the Gen 20 forms in the 2nd respondent's supplementary bundle, he accepted that they were signed but stated that it was difficult for him to verify the signatures.

128. PW7 also accepted that video recordings could be tampered with. He acknowledged that he had heard of Artificial Intelligence (AI) and was aware that it could be used to alter video recordings. He further conceded that he was not trained in examining documents or electronic evidence for authenticity. Nevertheless, he maintained that he could ascertain the genuineness of the Gen 20 forms despite not having received such training.

129. He maintained that the returning officer had manipulated the results. However, he conceded that he had not personally witnessed the returning officer convening meetings with the presiding officers from the 13 outstanding polling stations. He further explained that not all the polling stations were far from one another, giving Kaishe and Yongolo as examples of stations that were far apart, while Ninge and Sakala were relatively close.

130. Further in cross examination, PW7 explained that where the outstanding results would not change the outcome of the election, the returning officer would proceed to announce the results. He reiterated that he was challenging the election results because the figures had allegedly been manipulated and that, had this not occurred, he would have emerged as the winner. He nevertheless acknowledged that he had not been declared the winner and that the final results had been announced after all the results had been accounted for.

131. Finally, PW7 confirmed that elections were conducted by the 2nd respondent, which had the authority to announce the winner. He acknowledged that the 2nd respondent conducted training during which candidates were informed of their rights and obligations. He also accepted that the 2nd respondent had the authority to grant formal accreditation to stakeholders. He further acknowledged that police officers were present at all polling stations. He maintained that there had been no problems at the polling stations, and this was the reason

132. None of the petitioner's witnesses was re-examined.

1st Respondent's Evidence

133. The 1st respondent, Happy Mampa, (RW1) testified that he was duly qualified to contest the Bangweulu Constituency parliamentary election held on 13th August, 2026, in which the petiti3oner, Anthony Kasandwe, was also a candidate.

134. It was his evidence that from his observation, voting proceeded in an orderly manner and on 14th August, 2026, before the returning officer had completed announcing the results, the 2nd respondent issued a directive suspending electoral activities nationwide for security reasons. According to RW1, only electoral officials and police officers responsible for security remained at the totalling centre during the suspension. He denied exercising any control over access to the centre or its security arrangements. He also denied directing the police to remove the petitioner, his agents or any other stakeholder, or instructing the returning officer to deny anyone access or delay the announcement of results.

135. RW1 testified that once the suspension was lifted, the announcement resumed in the presence of stakeholders. At approximately 18:00 hours on 16th August, 2026, the returning officer announced the results, which, according to RW1, were based on returns from all 112 polling stations and were reflected in the tallying record signed by the returning officer. He stated that he received the highest number of votes and was declared elected.

136. He denied that his votes had been inflated at Kaishe 1, Sakala 2, Ninge 1, Mufimba, Yongola 1, Chesemba, Chinsanka 1 and Njipi 1 polling stations, or that the votes credited to him exceeded the total votes cast at any polling station. He denied altering any Gen 20 form or procuring any alteration of the results, including the addition of votes to his tally or the deduction of votes from another candidate's tally. He maintained that he was duly elected and asked the Court to uphold his election and dismiss the petition with costs.

137. In addition, RW1 tendered the 1st respondent's bundle of documents and it was admitted in evidence save for the Zambia Police Photographic Album/Forensic Report at pages 39 to 55. The said document was expunged following an objection from the petitioner which was found to have merit.

138. Under *cross examination* by Mr. Mwala, counsel for the 2nd respondent, RW1 confirmed that he had agents he had appointed to monitor the happenings on the poll day regarding the voting in the 112 polling stations. He stated that he was alive to the fact that part of the training conducted by the 2nd respondent covered how an aggrieved party is supposed to complain. He denied having

knowledge of any complaint at the polling station and the totalling centre.

139. In further cross examination RW1 stated that he did not know the returning officer and denied having had any meetings with him. He was then referred to the 2nd respondent's supplementary bundle of documents at page one which he recognised as a Gen 20 form provided by the 2nd respondent. He stated that only Gen 20 forms from the 2nd respondent were authentic and to be relied on in the event that someone else had different results.

140. In further cross examination, RW1 stated that the 2nd respondent did not have to consult him before implementing security measures. He clarified that when the results counting was suspended. he was not inside the totalling centre. He confirmed that results were being issued at different intervals and that there was tension at the totalling centre hence police came and removed people.

141. Under cross examination by counsel for the petitioner, RW1 denied the assertion that he was at the totalling centre on 14th August, 2026. He stated that he passed through the centre on 15th August, 2026 although he could not recall the time.

142. Further in cross examination, he confirmed that he had appointed agents in all 112 polling stations and one of the duties of these agents was to collect the Gen 20 forms. He conceded that he had not produced any Gen 20 forms in evidence.

143. He was then referred to page 13 of the petitioner's bundle of documents and he stated that according to that document, he got 82 votes and total number of votes cast was 363. He confirmed not having been at Kaishe polling station on 14th August. When

referred to documents at pages 14 and 15 of the petitioner's bundle, RW1 stated that they appeared to be Gen 20 forms in respect of the council chairperson and presidential ballots and both show 363 votes as the total votes cast. However, the record of proceeding in the petitioner's bundle, at page 7, showed that total votes cast were 663. He also stated that the petitioner's documents showed an increase in votes to him by 300 and that the results of the other candidates did not change.

144. RW1 was then referred to page 19 of the petitioner's bundle of documents containing results for Yongolo 1 as well as page 11 (record of proceedings). The two documents indicated that he had 58 votes and 258 votes respectively, giving a difference of 200 votes. He conceded that page 19 of the bundle indicates that the total number of votes was 244 and the record of proceeding showed total votes of 444. He conceded that the results for the other candidates remained the same except for his.

145. RW1 was also challenged on the results reflected at page 25 which, according to the petitioner, was the Gen 20 for Sakala 2 polling station. RW1 stated that according to this record, he got 145 votes with a total of 335 votes cast. However, the record of proceeding at page 10 shows a total of 475 votes and that RW1 obtained 285 representing an increase by 140 votes while the results for the other candidates remained the same.

146. According to RW1, he was not aware if his polling agents collected copies of Gen 20 forms from presiding officers but he accepted that this was one of their responsibilities.

147. In further cross examination, he explained that he visited the totalling centre on 16th August at about 18:00 hours after he learnt

that the 2nd respondent had resumed business. He confirmed that as at 22:00 hours on 15th August, there were results for 13 polling stations which were yet to be verified. He denied the assertion that he addressed his members at the totalling centre to inform them of the suspension of counting of results.

148. RW1 confirmed that he did not personally participate in the verification of the results for the remaining 13 polling station. His only participation on 16th August, 2026 was listening to the declaration of his victory.

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

150. RW2, Foloko Mabo, stated that he was an observer for the UPND at Kaishe 1 polling station in Bangweulu Constituency. In support of his role as an observer, he referred to pages 4 to 6 of the 1st respondent's bundle of documents.

151. According to RW2, the counting of votes 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. At 08:00 hours on 14th August, 2026, the 2nd respondent collected the ballot boxes for onward transportation to the totalling centre, after which they all left the polling station. RW2 maintained that, to the best of his knowledge, the results announced by the Commission were correct.

152. Under *cross examination* by the 2nd respondent's counsel, RW2 was referred to page 1 in the 2nd respondent's supplementary bundle and he stated that it was the Gen 20 form for Kaishe 1. He confirmed that he signed the said form and his signature confirmed that he was present when everything was happening and the

information was true. He also stated that it was the only document that he signed.

153. He stated that there was no complaint at the time he was at the polling station. He was referred to the record of proceedings at page 7 of the petitioner's bundle of documents as well as page 1 of the 2nd respondent's supplementary bundle and he confirmed that both indicated that the 1st respondent got 382 votes and the total votes were 663.

154. Under cross examination by the petitioner's counsel, RW2 confirmed that he was supporting the candidacy of the 1st respondent. He also confirmed that he signed the Gen 20 forms for presidential, councilor and mayor. He did recall that Kapilila won as council chairperson. When referred to the document at page 14 of the petitioner's bundle of documents, he stated that although his name was indicated thereon, he was not the one who signed the document.

155. He accepted that as a polling agent, it was his duty to collect Gen 20 forms but conceded that he did not show the court any Gen 20 form. When referred to page 1 of the 2nd respondent's bundle, he confirmed the he signed and those were the results.

156. When shown video number 4 recording, he stated that the results are not accurate because the results were announced in English and not in bemba. He, however, conceded that he did not have a video which has the results announced in English.

157. RW2 was not *re-examined*

158. RW3, Charity Sabuni, told Court that she was an accredited observer for the UPND at the Bangweulu Constituency totalling centre as per her accreditation documents at pages 31 to 34 of the

1st respondent's bundle of documents. It was her evidence that she arrived at about 18:00 hours on 13th August, 2026 and waited outside because the premises were still in use as a polling station. Later that evening, the observers were admitted after their credentials had been verified.

159. On the afternoon of 14th August, 2026, those at the centre were informed that the 2nd respondent had suspended electoral activities countrywide. According to her, everyone present was permitted to remain inside the centre and no one left. The lifting of the suspension was announced at about 22:00 hours that evening, but totalling resumed at 03:00 hours on 15th August because some polling-station results were still outstanding. She attributed the delay in receiving results to poor road access in areas where residents ordinarily travelled by boat.

160. RW3 further testified that the declaration was scheduled for 10:00 hours on 17th August, 2026, but the outstanding results arrived at 17:00 hours. She said that once all the results had been received and the totalling completed, an ECZ officer announced Happy Mampa as the winner in the presence of those at the centre, including stakeholders unaffiliated with any political party. She added that those present were asked to sign documents recording the announced figures, but members of other political parties and other candidates declined to sign.

161. When *cross examined* by Mr. Mwala, RW3 stated that her role at the totalling centre was to verify results from different polling stations. She confirmed the suspension of result announcement and stated that everyone was asked to leave but they remained outside the premises. She also confirmed police involvement. She

stated that they were allowed back in on 15th August and continued the process as the results came. The winner was announced on 16th. She further stated that she is not aware of any complaint from any of the agents.

162. When cross examined by Mr. Tembo, she clarified that the nationwide suspension was on 14th but not at 10:00 hours. She could not recall the lifting of the suspension being around 16:00 hours. However, verification resumed at 03:00 hours on 15th and ended at 22:00 hours. She confirmed that the 2nd respondent stated that they would continue the following day at 10:00 hours. RW3 maintained that the winner was announced at 17:00 hours on 17th August.

163. In *re-examination*, she reiterated that they were all asked to leave the totalling centre but clarified that they remained at the premises.

2nd Respondent's Evidence

164. The 2nd respondent's sole witness was Kabo Milton, the returning officer for Bangweulu Constituency (RW4). He relied on his witness statement and the bundles of documents filed by the 2nd respondent.

165. He testified that he conducted the election in accordance with the applicable electoral laws, the official timetable and the 2nd respondent's directions. The stakeholders were sensitised on their rights and obligations and electoral officers, including himself, underwent training before the election.

166. RW4 testified that the 2nd respondent temporarily suspended the verification and announcement of results nationwide following a security threat. Police officers were deployed to various polling

stations to safeguard electoral staff and stakeholders. He maintained that the totalling centre remained accessible to accredited representatives of organisations, political parties and candidates. He resumed his duties after the 2nd respondent announced that the threat had been contained and lifted the suspension.

167. RW4 testified that the results in Bangweulu Constituency were verified and announced in the presence of all stakeholders. He referred to pages 1 to 14 of the 2nd respondent's bundle of documents and to the Gen 20 forms in its supplementary bundle. He testified that after tallying the votes, he declared the 1st respondent duly elected on the basis that he had received the highest number of valid votes cast. In that regard, he referred to pages 15 to 23 of the 2nd respondent's bundle.

168. RW4 further testified that he received no objections from3 any presiding officer or other person. He maintained that the election was conducted in a free, fair, transparent and credible manner and that the results he announced accurately reflected the votes cast in the constituency.

169. When *cross examined* by Mr. Phiri, RW4 confirmed that he worked with two assistant returning officers and two IT officers. He also confirmed that as returning officer his duty was to receive, verify and announce results of the election. He further confirmed that the announcements of results he made were based on the results that he received from various polling stations. Upon receipt, results (brought physically by the presiding officers) were verified and announced and then entered on the digital kit and displayed on a big screen at the totalling centre for all stakeholders to see.

170. He explained that because of limited transport, the results were received at different intervals. For those polling stations that were far, it could take some days. He explained that they had less than 20 vehicles, which vehicles could only accommodate results for one polling station at a time.

171. In further cross examination he confirmed that on 14th August, 2026, official communication was received from the 2nd respondent around 14:00 hours to suspend verification and announcement of results. The 2nd respondent gave a go-ahead for them to continue the process around 20:00 hours and they did.

172. He stated that there was further suspension on 15th August, 2026, around 01:00 hours and this was because they had finished verifying all the results they had received but results from 13 polling stations had not arrived and so they agreed to continue the following day. According to RW4, they resumed the process at 08:00 hours on 16th August, 2026 and they followed the procedure according to ECZ guidelines. He reiterated that because the results came at different intervals, it took some hours for them to verify and announce the remaining results. He clarified that the results for the final polling station were verified and announced between 16 and 17:00 hours on 16th August, 2026. He added that the winner was declared after 18:00 hours.

173. RW4 denied the allegation that he manipulated the results of the election. He explained that he came into contact with the Gen 20 forms during the physical submission by the presiding officers and he clarified that at no time was he alone with the Gen 20 forms.

174. When cross examined by Mr. Tembo, RW4 denied the assertion that the presiding officers remitted the remaining ballot papers and Gen

20 forms to him. He stated that the record of proceeding he had produced was the true reflection of what transpired. The witness was then referred to page 15 of the 2nd respondent's bundle of documents, which is the record of proceeding. He stated that for Bulongwa 1, the petitioner got 5 votes. RW5 was then referred to page 1 of the 2nd respondent's bundle, which is a Gen 20 for Bulongwa 1 showing that the petitioner obtained 54 votes. He denied that document. He stated that he was not aware that it was filed by the 2nd respondent. When referred to page 28 of the petitioner's bundle which is a photograph of a Gen 20 form with the name Bulongwa Primary School 01, RW4 admitted that that document and the Gen 20 at page 1 of the 2nd respondent's bundle were the same. Both documents reveal that the petitioner got 54 votes. When asked if he was denying all Gen 20 forms in the 2nd respondent's bundle, RW4 stated that all were the correct documents used save for the one at page 1.

175. He was then referred to page 13 of the petitioner's bundle and he stated that it appeared to be a Gen 20 form for Kaishe 1 polling station whose presiding officer was Alex Nsefu. He explained that according to the document, the 1st respondent obtained 82 votes and total votes cast were 363. He was then referred to the 2nd respondent's record of proceeding at page 18 which indicates that the 1st respondent got 382 votes and total votes cast were 663. He accepted that there was an increase by 300 votes. He confirmed that the results for the rest of the candidates remained the same. He further confirmed that from 13th to 16th August, 2026, he was nowhere near Kaishe primary school and that he did not know the results that were announced there.

176. In further cross examination, RW4 stated that according to the results at page 25 of the petitioner's bundle for Sakala 2, the 1st respondent got 145 votes and the total number of votes cast was 335 votes. When compared with the record of proceeding, the 1st respondent got 285 votes with the total number of votes cast being 475. He accepted that both documents show an increase in the votes cast and that the 1st respondent's results increased by 140 votes. He accepted that the results for the rest of the candidates remained the same.

177. The witness was then referred to page 22 of the petitioner's bundle of documents showing results for Ninge and he confirmed that he was not at Ninge primary school on 13th and 16th August. According to the document, the 1st respondent received 145 votes with the total number of votes cast being 529. By contrast, page 21 of the 2nd respondent's bundle of documents records 545 votes for the 1st respondent out of 929 votes cast. This indicates an increment of 400 votes both in the number of votes cast and the 1st respondent's results. He again confirmed that for the rest of the candidates the results remained the same.

178. When referred to page 5 of the supplementary bundle, he accepted that it reads that the 1st respondent got 545 votes in figures and 502 votes in words. He also accepted that this was the form used to enter results in the record of proceeding. He explained that the returning officer IT used the result in figures and that he acted without his approval.

179. In further cross examination, RW4 stated that page 16 of the petitioner's bundle of documents appeared to be a Gen 20 for Njipi 2. He read that the 1st respondent got 78 votes and the total

number of votes cast was 222. By contrast, the 2nd respondent's bundle at page 21 records 328 votes for the 1st respondent out of 472 votes cast. RW4 accepted that there was an increase of 250 votes in favour of the 1st respondent.

180. He was then referred to page 19 of the petitioner's bundle which are the results for Yongolo 1 and he stated that according to that document, the 1st respondent got 58 votes and the total votes cast were 244. By contrast, the record of proceeding at page 22 shows that the 1st respondent got 258 votes with the total votes cast being 444. This indicates an increase by 200 votes. He accepted that the results for the remaining participants remained constant. He further confirmed that he was never at Yongolo Primary School between the 13th and 16th of August, 2026.

181. RW4 confirmed that he was a head teacher at Pwele primary school but denied the assertion that the 1st respondent and his team were camped at his school during campaigns. He also denied the assertion that he knew the 1st respondent personally prior to the elections. He explained that he never had a meeting with the 1st respondent to discuss this case.

182. Further in cross examination, RW4 expressed ignorance on what a government gazette was. He confirmed that he was not the intended returning officer but that there was a last-minute change after the intended had an accident.

183. Reverting to the events of 15th August, 2026, RW4 accepted that the verification and announcement of results is supposed to be a continuous process. When questioned whether he had written permission to suspend the process, he accepted that there was no written permission from the 2nd respondent. He, however,

maintained that the decision was made by the 2nd respondent because he was representing the commission.

184. In further cross examination, he confirmed that after the second suspension, there were results from 13 polling stations yet to be announced. He explained that all stakeholders left the totalling centre including the 2nd respondent's officials. He confirmed that he was the one who called the police officers because of the prevailing situation. He accepted that the police at the totalling centre were following his instructions. He maintained that he had no access to the totalling centre. He stated that the totalling centre was opened at 08:00 hours on 16th August and they carried on with verification of the results from the 13 polling stations. It was his evidence that the final results were announced after 18:00 hours on 16th August.

185. RW4 stated that he was not aware that some of the presiding officers went home with the results and further stated that he was hearing that issue for the first time in Court. Video Number 5 in the petitioner's bundle of documents was played and RW4 denied knowing the man in the video announcing that presiding officers had gone home with the results. He stated that the place where the announcement was being made from was unfamiliar to him and that he did not know the other three gentlemen in the recording.

186. He was then referred to video number 1 and he accepted that R.O stands for returning officer. He again denied that he was the one in the video lamenting that his voice was not okay. He insisted that he could not identify the other people in the video but acknowledge that they looked like the 2nd respondent's officials. He further stated that Mr. Jonathan Chibuta was Assistant returning officer

but he denied the assertion that he was the one that he delegated to because his voice was not okay. He identified Mr. Chibuta in Court and it was clear that he was the person in the video together with RW4.

187. He was not *re-examined.*

Final Submissions

Petitioner's Submissions

188. The petitioner submitted that the Bangweulu Constituency parliamentary election held on 13th August, 2026 was conducted in breach of the Electoral Process Act, 2016, as amended, and its General Regulations. Relying on section 97(2)(b), read with section 97(4), and **Margaret Mwanakatwe v. Charlotte Scott and Attorney General**[1], he argued that the alleged non-compliance affected the result and warranted nullification of the election.

189. The petitioner contended that by the evening of 15th August, 2026, results from 99 of the 112 polling stations had been verified, but only 96 had been announced. He maintained that he was leading on the announced results and that 13 polling stations remained unverified. Relying on his evidence, that of James Kapilila and two videos in his bundle, he submitted that the totalling process was suspended at about 22:00 hours and was due to resume at 10:00 hours the following day. He alleged that stakeholders were directed to leave the totalling centre, which remained closed until after 18:00 hours on 16th August, 2026, when the consolidated results were announced without verification of the outstanding results in their presence. The 1st respondent was declared elected with 13,012 votes against the petitioner's 12,071, a margin of 941 votes.

190. Citing sections 37, 37A, 37B, 38(3), 67(1) and 71(2) and (3) of the Act, the petitioner submitted that presiding officers were responsible for supervising the count and publicly announcing results at their respective polling stations, while the returning officer was responsible for collecting, verifying and totalling those results before declaring the constituency result. He argued that the record of proceedings contained figures that differed from those announced at several polling stations. In support, he relied on polling agents' testimony, video footage, Gen 20 forms and, at some stations, the totals recorded for the other elections held at the same polling station.

191. The petitioner alleged that the 1st respondent's tally was inflated by 300 votes at Kaishe Primary School 1, 140 at Sakala Primary School 2, 400 at Ninge Primary School 1, 250 at Njipi Primary School 2 and 200 at Yongolo Primary School 1. He further alleged that the candidates' votes were transposed at Chesemba Catholic Church, adding 13 votes to the 1st respondent's tally and deducting 13 from his own. He also contended that his own tally was understated at Njipi Primary School 2 and Bulongwa Primary School 1.

192. The petitioner submitted that the 1st respondent had been credited with 1,303 excess votes and that 95 votes had been omitted from his own tally. He argued that correcting the discrepancies would reverse the declared result and establish that he had won the election.

193. The petitioner submitted that the unilateral suspension of verification and totalling, together with the alleged inflation of the 1st respondent's votes, constituted a substantial irregularity that affected the outcome of the election. Relying on sections 71 and 72

of the Electoral Process Act, 2016, as amended, he argued that the returning officer was required to tally the results received from the polling stations and declare the outcome on that basis. He contended that the returning officer had no authority to suspend the process arbitrarily or to declare results that departed from those announced at the polling stations. He accordingly urged the Court to grant the relief sought in the petition.

1st Respondent's Submissions

194. The 1st respondent submitted that the petitioner had failed to prove to the requisite standard that the results from the remaining 13 polling stations were left unverified or that the returning officer had manipulated them. He relied on the evidence of the returning officer and an accredited observer that verification and totalling resumed after the second suspension on 15th August, 2026 and proceeded to the declaration of the result. The returning officer explained that no further results were ready for announcement and that tension was mounting at the Totalling Centre. The 1st respondent also noted that the petitioner had conceded that the process could proceed in his absence and had given no evidence of when he returned from meeting the District Electoral Officer.

195. Relying on section 71 of the Electoral Process Act, the 1st respondent argued that the duty to announce individual polling-station results rested with the presiding officer at each station. The omission of separate announcements at the Totalling Centre was therefore, in his submission, insufficient by itself to establish a statutory breach. He also invited the Court to take into account the

absence of contemporaneous objections, given that polling agents could observe the count and raise concerns about its accuracy.

196. The 1st respondent urged the Court to give greater weight to the signed and legible Gen 20 forms produced by the 2nd respondent, which he said corresponded with the figures in the Record of Proceedings produced by the petitioner. He argued that the absence of ECZ identification cards or the Gen 1 oaths or affirmations referred to in regulation 56A weakened the testimony of witnesses who relied on their claimed status as polling agents to establish their access to the count and the results. He also questioned the reliability of the petitioner's photographs and copies of Gen 20a forms, citing the absence of originals or duly issued duplicates and gaps in the evidence about the source, custody and accuracy of the images.

197. The 1st respondent challenged the video recordings on the grounds that their date, location and integrity had not been sufficiently established. As regards Kaishe Polling Station 1, he submitted that the video did not reliably identify the location and that the petitioner's witness could not identify the Gen 20 form as the one completed there. As regards Ninge Polling Station 1, he submitted that the photograph was largely illegible, did not clearly identify the station or the presiding officer, and could not be confirmed by the petitioner's witness as depicting the form she had signed. The 1st respondent challenged the reliability of the petitioner's polling station documents.

198. At Njipi Primary School 2, the witness who said he had signed the Gen 20 form could not identify his signature on the copy produced. At Yongolo Primary School 1, the copy was incomplete and the

portion reserved for polling agents' endorsements was illegible. At Chesemba Catholic Church 1, the 1st respondent relied on the illegibility of the photographed form, the lack of proof of the witness's accreditation and the absence of a contemporaneous objection. At Bulongwa Primary School 1, he attributed the discrepancy to an inadvertent omission by the 2nd respondent in recording the petitioner's votes and pointed out that his own tally was identical in both records.

199. Relying on the best evidence rule and **George Bienga v. The People**[2], the 1st respondent submitted that the petitioner ought to have produced the original Gen 20 forms which he and his witnesses claimed to possess. He also argued that the allegation that the returning officer manipulated the results in his favour amounted in substance to an allegation of fraud or misrepresentation. Citing **Tresford Chali v. Bwalya EK Ngandu**[3], he contended that the allegation had neither been specifically pleaded nor proved and urged the Court to prefer the 2nd respondent's official forms.

200. The 1st respondent submitted that security concerns had prompted the closure of the totalling centre and the intervention of the police. He argued that the circumstances did not establish a willful failure by the returning officer to perform a statutory duty. Relying on section 97(4) of the Electoral Process Act No. 35 of 2016, he maintained that the election was conducted substantially in accordance with the Act and that the petitioner had failed to show how the alleged failure to announce separately the results from the remaining 13 polling stations affected the declared outcome.

201. With reference to section 97(2)(a) of the Act, the 1st respondent submitted that there was no evidence that he participated in, authorised or knew of the alleged misconduct of the returning officer. He maintained that the closure subjected all candidates and their agents to the same restrictions.

202. F3inally, relying on **Mutapwe v. Shomeno**[4], the 1st respondent submitted that the petitioner bore the burden of proving the alleged irregularities to a fairly high degree of convincing clarity. He argued that the discrepancies between the competing forms fell short of that standard and accordingly urged the Court to dismiss the petition.

2nd Respondent's Submissions

203. The 2nd respondent submitted that the petitioner had failed to establish that the suspension of verification and totalling on 15th August, 2026 was arbitrary or that the returning officer inflated the 1st respondent's votes at the 13 polling stations identified in the petition. Relying on **Lewanika & Others v. Chiluba**[5] **Saul Zulu v. Victoria Kalima**[6] and **L.A. Mumba v. P.W.M. Daka**[7], it submitted that the standard of proof in an election petition lies between the balance of probabilities and proof beyond reasonable doubt. It further submitted that, under section 97(2)(b) of the Electoral Process Act, read with section 97(4), the petitioner had to establish both the alleged non-compliance and its effect on the election result.

204. On the duties of the electoral officers, the 2nd respondent submitted that the presiding officers were responsible for recording and signing the polling-station results on the Gen 20 Forms and

transmitting them, together with any objections, to the returning officer. The returning officer's duty was to receive, verify and tally those results at the totalling centre before declaring the outcome. It therefore contended that his absence from the polling stations and his inability to name the presiding officers did not establish any breach of the Act.

205. The 2nd respondent submitted that by about 22:00 hours on 15th August, 2026, all results then received had been verified and tallied, while results from the 13 outlying polling stations were still awaited. It contended that mounting agitation at the totalling centre justified the temporary suspension to protect personnel and electoral materials, and that stakeholders were informed of the reasons. It relied on the evidence of RW4 and RW3 that verification resumed on 16th August, 2026 before the declaration of the results. Citing **Mazoka and Others v. Mwanawasa and Others**[8], it argued that even if the suspension amounted to non-compliance, it affected all candidates equally and the petitioner had failed to show that it affected the outcome.

206. The 2nd respondent also relied on the absence of a formal complaint by the petitioner or his agents at the polling stations or the totalling centre. It submitted that this omission was material given the avenues for lodging electoral complaints under rules 12 and 13 of the Electoral Code of Conduct.

207. As to the alleged inflation of votes, the 2nd respondent submitted that PW1 had assumed that manipulation occurred at the totalling centre without knowing how it had been done. It challenged the authenticity of the petitioner's Gen 20 Forms, citing their disputed provenance, missing signatures or identifying details, illegibility in

some instances, and discrepancies with the official record of proceeding. It maintained that the original forms it produced bore the signatures of presiding officers and party representatives, corresponded with the record of proceedings and were left unchallenged. It also relied on RW2's evidence that he had signed the forms exhibited in its supplementary bundle.

208. Finally, the 2nd respondent pointed out that the petitioner narrowed the allegation of vote manipulation from 13 polling stations to seven in cross-examination. It maintained that the petitioner had failed to prove either the alleged manipulation or any material effect on the election result.

209. The 2nd respondent maintained that the petitioner had failed to establish that the election was conducted in substantial breach of the law or that any alleged act or omission altered, or could have altered the declared result. It argued that even if some non-compliance were established, there was no evidence that it favoured any particular candidate. In its submission, an irregularity affecting all candidates substantially alike could justify nullification only upon proof that it affected the result.

210. The 2nd respondent further submitted that the failure of the petitioner or his agents to lodge a formal complaint through the prescribed procedure was material to assessing the credibility of the allegations. It concluded that the petitioner had failed to discharge the requisite burden of proof and that the evidence did not justify declaring him the winner. It accordingly prayed that the petition be dismissed in its entirety with costs to the 2nd respondent.

Analysis and Decision

211. I have considered the evidence, the parties' submissions and the authorities cited. It is undisputed that presidential, parliamentary and local government elections were held on 13th August,2026. In Bangweulu Constituency, the 1st respondent was declared elected as Member of Parliament with 13,012 votes, while the petitioner received 12,071 votes, a margin of 941 votes.

212. The petitioner's principal complaint is that results announced at certain polling stations differed materially from those subsequently entered in the record of proceedings and incorporated into the constituency tally. He also challenges the suspension of verification and announcement of results and contends that outstanding results were not transparently verified before the final declaration.

213. The respondents maintain that the declared results were compiled from official Gen 20 forms received from all 112 polling stations and that the election complied with the applicable law.

214. The burden rests on the petitioner to prove the alleged irregularities and their effect on the election. As established in **Lewanika and Others v. Chiluba** (supra) and **Abuid Kawangu v. Elijah Muchima**[9], the standard of proof in election petitions is higher than in ordinary civil proceedings. The allegations must be established to a fairly high degree of convincing clarity.

215. The issues for determination, as I see them, are:

(a) Whether the 1st respondent's tally was overstated by 1,303 votes and the petitioner's tally understated by 95 votes, as alleged;

(b) Whether the suspension of verification and announcement compromised the electoral process and affected the result;

(c) Whether the returning officer breached his electoral duties; and

(d) Whether the established irregularities warrant setting aside the 1st respondent's return and declaring the petitioner duly elected.

Whether the parliamentary results were incorrectly recorded and collated

216. The complaint principally concerns the 2nd respondent's compliance with its statutory responsibilities. In **Giles Yamba Yamba v. Kapembwa Simbao and 2 Others**[10], the Court explained that:

> *The Constitution expressly gives the function to conduct elections to the Electoral Commission of Zambia (ECZ)... The ECZ must fulfil this function by ensuring that the requirements of the Electoral Process Act are respected and observed in the electoral process. Section 97(2)(b), therefore, concerns non-compliance to the provisions of the Act by the ECZ, the body charged with the conduct of elections under Article 229(2)(b) of the Constitution, and not the candidates to an election or their agents.*

217. The petitioner alleges overstatement of the 1st respondent's votes at Kaishe 1, Sakala 2, Ninge 1, Njipi 2, Yongolo 1 and Chesemba. He also alleges that votes cast in his favour were incorrectly allocated at Chesemba, Bulongwa 1 and Njipi 2.

218. In assessing these allegations, I have considered the polling agents' testimony together with the documentary records. The respondents questioned the witnesses' appointment and accreditation as polling agents. However, I hold the firm view that the absence of

accreditation documents from the evidence before Court does not necessarily entail that they were not appointed agents. Having considered their evidence, I accept that they acted as polling agents for NRPUP. Their accounts nevertheless require scrutiny and corroboration.

219. In the case of **Steven Masumba v. Elliot Kamondo**[11], the Court cautioned that evidence from partisan witnesses requires corroboration from an independent source to guard against exaggeration and falsehood. Thus, I have applied that caution by testing the witnesses' accounts against the official duplicates, the competing parliamentary results forms and the documents produced by the 2nd respondent.

220. The Gen 20 forms are central to that assessment because they record the candidates' votes and the relevant ballot totals at each polling station. The question is whether the figures incorporated into the constituency tally accurately reflected those records. I now examine the disputed polling stations.

Sakala Primary School 2 Polling Station

221. The Gen 20 form at page 25 of the petitioner's bundle of documents records 97 votes for the petitioner and 145 votes for the 1st respondent. The record of proceedings retains the petitioner's 97 votes but records 285 votes for the 1st respondent.

222. The petitioner showed the Court the official duplicate from which the copy at page 25 was made. Having examined it, including its watermark, I accept it as genuine. I therefore find that the 1st respondent received 145 votes and that his tally was overstated by 140 votes.

Ninge Primary School 1 Polling Station

223. The results at page 22 of the petitioner's bundle record 248 votes for the petitioner and 145 votes for the 1st respondent. The record of proceedings retains the petitioner's tally but records 545 votes for the 1st respondent, giving a difference of 400 votes.

224. Counsel for the 1st respondent challenged the petitioner's document because it was a photograph. I have considered that objection in light of the evidence, including the admission by the 1st respondent's witness that polling agents were not supplied with Gen 20 forms at every polling station. This explains the reliance on a photograph, but its reliability remains to be determined.

225. What stands out from the petitioner's and the 2nd respondent's records is that the candidates' results differ only in respect of the 1st respondent. Further, the council chairperson results at page 23 record 529 votes cast at the same polling station. It must be noted here that the authenticity of that form was not meaningfully challenged. Although the council chairperson form at page 23 concerns a separate election, it supports the petitioner's account of the ballot total.

226. Considering the documentary and oral evidence together, I accept the petitioner's parliamentary results and find that the 1st respondent's tally was overstated by 400 votes.

Njipi Primary School 2 Polling Station

227. The results at page 16 of the petitioner's bundle record 35 votes for the petitioner, 78 votes for the 1st respondent and 222 total votes cast. The 2nd respondent's record of proceedings instead records 8 votes for the petitioner, 328 votes for the 1st respondent and 472

votes cast. Comparison of the records shows that the petitioner's tally was interchanged with Derick Chanda's, while the tallies of the remaining candidates were unchanged. The 1st respondent's tally and the total votes cast were each increased by 250.

228. The council chairperson and presidential results at pages 17 and 18 respectively both record 222 votes cast. Neither form was meaningfully challenged. Considered with the parliamentary evidence, the two results corroborate the petitioner's account. Thus, I find that the 1st respondent's tally was overstated by 250 votes, while the petitioner's tally was understated by 27 votes.

Yongolo Primary School 1 Polling Station

229. The Gen 20 form at page 19 of the petitioner's bundle records 72 votes for the petitioner and 58 votes for the 1st respondent. The record of proceedings records the same tally for the petitioner but records 258 votes for the 1st respondent.

230. The petitioner showed the Court a clear duplicate of the results form, which I accept as genuine. It records 244 total votes cast and 5 rejected ballots. The undisputed council chairperson results at page 20 likewise record 244 votes cast. On the evidence as a whole, I find that the 1st respondent's tally was overstated by 200 votes.

Kaishe Primary School 1 Polling Station

231. At this polling station, the petitioner relied on both a Gen 20 form and a video recording of the presiding officer's announcement. An announcement of this nature is made in accordance with section 71(2) of the Electoral Process Act which provides that:

When a presiding officer has complied with subsection (1), the presiding officer shall publicly announce the result of the count at the polling station to members of the public, the accredited observers, monitors, election and polling agents present at the polling station.

232. The Gen 20 form at page 13 of the petitioner's bundle records 140 votes for the petitioner and 82 votes for the 1st respondent. The petitioner also showed Court its official duplicate. Those figures correspond with the announcement in the video clip exhibited as AK1(c). At 00:01:21, the presiding officer announced 82 votes for Happy Mampa, and at 00:01:41, he announced 140 votes for Anthony Kasandwe. At 00:02:00, the officer announced that there were 27 spoilt ballots and a total of 363 votes cast.

233. By contrast, the 2nd respondent's record of proceedings at page 7 records 140 votes for the petitioner, 382 votes for the 1st respondent, 27 rejected ballot papers and 663 votes cast. Both the 1st respondent's tally and the total votes cast therefore exceed the corresponding figures in the petitioner's evidence by 300.

234. RW2 disputed the video's authenticity, asserting that the presiding officer announced the results in English rather than Bemba. Counsel for the respondents also submitted that the recording's date, location and integrity had not been established and that the possibility of AI generation had not been excluded.

235. I have carefully considered those assertions against the evidence as a whole. Firstly, I note that the figures announced in the recording match those on the official duplicate shown to the Court. Secondly, the presidential results form at page 15, whose authenticity was not disputed, also records 363 votes cast at that polling station. It must be noted that none of the respondents produced a recording

to support RW2's account that the announcement by the presiding officer was in English. I must hasten to mention, however, that absence of a supporting recording is not the basis of my finding. My conclusion rests on the consistency between the recording and the documentary evidence.

236. I am satisfied that the clip accurately records the presiding officer's announcement. Taken together, the official duplicate, the recording and the corroborative presidential results establish that the petitioner received 140 votes and the 1st respondent received 82 votes. I, therefore, find that the 1st respondent's tally was overstated by 300 votes.

The evidential value of results from the other elections

237. It is cardinal to mention here that the presidential and council chairperson results provide corroborative evidence rather than a substitute for proof of the parliamentary results. Since separate ballot papers were issued for each election, their totals need not necessarily be identical, and the votes obtained by candidates in different elections cannot be expected to correspond.

238. Nevertheless, those records assist in assessing the competing parliamentary documents, particularly where their authenticity is undisputed and the parliamentary evidence independently supports the petitioner's account. At the stations already examined, the matching ballot totals strengthens that account. Of further significance is the pattern of increases in the 1st respondent's tally accompanied by equivalent increases in the recorded total votes cast at each of the polling stations in dispute.

Whether votes cast for the petitioner were incorrectly allocated

239. It was submitted by counsel for the petitioner that the petitioner was deprived of 95 votes, that is, 32 at Njipi 2, 13 at Chesemba and 50 at Bulongwa 1. I will examine these polling stations individually.

Chesemba Catholic Church Polling Station

240. The Gen 20 form at page 29 of the petitioner's bundle records 38 votes for the petitioner, 25 for the 1st respondent, 44 for Reuben Chama, 2 for Moses Chabala and 1 for Derick Chanda. The record of proceedings at page 4 interchanges the petitioner's and the 1st respondent's tallies, recording 25 and 38 votes respectively, while retaining the other candidates' figures.

241. The Gen 20 form at page 10 of the 2nd respondent's supplementary bundle contains the same figures as the petitioner's form. Having considered those documents and the official duplicate shown to the Court, I find that the petitioner received 38 votes and the 1st respondent received 25 votes. The interchange understated the petitioner's tally by 13 votes and overstated the 1st respondent's tally by the same number.

Bulongwa Primary School 1 Polling Station

242. The results at page 28 of the petitioner's bundle record 54 votes for the petitioner, 101 for the 1st respondent, 69 for Reuben Chama, none for Moses Chabala and 5 for Derick Chanda. Identical figures appear at page 9 of the 2nd respondent's bundle of documents.

243. However, the record of proceedings records 5 votes for the petitioner and 54 for Derick Chanda, with the remaining tallies unchanged. The 2nd respondent's own documentary evidence, therefore,

confirms the petitioner's account. I find that the interchange understated the petitioner's tally by 49 votes.

Njipi Primary School 2 Polling station

244. As discussed earlier in the judgment, the results for the petitioner at Njipi 2 were undertested by 27 votes.

245. Thus, with the the 27 votes at Njipi 2, the 13 votes at Chesemba and 49 votes at Bulongwa 1, the petitioner's tally was understated by 89 votes and not the 95 submitted by counsel.

246. The proved overstatement of the 1st respondent's tally is 1,303 votes, comprising 140 at Sakala 2, 400 at Ninga 1, 250 at Njipi 2, 200 at Yongolo 1, 300 at Kaishe 1 and 13 at Chesemba.

The suspension of verification and announcement of results

247. The evidence discloses two distinct suspensions, that is, the nationwide suspension announced by the 2nd respondent on security grounds and the subsequent suspension announced by the assistant returning officer. The petitioner's complaint principally concerns the latter.

248. The 1st respondent maintained that an interruption did not, without more, prove manipulation or invalidate the election. The 2nd respondent relied on difficulties in receiving outstanding results from remote polling stations, including poor roads and dependence on boats. The evidence was that an announcement lifting the suspension was made at approximately 22:00 hours on 14th August, 2026, while verification and announcement resumed at approximately 03:00 hours on 15th August, 2026.

249. Counting votes at a polling station must be distinguished from verifying and tallying results at the constituency totalling centre. Section 67 of the Electoral Process Act principally governs the former, requiring counting to commence immediately after polling closes and permitting suspension with the Commission's approval, subject to the safekeeping of voting materials. I do not regard this provision as establishing authority for the separate suspension of verification and announcement at constituency level. Sections 37A and 72 of the Act, as amended, more directly govern the returning officer's responsibilities at that stage.

250. I have no qualms accepting that transportation difficulties contributed to delays in receiving outstanding returns and completing the constituency tally. However, those impediments do not necessarily explain why verification of results already received had to cease. The second suspension therefore required an explanation distinct from the security concerns underlying the nationwide suspension.

251. The respondents maintained that the outstanding results from 13 polling stations were verified before the final declaration. However, RW3's and RW4's accounts did not clearly establish when and how that verification occurred or who participated. The 1st respondent's evidence did not resolve those deficiencies. He categorically stated that he did not participate in the verification following the second suspension. There is evidence on record that the losing candidates or their agents refused to sign the final result. I am of the considered view that while the refusal does not, by itself, prove that verification was omitted, it does lend credence to the petitioner's

assertion that the results from the 13 polling stations were not reconciled.

252. On the evidence as a whole, I am satisfied that the outstanding results were not subjected to the verification process described in the evidence before the final declaration. Nevertheless, the evidence does not establish that the alterations occurred during the second suspension. I, therefore, find that the suspension, considered alone, is insufficient to invalidate the election. Its significance lies in the interruption of scrutiny, viewed alongside the separately proved discrepancies in the constituency tally.

Whether the returning officer breached his electoral duties

253. The petitioner contended that the returning officer declared the constituency result before completing verification of the results from the remaining polling stations. He submitted that verification was necessary to ensure that the figures entered in the constituency tally accurately reflected the votes cast at each polling station. In his view, the discrepancies he identified made that exercise particularly important.

254. The 2nd respondent maintained that tallying and verification resumed on 16th August, 2026, immediately after the returning officer lifted the suspension. The question is whether the returning officer completed the required verification and accurately tallied the polling station results before declaring the outcome.

255. An examination of the legal framework is cardinal for effective resolution of the issue.

256. Article 229 of the Constitution entrusts the management and conduct of elections to the 2nd respondent. Section 37A(1) of the

Electoral Process Act, inserted by the Electoral Process (Amendment) Act No. 12 of 2026, places the returning officer in charge of electoral activities at constituency, district or ward level. Section 37A(2) assigns to that officer, among other functions, the collation of results and the declaration of National Assembly election results.

257. Section 72(1) of the Act, as amended, requires the returning officer, upon receipt of the items specified in section 71, to tally the results received from the polling stations. It further requires the returning officer to announce the results and, in a parliamentary election, to declare the result.

258. Regulation 53 of the Electoral Process (General) Regulations, 2016 governs the verification of ballot paper accounts. The returning officer must appoint a time and place for verification and give the candidates written notice. The exercise must take place in the presence of the assistant returning officer and any candidates, election agents, monitors or observers who are present.

259. The regulation prescribes the checks to be carried out on the ballot paper account for each polling station. It also requires the returning officer to prepare and deliver to the Commission a verification report in Form GEN 24 and to permit candidates, election agents, monitors and observers who attended the exercise to make a copy of the report.

260. Quite clearly, section 72(1) and regulation 53 impose mandatory duties at different stages of the process. The former requires the returning officer to tally the results received from the polling stations. The latter requires verification of the ballot paper accounts. Both duties give effect to the principles of transparency,

credibility and accurate and reliable vote counting set out in section 3 paragraph (c) of the Act.

261. The 2nd respondent's evidence was that verification resumed on 16th August, 2026. While that may be the case, that evidence did not address whether or not the exercise was completed before the result was declared. No written notice or Form GEN 24 was produced to corroborate the account that verification proceeded in accordance with regulation 53.

262. The absence of those documents must be considered alongside the discrepancies established in the polling station results. As I have found, the constituency tally contained overstatements and misallocations of votes that remained uncorrected when the result was declared. Taken together, these circumstances support the petitioner's contention that verification of the ballot paper accounts for the remaining polling stations was incomplete at the time of the declaration.

263. I accordingly find that the returning officer failed to complete verification as required by regulation 53. I further find that, by declaring a result based on a constituency tally that did not accurately reflect the results from the polling stations, he failed to discharge his duty under section 72(1) of the Act.

264. Section 92 of the Act makes it an offence for an election officer wilfully to fail to perform the functions of that office. Clearly, this provision imposes criminal liability. However, the question in this petition is whether the established non-compliance affected the result and warrants relief under the Act.

The effect of the non-compliance and the appropriate relief

265. Section 97(2)(b) provides, in relevant part:

> *The election of a candidate as a Member of Parliament...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 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.*

266. Section 97(4) provides:

> *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.*

267. In **Webster Chipili v. Nyirenda**[12] the Court explained the need to examine election officers' acts and omissions to determine both substantial compliance and their effect on the result. The cases of **Mazoka and Others v. Mwanawasa and Others** (supra) and **Sibongile Mwamba v. Kelvin Sampa and Another**[13] similarly emphasise that irregularities do not invalidate an election without the requisite effect on its outcome.

268. In the matter at hand, the effect is demonstrated by the proved figures. Deducting the 1,303 excess votes from the 1st respondent's

declared tally of 13,012 gives **11,709 votes**, rather than 11,907 as submitted by counsel. Restoring the petitioner's 89 omitted votes to his declared tally of 12,071 gives **12,160 votes**. The corrections therefore reverse the candidates' positions and place the petitioner ahead by **451 votes**.

269. Quite clearly, the proved discrepancies affected the outcome of the election. Votes were wrongly credited to the 1st respondent, while votes cast for the petitioner were allocated elsewhere. Their cumulative effect changed the identity of the winner. I am satisfied, to the required standard, that the failures in collation, verification and reconciliation constituted material non-compliance with the Act and affected the result. Section 97(4) therefore does not preserve the 1st respondent's return.

270. The petitioner's prayer, pursuant to section 99 (a) and (b) was that the election of the 1st respondent be declared void or that the petitioner be declared duly elected.

271. According to section 108 (1), at the conclusion of the trial of an election petition, the Court shall determine whether the respondent, or any other, and which person, was duly elected, or whether the election to which the election petition relates was void.

272. Further, subsection (3) states that:

> *Where the High Court or a tribunal determines that the respondent was not duly elected but that some other person was duly elected, that other person shall be deemed to have been elected accordingly.*

273. Having found that the declared results did not reflect the votes cast and the corrected constituency tally establishes that the petitioner obtained the highest number of valid votes, the petition succeeds.

274. Thus, pursuant to sections 99(b) and 108(1) and (3) of the Electoral Process Act, I declare that Happy Mampa was not duly elected and that Anthony Kasandwe was duly elected as Member of Parliament for Bangweulu Constituency in the election held on 13th August, 2026.

Costs

275. Section 109(1) of the Act gives the Court discretion to allocate costs, taking into account, among other matters, costs occasioned by vexatious conduct or frivolous allegations or objections. Section 109(2) further permits the Court, where a respondent was not duly elected, to relieve a party of all or part of the costs where it is just and reasonable to do so.

276. The established irregularities arose from the manner in which the 2nd respondent's officers collated and recorded the results. There is no evidence that the 1st respondent caused or participated in those irregularities, and I find no sufficient basis for ordering him to pay the petitioner's costs.

277. Exercising my discretion under section 109, I order the 2nd respondent to pay the petitioner's costs, to be taxed in default of agreement. The 1st respondent shall bear his own costs.

Delivered at Mansa this 24th day of November, 2026

THE HIGH COURT OF ZAMBIA * ONE DISTRICT REGISTRY * ONE NATION

Mwaaka Chigali Mikalile (Mrs)

JUDGE

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