REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
23 NOV 2026
CIVIL REGISTRY
NDOLA HIGH COURT
P.O. BOX 70004, NDOLA

IN THE HIGH COURT FOR ZAMBIA **2026/HN/EP/004**
AT THE DISTRICT REGISTRY
HOLDEN AT NDOLA
(Constitutional Jurisdiction)

IN THE MATTER OF:	**ARTICLE 73 OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016**
IN THE MATTER OF:	**SECTIONS 96, 97, 98, 99 AND 100 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**
IN THE MATTER OF:	**ALLEGED CONTRAVENTION OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**
IN THE MATTER OF:	**RULE 9 OF STATUTORY INSTRUMENT NO. 31 OF 2026, THE HIGH COURT (ELECTION PETITION) RULES**
IN THE MATTER OF:	**KABUSHI CONSTITUENCY PARLIAMENTARY ELECTION HELD ON 13TH AUGUST, 2026**

BETWEEN:

EMELDA.S. MPUPUNI **PETITIONER**

AND

SICHINGA. T. TILAS **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

THE ATTORNEY GENERAL **3RD RESPONDENT**

Before the Honourable Mr. Justice C. J. Bako in Open Court this 23rd day of November, 2026

For the Petitioner:	Mr. J.L. Kayuni & Ms. L. Kasheta from Messrs J.K & Partners
For the 1st Respondent:	Mrs. S.M Newa & Ms. C. Mufumbi from Messrs Chifumu Banda & Associates
For the 2nd Respondent:	Mrs. A.M. Sinyangwe & Mrs. M. Machela from Messrs EMK & Associates
For the 3rd Respondent:	Mr. C. Mulonda, Acting Chief State Advocate & Mrs. B.K. Chisanga, Principal State Advocate- from Attorney General's Chambers

JUDGMENT

Cases referred to:

1. Akashambatwa Mbikusita Lewanika and Others v Fredrick Jacob Titus Chiluba (1998) Z.R. 79
2. Brelsford James Gondwe v Catherine Namugala SCZ Appeal No. 175 of 2012
3. Austin Liato v Sitwala Sitwala Selected Jugdment No. 23 of 2018
4. Chrispin Siingwa v Stanley Kakubo CCZ Appeal No. 7 of 2017
5. Michael Mabenga v Sikota Wina, Mafo Wallace Mafiyo and George Samulela (2003) Z.R. 110
6. Leonard Banda v Dora Siliya SCZ Judgment No. 127 of 2012
7. Margaret Mwanakatwe v Charlotte Scott and another CCZ Selected Judgment No.50 of 2018
8. Richwell Siamunene vs Gift Sialubalo CCZ Selected Judgment No. 58 of 2017
9. Mulope v Shakafuswa and Another HP/10/2021
10. Steven Masumba vs Elliot Kamondo CCZ Selected Judgment No. 53 of 2017
11. Banatib Issa Taligola v Electoral Commission and Wasugoya Bob Fred, Election Petition No. 15 of 2006
12. Chipota v Katuta and Anor HP/62/2021
13. Bornface Chanda Chola and 2 Others v The People (1988-89) Z.R. 163
14. Nkandu Luo and the Electoral Commission of Zambia v Doreen Sefuke Mwamba and the Attorney General CCZ Selected Judgment No.51 of 2018
15. Sunday Chitungu Maluba v Rodgers Mwewa and the Attorney General CCZ Appeal No. 4 of 2017

16. Daniel Nyirenda v University of Zambia Council Appeal No. 56 of 2012
17. Sibongile Mwamba v Kelvin Sampa CCZ Selected Judgment No. 57 of 2017
18. Abuid Kawangu v Elijah Muchima CCZ Appeal 8 of 2017
19. Jere and Others v Zulu CCZ Appeal No. 28 of 2021
20. Jonathan Kapaipi v Newton Samakayi CCZ Appeal No. 13 of 2017
21. Mushemi Mushemi v The People (1982) Z.R 71 (S.C)
22. Shawaza Fawaz and Prosper Chelelwa v The People (1995-97) Z.R. 106
23. Richard Sikwebele Mwapela v Chinga CCZ Appeal No. 37 of 2016
24. Poniso NJeulu v Mubika Mubika SCZ Appeal No. 114 of 2007
25. Mbololwa Subulwa v Kaliye Mandandi SCZ Selected Judgment No. 25 of 2018
26. Mutotwe Kafwaya V Chasaya Katongo and Another 2021/CCZ/A0020
27. Richard Sikwebele Mwapela v Miyutu Chinga 2016/CCZ/A037
28. Lusambo vs Kenengo and Another CCZ Appeal No. 19 of 2021
29. Michael Chilufya Sata v Rupiah Bwezani Banda and Two Others SCZ/8/EP/01/2008
30. Christabel Ngimbu v Prisca Chisengo Kucheka and Electoral Commission of Zambia CCZ Selected Judgment No. 2 of 2018
31. Chileshe Mpunga Chilufya v Jean Chisenga Ng'andwe and Electoral Commission of Zambia 2021/CCZ/A0032.

Legislation referred to:

1. The Constitution of Zambia (Amendment) Act No.2 of 2016
2. The Electoral Process Act Chapter 13 of the Laws of Zambia
3. The High Court (Election Petition) Rules 2026 (Statutory Instrument No. 31 of 2026)
4. The Electoral Process (Code of Conduct) (Enforcement) Regulations, 2016, Statutory Instrument No. 62 of 2016, as amended by Statutory Instrument No. 35 of 2020

Other works referred to:

1. Halsbury Laws of England, 4th Edition, Volume 15

1. INTRODUCTION

1.1. On 13th August, 2026, Emelda Sota Mpupuni, the Petitioner herein, was one of the nine (9) contestants, who had offered themselves to serve the people of Kabushi Constituency in Ndola District of the Copperbelt Province of the Republic of Zambia as their Member of Parliament. Two days later, the results were declared. Tilas Titus Sichinga, the 1st Respondent herein, was declared by the Electoral Commission of Zambia as duly elected.

1.2. On 27th August, 2026, the Petitioner filed an election petition against the 1st Respondent, the 2nd Respondent Electoral Commission of Zambia and the Attorney General as the 3rd Respondent.

1.3. The Petitioner disputed the declaration of the 1st Respondent as duly elected. She alleged corrupt practices, illegal practices, violence, intimidation and electoral irregularities and misconduct as having affected the outcome of the polls.

1.4. She prayed that the Court declares the election of the 1st Respondent as a Member of Parliament for Kabushi Constituency void and a declaration that 1st Respondent was not validly elected; and

1.5. She also prayed for an order of recount and verification of the votes cast.

2. PETITIONER'S PETITION

2.1. In her petition, the Petitioner stated that she contested the parliamentary election as a candidate for the United Party for National Development (UPND). The other eight candidates included Sichinga. T. Tilas, of the National Reconciliation Party for Unity and Prosperity (NRPUP), Mwanza Fabian of Resolute Party (RP), Ngulube William of

the Socialist Party (SP), Kalasa Richard of Zambia Must Prosper (ZMP), Mchinzi Robbin of Citizens First (CF), Simangolwa. M. Mellbin, Ngosa J. Boyd and Changwe Edgar, independent candidates.

2.2. She stated that the 1st Respondent was declared duly elected by the 2nd Respondent on 15th August, 2026. That the 1st Respondent emerged victorious with 14, 635 votes cast in his favour, while the Petitioner polled 8,698 votes. A total of 1,103 ballot papers were rejected.

2.3. The Petitioner further averred that Kabushi Constituency comprised ten wards divided into ninety-six polling streams. The wards are namely, Lubuto, Skyways, Kabushi, Main Masala, Kafubu Inn, Mukuba, Chichele, Kantolomba, Toka and Kaloko. She also stated that Kabushi Constituency has a total of 70,200 registered voters, of whom 37,047 cast their votes.

2.4. The Petitioner challenged the election alleging that, the 1st Respondent was not duly elected on account of alleged corrupt practices, illegal practices, violence, intimidation, electoral irregularities and misconduct which, according to her, affected the conduct and outcome of the election.

2.5. In particular, the Petitioner alleged that the 1st Respondent, his agents and or persons acting on his behalf engaged in massive bribery of voters before and during voting in various wards and polling stations in Kabushi. It was alleged that voters were given and promised sums of money ranging from K50 to K100 and that money was concealed in pens which were distributed to voters in return for votes in favour of the 1st Respondent.

2.6. It was further alleged that voters were informed that pens provided inside polling stations were unsuitable for voting because votes cast using those pens would disappear. According to the Petitioner, voters were thereby induced to accept pens allegedly supplied by the 1st Respondent and his agents, in which money had been concealed

2.7. The Petitioner additionally, alleged that the 1st Respondent campaigned in Lubuto and Kafubu Wards on polling day.

2.8. She also alleged that the 1st Respondent and his agents engaged in acts of violence against voters and other candidates in Chichele Ward, as well as in Lubuto and Kaloko Ward.

2.9. The Petitioner also alleged that the 1st Respondent and his agents committed illegal practices on polling day by obstructing voters from exercising their right to vote for the candidate of their choice and by canvassing and soliciting for votes within polling stations without the authority of the election officer. Milemu Polling Station with a lot of registered voters was specifically cited in this regard.

2.10. In relation to the counting and tallying of votes, the Petitioner alleged that the 2nd Respondent allocated votes cast in her favour to the 1st Respondent and that there was miscounting of votes. She further stated that, after the declaration of the results, she requested verification of the results with a view to correcting what she described as statistical errors, but that the 2nd Respondent declined the request.

2.11. The Petitioner also alleged that her agents were denied the opportunity to sign the GEN 20 forms at polling stations before the forms were submitted for final tallying. She contended that this rendered the declared results unauthentic.

2.12. The Petitioner consequently alleged that the 2nd Respondent failed to conduct the election in accordance with the applicable electoral rules and that the irregularities and misconduct complained of prejudiced her and other candidates and favoured the 1st Respondent.

2.13. The Petitioner therefore sought the following reliefs:

(i) A declaration that the election of the 1st Respondent as member of parliament for Kabushi was void;

(ii) A declaration that the 1st Respondent was not validly elected; and

(iii) An Order of recount and verification pursuant to Section 76 of the Electoral Process Act No. 35 of 2016.

3. PETITIONER'S AFFIDAVIT EVIDENCE

3.1. The petition was supported by an affidavit verifying facts sworn by the Petitioner. The Petitioner substantially reiterated the matters pleaded in the Petition. I shall, therefore, only set out the additional particulars emerging from her affidavit so as to avoid unnecessary repetition.

3.2. The Petitioner deposed that the alleged illegalities, misconduct and irregularities were observed by herself, voters and her agents during the campaigns, polling and tallying of votes and were allegedly committed by the 1st Respondent, his agents and members of the 2nd Respondent across the ten wards of the Constituency.

3.3. She specifically stated that, at Mukuba Polling Station, the 1st Respondent and his agents allegedly placed a lamp or symbol of NRPUP as a sign of campaigning on polling day.

3.4. With regard to the alleged violence, the Petitioner additionally deposed that the 1st Respondent and his agents were involved in acts of violence and chased voters away from voting.

3.5. Regarding the counting of votes, the Petitioner stated that the 1st Respondent and his agents, allegedly acting in concert with members of the 2nd Respondent engaged in misconduct during the counting process. She specifically alleged that mathematical errors were deliberately committed, resulting in votes belonging to her being allocated to the 1st Respondent. The Petitioner exhibited the Declaration of Results, which was marked **"ESM1".**

3.6. The Petitioner further deposed that the 2nd Respondent did not provide GEN 20 forms to her agents at most polling stations. She stated that she personally observed what she described as numerous electoral irregularities involving the 1st and 2nd Respondents.

4. 1ST RESPONDENT'S ANSWER

4.1. In an answer to the petition filed on 4th September, 2026 the 1st Respondent principally denied the allegations set out in the petition. The 1st Respondent contended that he was duly elected as Member of Parliament for Kabushi Constituency at the general elections held on 13th August, 2026.

4.2. The 1st Respondent refuted engaging in corrupt or other illegal practices during the ninety days' campaign period. He averred that he and his agents complied with the 2nd Respondent's rules and regulations and that he campaigned freely throughout the ten wards of Kabushi Constituency.

4.3. The Respondent specifically denied giving or promising to give money to voters through ball pens concealed with K50 or K100 notes, stating that his agents and himself were aware that such conduct was prohibited. He further refuted soliciting votes within polling stations or obstructing voters from exercising their right to vote.

4.4. The 1st Respondent denied that he or his agents made voters believe that the pens provided at polling stations were unsafe to use. He also denied obstructing voters from voting for candidates of their choice and stated that such conduct would have been unlawful and would not have been condoned by polling staff and police officers present at the polling stations.

4.5. The 1st Respondent also denied allegations of violence during the campaign period. He averred that he and his agents adhered to the National Assembly Campaign Timetable and did not engage in violence against voters or other candidates. He nevertheless referred to an incident on 10th August, 2026 at about 15:00 hours when, according to him, some members of the UPND provoked and chased them from a scheduled campaign meeting on the basis that the area contained a public water kiosk belonging to the UPND. He maintained that he and his agents left peacefully despite it being their scheduled campaign time.

4.6. He denied placing or causing to be placed any political party symbol, including a lamp or symbol of NRPUP, at any polling station and stating that he was aware of the 2nd Respondent's prohibition against such conduct.

4.7. The 1st Respondent also refuted canvassing or soliciting votes at polling stations on polling day and averred that, after voting, he and his agents returned home and waited for the official announcement of the results.

4.8. The 1st Respondent also averred that he polled 14,635 votes, while the Petitioner obtained 8,698 votes. It was further averred that the Petitioner's agents signed the relevant GEN 20 forms reflecting the votes obtained by the respective candidates. The 1st Respondent maintained that he was duly elected and declared winner of the Kabushi Constituency parliamentary election, and prayed that the petition be dismissed with costs.

5. 1ST RESPONDENT'S AFFIDAVIT EVIDENCE

5.1. The 1st Respondent also filed an affidavit in opposition sworn by the 1st Respondent, the same mirrored the content of the Petition suffice to add that the 1st Respondent maintained that he vehemently denied any involvement by himself or his agents in corrupt or illegal practices during the ninety-day campaign period. He produced the 2nd Respondent's campaign timetable as exhibit **"STT1"**.

5.2. In response to the allegation that he acted in concert with officials of the 2nd Respondent, the 1st Respondent denied the allegation and maintained that it was unsupported. He stated that candidates were entitled to have monitors present during the counting of votes, together with independent observers, including representatives of churches and non-governmental organizations. He further averred that the Petitioner's own agents signed the Gen 20a forms reflecting the results and produced copies thereof as exhibits **"STT2(a)–(b)"**.

5.3. The 1st Respondent maintained that he obtained 14,635 votes and was consequently declared the winner. He produced the declaration of results, being the GEN 20b form, as exhibit **"STT3"**.

5.4. The 1st Respondent maintained that the elections in Kabushi Constituency were free and fair, and averred that he was duly elected and declared the winner. He accordingly sought dismissal of the Petition.

6. 2ND RESPONDENT'S ANSWER

6.1. In rebuttal to the petition, the 2nd Respondent filed its answer on 14th September, 2026 wherein it was contended that the 1st Respondent was duly elected as Member of Parliament for Kabushi Constituency at the general elections held on 13th August, 2026.

6.2. The 2nd Respondent refuted the allegation that votes cast in favour of the Petitioner were unlawfully transferred, allocated or given to the 1st Respondent. It asserted that the votes recorded and announced for the 1st Respondent were duly cast in his favour by eligible voters and counted in accordance with the applicable electoral procedures.

6.3. The 2nd Respondent also denied that it refused or prevented the Petitioner from seeking verification of the results. It stated that, at all material times, it acted in accordance with the applicable electoral rules and procedures and that the results declared were based on votes duly counted and verified.

6.4. Regarding the GEN 20 forms, the 2nd Respondent averred that they were completed and dealt with in accordance with the prescribed electoral procedures. It stated that the Presiding Officers and Returning Officer in Kabushi Constituency issued the GEN 20 forms to duly accredited election agents, monitors and observers, including the Petitioner's polling agents, who were thereby able to confirm the results. It contended that the mere failure by an agent to sign a GEN 20 form did not render the election results unauthentic or invalid.

6.5. The 2nd Respondent further denied the allegations concerning the conduct of the election stating that the elections in Kabushi Constituency were free and fair and were conducted in conformity with the applicable electoral laws, rules and procedures. Furthermore, that it discharged its mandate lawfully, transparently and impartially.

6.6. The 2nd Respondent consequently contended that the Petitioner was not entitled to any of the reliefs sought.

7. 2ND RESPONDENT'S AFFIDAVIT EVIDENCE

7.1. The 2nd Respondent's answer was supported by an affidavit sworn by Wilfred Chilala, the Returning Officer for Kabushi Constituency during the 13th August, 2026 General Elections. The said affidavit merely repeated the content of the answer save to add that, in his capacity as Returning Officer, he personally declared the 1st Respondent duly elected as Member of Parliament for Kabushi Constituency on 15th August, 2026 having obtained the highest number of valid votes cast. He exhibited the Declaration of Results Form marked **"WC1"**.

7.2. He further stated that the Presiding Officers duly counted all votes cast and allocated them to the respective candidates in accordance with the ballot papers counted.

7.3. He maintained that the 1st Respondent was declared duly elected after obtaining the majority of votes cast by voters who freely exercised their right to vote for the candidate of their choice.

8. 3RD RESPONDENT'S ANSWER

8.1. The 3rd Respondent filed an answer on 7th September, 2026 wherein it stated that the Petitioner has *locus standi* to institute the petition and acknowledged that the

allegations raised were serious and if proved to the requisite standard, could result in the annulment of the election.

8.2. Regarding the reliefs sought, the 3rd Respondent stated that the petitioner bore the burden of proving the allegations made in the petition.

9. 3RD RESPONDENT'S AFFIDAVIT EVIDENCE

9.1. In the affidavit in opposition sworn by Bernadette Mukate Kasompe, she reiterated part of the content of the answer suffice to add that the functions of the 3rd Respondent extend to upholding the rule of law.

9.2. The Petitioner did not file any reply to the 1st, 2nd and 3rd Respondent's answer.

10. HEARING OF PETITION

10.1. In a bid to prove her case against the Respondents, the Petitioner called 34 witnesses, hereinafter referred to as "PW1 to PW34".

11. PETITIONER'S EVIDENCE

11.1. The Petitioner testified as PW1. In her oral testimony, she reiterated the substance of her Petition regarding the party under which she contested the parliamentary election for Kabushi Constituency held on 13th August 2026, the number of candidates who contested, the number of registered voters and those who voted, being 37,045, the number of wards and polling streams and the declaration by the 2nd Respondent of the 1st Respondent as duly elected, having polled 14,635 votes.

11.2. She alleged corrupt practices, bribery, violence, canvassing and soliciting for votes, campaigning on polling day, illegal practices, and other irregularities attributable to the 1st Respondent, his agents, and the 2nd Respondent. PW1 further stated that the 1st Respondent's agents comprised members of his campaign team and those who signed with him during the nomination process.

11.3. On bribery, PW1 testified that the campaign period proceeded well until four days before polling day. According to PW1, the 1st Respondent and his team went around Kabushi Constituency informing voters not to use the pens provided at the polling station because the ink would disappear and the voters believed them. She told the Court that on 12th and 13th August, 2026, the 1st Respondent and his agents, in particular, the 1st Respondent targeted voters and distributed pens bearing K50 or K100 attached to the pen cap clips to voters in all ten wards, inducing voters to vote for the 1st Respondent and all candidates standing on the NRPUP ticket. PW1 alleged that the entire Kabushi Constituency was filed with these pens.

11.4. Regarding violence, PW1 testified that on 13th August, 2026, violence occurred at various polling stations. In particular, she stated that violence erupted at Kaloko Primary School in Kaloko Ward upon the arrival of the 1st Respondent. She indicated that the 1st Respondent's agents perpetrated violence in his presence after the opposition had declared themselves winners before the close of polling and counting, and allegedly stated that there was no need for people to continue voting. PW1 stated that voters were still casting their votes when the violence occurred, resulting in a lot of voters allegedly running away and being unable to vote. She further stated that Kaloko Primary School was the main polling station in Kabushi Constituency, comprising all the streams in Kaloko Ward, with 6,007 registered voters, but that only

about 1,800 voters cast their votes due to the violence. She further testified that those who were attacked were known UPND supporters.

11.5. PW1 also testified of violence at Kantolomba Ward on 13th August, 2026. She stated that a lot of voters had queued from 12th August, 2026 with some having spent the night in the queue. In the late afternoon on 13th August, 2026 before the polling station closed and while some voters had not yet voted, a mob comprising NRPUP supporters and agents of the 1st Respondent allegedly caused a lot of violence causing voters to flee. She stated that the incident arose after the 1st Respondent's agents demanded that the polling station be closed on the ground that NRPUP had already won. The polling station was allegedly closed for some time until the police and military intervened. She confirmed that the 1st Respondent was not present.

11.6. PW1 further told the Court that violence occurred in Chichele Ward on 13th August, 2026. According to PW1, the violence erupted when the 1st Respondent entered the Ward and was seen distributing pens and money. She testified that this was followed by a confrontation between UPND and NRPUP supporters, which was instigated by the 1st Respondent and his agents.

11.7. She also referred to an incident in Masala Ward. She stated that Masala Ward had between 5, 000 to 6, 000 registered voters. PW1 referred to an incident on 13th August, 2026 where a motor vehicle carrying boxes passed by Masala Secondary School polling station and was suspected by the 1st Respondent's agents and NRPUP supporters of carrying pre-marked ballot boxes. She clarified that the 1st Respondent was not present during that incident, but stated that his agents and NRPUP supporters interrupted voting through violence and that some voters and UPND members were assaulted.

11.8. On illegal practices and irregularities, PW1 testified that her polling agents at Lubuto Community Hall were not given GEN 20 forms by the Presiding Officer to sign. After insisting, one of the agents was given an unsigned copy. PW1 was however uncertain of the number of registered voters at Lubuto Community Hall. She further stated that the votes recorded by her polling agents did not tally with those recorded on the GEN 20 forms.

11.9. PW1 also testified that some of her votes were not allocated to her at Lubuto Community Hall. She could not state the number of votes allegedly not added to her because her request for a recount through the Ndola Town Clerk was declined. She further stated that she received reports from various polling stations that her votes had not been counted and, in some instances, had been added to the 1st Respondent.

11.10. On canvassing and soliciting for votes, when referred to paragraphs 5(iii) and (viii) of the petition and allegations that the 1st Respondent was seen by voters campaigning on polling day in Lubuto Ward, Kafubu Inn Ward and Milemu Polling Station. She stated that Milemu Polling Station was the largest polling station in Kafubu Inn Ward.

11.11. In cross-examination, PW1 confirmed that she did not accompany the 1st Respondent during his campaigns and did not personally witness him or his agents wrapping money around pens or distributing pens with money to voters. She could not name the alleged agents involved and their connection to the 1st Respondent. PW1 maintained that the 1st Respondent and his agents were involved in bribery, corruption and violence, but conceded that she had no evidence of her presence at Kaloko Primary School when she witnessed the violence by the 1st Respondent and his agents but that there was evidence of the said violence. She stated that she was present at Kaloko Primary School and her motor vehicle was involved in the incident

and that she reported the matter to the police, she produced no evidence of such report.

11.12. PW1 further confirmed that she was not present during the alleged violence at Kantolomba Ward, which she stated occurred between 17:00 hours and 18:00 hours. She also conceded that she did not personally see the 1st Respondent campaigning at Milemu Secondary School and could not state as a fact that he was present at all the places she had mentioned on 13th August, 2026.

11.13. Still under cross-examination, PW1 could not confirm the number of voters who allegedly received K50 or K100. She further confirmed that she did not personally witness the alleged miscounting of votes or handing of her votes to the 1st Respondent, but had received reports from her agents. She stated that the agents had verbally reported the alleged miscounting and that she had not produced evidence showing that the absence of their signatures on the GEN 20 forms altered the votes. PW1 further confirmed that her knowledge of what happened at polling stations was based on reports by her agents.

11.14. There was no re-examination.

11.15. James Banda, a 50-year-old businessman and politician affiliated with the UPND of Masala Extension, Ndola District testified as PW2. He stated that he contested the Kafubu Ward council election under the UPND ticket on 13th August, 2026.

11.16. PW2 stated that on 13th August, 2026, around 09:00 hours he went to Milemu Secondary School, Kamana 1 polling stream, to cast his vote. He stated that the polling station had five streams, namely Kamana 1, Kamana 2, Kamana 3, Kawambwa 1 and Kawambwa 2, with over 4,500 registered voters.

11.17. At the gate of Milemu Secondary School, PW2 encountered the 1st Respondent, Doreen Kayana (PW3), Mr. Yobo and Wilombe Sikazwe who contested as councillor in Kafubu Ward under NRPUP ticket. He stated that PW3 was part of the 1st Respondent's and Wilombe Sikawe's team and that Mr. Yobo introduced himself as a campaign manager and chairman of NRPUP. PW2 stated that PW3 was distributing blue pens with K50 attached to voters at Milemu Secondary School including Blessings Chilanga (PW4), and instructed her to vote for all NRPUP candidates. He stated that he confronted and cautioned them and subsequently reported the matter to the police and the UPND chairperson. PW2 also alleged that while PW3 was distributing the pens and K50, the 1st Respondent did not stop her nor did he say anything when confronted. PW2 testified that upon reporting to the police he went with the officers to the gate but found they had left.

11.18. According to PW2, while waiting in the queue, Mr. Yobo, accompanied by about ten young men, allegedly harassed him together with John and others who were behind him, they grabbed him by his jacket and pulled him outside the gate. A button came off his jacket. He stated that six other people were also removed from the queue. PW2 stated that the police came to his rescue while outside the gate and advised him to leave and return to vote later.

11.19. PW2 returned to Milemu Secondary School at about 16:00 hours to cast his vote and stated that he was protected by the police when Mr. Yobo approached him. He also testified that a lamp was the NRPUP party symbol.

11.20. Under cross-examination, PW2 maintained that he had reported the alleged bribery to the police and to Mr Mwalaba, an agent of the 2nd Respondent, but had no evidence of the reports. He similarly stated that he had reported the alleged harassment to the police but had no official report.

11.21. PW2 stated that many people were given pens and K50 at the gate and clarified that the distribution was at the gate as people entered and not on the queue. According to him, the recipients were instructed to vote for all NRPUP candidates.

11.22. PW2 confirmed that there was no violence when he entered the polling station and that the incident involving violence commenced when he was being dragged from the queue and not inside the polling stream. He further confirmed that he voted peacefully at about 16:00 hours while under police protection. He stated that before leaving home, he knew the candidate he intended to vote for and voted for that candidate. He also confirmed that a female police officer was stationed at the entrance to Kamana 1 classroom and that police officers intervened when he was dragged from the queue.

11.23. There was no re-examination.

11.24. Doreen Kayana, a 57-year-old businesswoman of KX Kabushi Extension, Ndola District, testified as PW3. She stated that on 8th August 2026, while at home, she was approached by a group of people, among them the 1st Respondent and his young brother, Wilombe Sikazwe. PW3 stated that the 1st Respondent asked for her vote and support and gave her a task.

11.25. On 12th August, 2026, Wilombe Sikazwe gave her 100 blue pens, each with a K50 note attached, but she only collected 50 pens. Early in the morning on 13th August, 2026, in the company of the 1st Respondent and Wilombe Sikazwe, she distributed 40 pens bearing K50 notes to voters at Milemu Secondary School. PW3 instructed the voters not to use the pens provided inside the polling stream, alleging that the ink would disappear, and told them to vote for all NRPUP candidates. She confirmed that

PW2 cautioned her while she was distributing the pens and K50 and that she had been paid K200 to undertake the distribution.

11.26. In cross-examination, PW3 admitted her association with NRPUP and admitted committing bribery. She clarified that the 1st Respondent was present when she was being given the 50 pens by Wilombe Sikazwe on 12th August, 2026. She maintained that she distributed pens with K50 notes attached outside Milemu Secondary School near the gate, commencing at about 06:30 hours and continuing until about 14:00 hours. She further stated that, although she distributed the pens and K50 notes on behalf of NRPUP, she did not vote for the party. PW3 also stated that the ten remaining pens with K50 attached were left with her friend after she left in fear due to violence.

11.27. Blessings Chilanga, a 22-year-old businesswoman of Kabushi Extension, Ndola District testified as PW4. She stated that on 13th August, 2026 at about 09:00 hours, she went to Milemu Secondary School in Kafubu Ward, Kabushi Constituency to vote. She found the 1st Respondent, PW3 and another person standing at a corner. PW3 gave her a pen with K50 attached to the pen-cap clip and instructed her to vote for NRPUP candidates. She thereafter proceeded to vote for the NRPUP candidates. PW4 stated that she knew the 1st Respondent during his campaigns in Kafubu Ward and stood as a member of parliament for Kabushi Constituency.

11.28. In cross-examination, PW4 confirmed that she knew the 1st Respondent personally. She stated that there was violence at Milemu Secondary School, but that she concentrated on the place where she was being called to receive the pen and K50. She did not queue to receive them. She stated that the 1St Respondent and PW3 stood at the gate, called voters, gave them pens with K50 and instructed them what to do before they proceeded to vote.

11.29. PW4 could not state how many people were at the gate but said there were many. She confirmed that she did not belong to any political party and was not forced to vote for any party inside the polling stream. PW6 further stated that when she left home, she was not decided which candidates she would vote for. She however stated that the vote was not her choice because she voted for the 1st Respondent on account of the K50 she had received. She further stated that the 1st Respondent did not stop PW3 from giving her the K50. PW4 also stated that she did not know PW3's affiliation to the 1st Respondent but she saw them together at Milemu Secondary School.

11.30. There was no re-examination.

11.31. Mildred Kunda, a 38-year-old businesswoman of KX Kabushi in Kafubu Ward, testified as PW5. She stated that on 12th August, 2026, at about 15:00 hours, on her way from Masala Market she reached Puma Filling Station found in KX, she heard noise coming from the direction of the 1st Respondent's offices and saw many people. According to PW5, people used to gather at the 1st Respondent's office after campaigns. She proceeded there and found a lot of people. Her friend, Dorothy Kalungwe (PW6), informed her that food was being distributed.

11.32. PW5 stated that Jessica gave her nshima and chicken, while the 1st Respondent gave her K50 and asked her to vote for him and all other NRPUP candidates. She went home thereafter and, on 13th August, 2026, voted at Milemu Secondary School according to the instruction she had received. PW5 stated that the 1st Respondent is a member of parliament for Kabushi Ward.

11.33. In cross-examination, PW5 denied participating in campaigns or belonging to any political party and confirmed that several candidates who stood as members of

parliament had campaigned in Kafubu Ward. She further confirmed that no one disturbed or harassed her when she went to vote and that she voted freely.

11.34. There was no re-examination.

11.35. Dorothy Kalungwe, a 38-year-old businesswoman of KX Kabushi Extension, Ndola District testified as PW6. She stated that on 7th August, 2026 while returning from her child's school, she passed behind Kabushi Local Court where she found people receiving nshima at a house belonging to a community school. She joined the queue and received nshima.

11.36. She stated that the NRPUP chairlady was distributing the nshima while the 1st Respondent who stood as member of parliament for Kabushi Constituency gave her K50. The 1st Respondent asked for her vote and all NRPUP candidates. On 13th August, 2026, she voted at Milemu Secondary School, Kamana 1 stream, according to the instruction she had received.

11.37. In cross-examination, PW6 stated that she was not with PW5 at the community school behind Kabushi Local Court. She confirmed that no one forced her to vote and that no one disturbed her while voting. She further stated that she voted for a candidate of her choice. That although seven days had elapsed between receiving the K50 and polling day, she maintained that she remembered the 1st Respondent's request for her vote.

11.38. There was no re-examination.

11.39. Diana Sakala, a 67-year-old businesswoman of KX Kabushi Extension, Kafubu Ward, Ndola District and UPND polling agent at Milemu Secondary School, testified as PW7.

She stated that she arrived at the polling station at about 05:00 hours on 13th August, 2026, with voting commencing at 06:00 hours.

11.40. Between 08:00 hours and 09:00 hours, she saw the 1st Respondent and Wilombe Sikazwe call two agents outside from the classroom. The two agents returned, one carrying a lamp and the other a pen and exercise book. The lamp was placed on a table and, as voters entered the classroom, one of the two agents lifted the lamp while the other gestured the flashing symbol with both hands.

11.41. PW7 stated that she was in Kamana 2 polling stream and reported the matter to the Presiding Officer. She could not certain the number of registered voters in Kamana 2 polling stream. PW7 alleged that the lamp remained there until about 14:00 hours, when she reported the matter to Mr Mwalaba an agent of the 2nd Respondent who removed it and took it to the staff room. She stated that Milemu Secondary School had a lot of voters with five streams, namely Kamana 1, Kamana 2, Kamana 3, Kawambwa 1 and Kawambwa 2, and that voting closed at 18:00 hours. She identified the lamp as the NRPUP symbol.

11.42. In cross-examination, PW7 confirmed that she complained immediately but had no photograph or other evidence of the lamp. She stated that voters were harassed by the persons gesturing the lamp symbol and displaying the lamp, although she did not know their names. She confirmed that the 1st Respondent was present but clarified that he merely brought the lamp and that his polling agents inside the classroom gestured the lamp symbol and displayed it.

11.43. She further confirmed that her evidence concerned only Kamana 2 Polling Stream and not the other four polling streams. PW7 maintained that the display of the lamp disturbed voters and consequently caused them to vote for candidates they did not

want. She confirmed that monitors and observers were present and that she continued reporting the matter until the lamp was removed at about 14:00 hours. She also confirmed that police officers were present at the polling stream, although she did not report the matter to them. Further, that other polling agents saw the lamp and raised no issue.

11.44. When the Court clarified the size of the lamp, PW7 stated that it was bigger than a 400ml bottle of hand sanitizer.

11.45. In re-examination, PW7 stated that the lamp symbol was well known and used by NRPUP and that it could influence voters.

11.46. Olline Chikonde, a 50-year-old businesswoman of Kabushi, Ndola District testified as PW8. She stated that on 13th August, 2026 she went to Kabushi Primary School, Ngwee 2 Polling Stream, to vote. At the gate, she found the 1st Respondent and his group. She stated that the 1st Respondent called her, asked whether she was there to vote and gave her a pen and K50.

11.47. PW8 stated that the 1st Respondent informed her that he was the aspiring candidate for member of parliament for Kabushi Constituency under NRPUP and Gideon Mvula as a councillor candidate under NRPUP. She testified that the 1st Respondent personally gave her the pen and K50 and that she subsequently voted for all NRPUP candidates as advised.

11.48. In cross-examination, PW8 stated that she arrived at the polling station at about 14:00 hours and had initially intended to choose her preferred candidate once inside the polling booth. She confirmed that the pen and K50 were given to her by the 1st

Respondent at the gate. She stated that the K50 and pen caused her to vote for him and that she did not willingly vote for him.

11.49. PW8 confirmed that no one forced her inside the polling stream to vote for anyone, that there was no violence and that she voted peacefully. She further confirmed that police officers were at the classrooms and not at the gate. She knew that the 1st Respondent was a candidate and stated that he requested her vote after giving her the pen and K50.

11.50. There was no re-examination.

11.51. Mwamba Chiti, a 45-year-old businesswoman of Kabushi, Ndola District testified as PW9. She stated that on 12th August, 2026, she received a phone call from Gideon Mvula informing her that four buses carrying people from Lusaka would be coming and requested for her assistance. She stated that Gideon Mvula was a councillor for Mukuba Ward.

11.52. At about 14:00 hours, the 1st Respondent and Gideon Mvula went to her home. They discussed accommodation for the people, who were expected to number about 60, and agreed that they would be accommodated at nearby shebeens. PW9 stated that she was assured that she would receive K1,500 for taking care of the people.

11.53. At about 17:00 hours, Gideon Mvula brought the people to her home. She counted 60 people and, together with herself, they were 61. She stated that the 1st Respondent gave the 60 people and herself K500 each and told them that the balance would be paid the following day after voting. She stated that the money was given so that the people would vote for NRPUP candidates and her role was to take the people to their

polling stations. She thereafter took them to nearby shebeens and arranged for them to return to her home at 04:00 hours.

11.54. At about 04:00 hours on 13th August, 2026, the people returned and PW9 collected their voters' cards for purposes of identifying their polling stations. She took 45 people to Kayele Secondary School, where they were allocated to Mukuba 1, Mukuba 2, and Mukuba 3 polling streams and thereafter took 15 people to Kabushi Primary School, where she identified Ngwee 1 and Ngwee 2 polling streams for them.

11.55. After completing the task, she informed the 1st Respondent, who thanked her and told her to await the balance of K1,000, which she stated had not been paid by the time of her testimony.

11.56. In cross-examination, PW9 confirmed that Gideon Mvula had called her on the morning of 12th August, 2026 and that the people were adults who did not know where they were going to vote from. She stated that she left the 45 people on the queues for their respective polling streams and that Kayele Secondary School was about five minutes' walk from her home, while Kabushi Primary School was about seven minutes away. She confirmed that she voted at Kayele Secondary School, Kariba Polling Stream, and that she did not encounter violence there.

11.57. PW9 denied having any relationship with the 1st Respondent, although she knew him. She stated that she knew Gideon Mvula through campaigns and had exchanged phone numbers with him, but denied campaigning with him. She acknowledged that voters' cards did not indicate political affiliation but maintained that, from her knowledge, the people from Lusaka had come with the intention of voting for NRPUP.

11.58. She further stated that she had been engaged by the 1st Respondent to take the people to their polling stations. She confirmed that she checked their voters' cards and returned them and that police officers were present at the polling stations.

11.59. Under further cross-examination, PW9 stated that, what was unusual was that the 60 people were each paid K500. She stated that she personally saw the 1st Respondent give them the money and that, to the best of her knowledge, it was given to them so that they would vote for him. She identified Samwa Njobvu (PW12) as another person who could confirm the payment.

11.60. There was no re-examination.

11.61. Charles Sampa, a 57-year-old businessman of Kabushi, Ndola District testified as PW10. He stated that on 13th August, 2026, he left home at about 06:00 hours and proceeded to Kayele Secondary School, where he was registered to vote. He stated that the polling station is in Mukuba Ward, Kabushi Constituency and had six polling streams with about 4, 500 registered voters and that there were more than 150 people in each queue. The six polling streams are namely, Chizela, Mukuba 1, Mukuba 2, Mukuba 3, Kariba and Tota.

11.62. At about 12:00 hours, he saw the 1st Respondent approach the queue, greet voters and distribute pens. According to PW10, the 1st Respondent said that the pens inside the polling stream were defective and that votes cast using them would disappear. PW10 stated that the 1st Respondent gave him a pen with K100 attached and requested him to vote on the lamp for all candidates.

11.63. PW10 stated that he voted on the lamp because he had been given the money, although when he left home he had intended to choose a candidate while in the polling stream.

11.64. In cross-examination, PW10 confirmed that he did not belong to any political party and was simply a voter. He maintained that he voted for the 1st Respondent because he had been given the K100 although while leaving home, he did not know who he was going to vote for. He confirmed that he had no photograph or other evidence showing that he had received the pen and K100 and that he did not show anyone how he voted because his vote was secret. He nevertheless maintained that he voted for NRPUP because of the money. He further confirmed that he cast his vote freely and peacefully.

11.65. There was no re-examination.

11.66. King Humphrey Banda, a 36-year-old unemployed resident of Kabushi, Ndola District testified as PW11. He stated that on 13th August, 2026, between 11:00 hours to 12: 00 hours while proceeding to Kaloko Primary School to vote, he was called by four persons standing near the gate of the polling station. He identified among them the 1st Respondent, member of parliament for Kabushi Constituency, councillor Lazarus for Kaloko Ward under Tonse party and two women whom he did not know.

11.67. PW11 stated that the 1st Respondent informed him that he was contesting as member of parliament and instructed him to vote for Tonse. He was given a pen with K50 attached and told to return after voting for an additional amount. He understood the pen and K50 to have been given to him so that he would vote for all candidates on the Tonse party ticket.

11.68. Upon entering the polling station, PW11 found many queues and observed many people carrying pens similar to the one he had received. He remained at the polling station from about 10:00 hours and only voted between 15:00 hours and 16:00 hours. After voting, he observed confusion within the polling station and saw Lazarus pushing an elderly woman who fell. He stated that the military dispersed voters and that the gate was closed between 16:00 hours and 17:00 hours, after which he left.

11.69. In cross-examination, PW11 confirmed that he successfully cast his vote and that he did not know the exact time when the confusion started. He stated that police officers were present at the polling station. He had no report or other evidence concerning persons allegedly falling or being injured, nor evidence concerning the conduct of the police. He also confirmed that he saw the gate being closed but had no evidence to show that the polling station had been prematurely closed.

11.70. There was no re-examination.

11.71. Samwa Njobvu, a 61-year-old businesswoman of Kabushi, Ndola District testified as PW12. She stated that on 12th August, 2026, PW9 phoned her and asked her to go to her home. Upon arrival, PW9 informed her that the 1st Respondent had called informing her that four buses carrying people from Lusaka were coming to vote the following day and that she needed assistance in showing them where to vote.

11.72. PW12 stated that PW9 later that evening informed her that the people had arrived and she went to PW9's home. The people did not know where they were registered to vote and they therefore dispersed.

11.73. On 13th August, 2026 they gathered at PW9's home and checked the voters' cards to identify those registered at Kayele Secondary School and Kabushi Primary School.

PW9 took the people registered at Kayele Secondary School while PW12 took those registered at Kabushi Primary School.

11.74. PW12 stated that one of the men refused to proceed to vote because he had not received his full payment. Another man from Lusaka called the 1st Respondent, who came to the group before they proceeded to the polling stations and gave the men K500 each as full payment. PW12 and PW9 also received K500 each from the 1st Respondent. She stated that the agreed payment was K1,500 each for PW9 and herself.

11.75. PW12 then took a group of 60 people to Kabushi Primary School in batches to vote. She stated that they all voted and left.

11.76. In cross-examination, PW12 stated that she arrived at PW9's home at about 16:00 hours on 12th August, 2026. On 13th August, 2026, they gathered at about 07:00 hours and proceeded to the polling stations at about 08:00 hours. She personally saw the 1st Respondent give out the money and stated that he was accompanied by Gideon Mvula.

11.77. PW12 confirmed that she was responsible for 60 people, while PW9 took 45 people to Kayele Secondary School, making 105 people in total. She stated that the four buses arrived between 19:00 hours and 20:00 hours on 12th August, 2026 and were divided between them.

11.78. There was no re-examination.

11.79. Esther Zulu, a 60-year-old farmer and businesswoman of Kabushi, Ndola district testified as PW13. She stated that on 13th August, 2026, she went to Kaloko Primary

School to vote. She left home at about 14:00 hours and, after voting, sat on a pillar while waiting for her friend, Faustina, to vote.

11.80. Between 15:00 hours and 17:00 hours, she saw a group led by Lazarus, whom she identified as the councillor for Kaloko Ward, approaching while making noise. When she attempted to stand and go towards the gate, Lazarus pushed her and she fell. As the noise and confusion intensified, people began leaving and she also went home.

11.81. PW13 stated that she began experiencing pain in her arm upon reaching home. The following day, her leg became swollen and she was unable to walk. She went to Masala Clinic and was advised to report the matter to the police. She reported at Kaloko Police Post, stating that Ezra Tembo had pushed her. A docket was opened and she returned to the clinic, where an X-ray revealed that she sustained a fracture to her right arm and left leg and a plaster of Paris was applied.

11.82. There was no cross-examination by any of the Respondents.

11.83. Cornelius Chula, a 54-year-old landscaper of Kabushi, Ndola District testified as PW14. He stated that he was assigned as a UPND polling agent at Chitimukulu 2 Stream at Kaloko Primary School on 13th August, 2026.

11.84. He arrived at the polling station at about 05:30 hours with voting commencing at 06:00 hours. Between 08:00 hours and 09:00 hours, while returning to the polling station, PW14 saw a white Toyota SUV flashing lights near the gate across the road. He stated that the 1st Respondent emerged from the motor vehicle and was about one meter away from him. According to PW14, people were approaching the 1st Respondent who started distributing pens with K50 attached to them.

11.85. The 1st Respondent called him and asked whether he was going to vote. PW14 answered in the affirmative. When asked whether he had a pen, PW14 stated that there were pens inside the polling booth. The 1st Respondent nevertheless gave him a blue pen with K50 attached and told him to return with other people to receive pens so that they should vote for all the candidates under his party.

11.86. PW14 proceeded to his polling stream and voted. Upon leaving the polling stream, he saw the 1st Respondent inside the polling station heading towards the polling stream he voted from. He stated that voters drew his attention and that the 1st Respondent was flashing the lamp symbol, which the voters also displayed. PW14 was about ten meters away. He further stated that the 1st Respondent subsequently greeted elderly people and gave them pens with K50 attached. And whenever the 1st Respondent reached his pockets, he gave the elderly people something.

11.87. At about 16:00 hours, PW14 heard noise and a loud bang at the main gate, approximately 20 meters from his polling stream. Police officers who were manning the polling streams went to the gate and subsequently returned and when he peeped through the window, he saw people panicking. PW14 stated that the door to his polling stream was closed and that the police informed them that things were not okay outside. The main gate was closed and voting was disrupted.

11.88. PW14 stated that the noise continued between 16:00 hours and 17:00 hours, that the period between 17:00 hours and 18:00 hours was quiet, and that counting of votes commenced between 19:00 hours and 20:00 hours. He stated that voting had been disrupted before its scheduled closure.

11.89. During counting, the ballots were shown to the agents and placed in the respective baskets for the candidates. Some ballots were disputed because they were

not clearly marked, however the 2nd Respondent's officers stated that they were okay.

11.90. In cross-examination, PW14 confirmed that he was a UPND polling agent. That the 1st Respondent gave him a pen and K50, and that he successfully voted. He confirmed that he did not vote for UPND and that the 1st Respondent won in his polling stream.

11.91. PW14 further confirmed that the voting proceeded accordingly and that the counting was conducted ballot by ballot, with the ballots being shown to the agents before being placed in the respective baskets for each candidate. He confirmed that an independent observer, police officers and other agents were present. He stated that he took no further action when some ballots were disputed.

11.92. There was no re-examination.

11.93. Edith Shampale, a 52-year-old unemployed resident of Kabushi, Ndola testified as PW15. She stated that on 13th August, 2026, she left home at about 04:00 hours to cast her vote. As she passed through Kabushi Market and approached the road to the polling station at Giddings Luntanda, she saw a parked motor vehicle and heard a voice calling out "mother! mother!".

11.94. Two persons emerged from the motor vehicle, one of whom she identified as Mulenga, whom she stated was a councillor and the other as the 1st Respondent who contested as member of parliament for Kabushi Constituency both under the party with a lamp symbol. She stated that they asked her to vote for them and referred to the party lamp symbol. The 1st Respondent gave her a pen with K50 attached and instructed her to use his pen and not the pen provided at the polling station.

11.95. PW15 proceeded to the polling station and cast her vote. She stated that the K50 attached to the pen was intended to induce her to vote for the 1st Respondent and Mulenga, the councillor. She stated that it was dark at the time, but she recognized the 1st Respondent from the motor vehicle's rear lights and from having known him during the campaign period.

11.96. In cross-examination, PW15 confirmed that she left home alone at about 04:00 hours and reached Luntanda at about 04:25 hours, when the polling station gates were open. She stated that she had a candidate in mind when she left home but did not vote for that candidate. She cast her vote at about 06:08 hours. She further confirmed that she voted for the 1st Respondent because he had asked her to do so and that, had she not been given the pen and K50, she would not have voted for him.

11.97. There was no re-examination.

11.98. Davyn Kwanga, a 27-year-old phone repairer of Kabushi, Sugar Compound, Ndola District testified as PW16. He testified that on 13th August, 2026 he proceeded to Dambo Secondary School in Kabushi Ward to vote. Upon reaching Dambo Road, around 14:05 hours, he encountered a group of people before reaching the gate, where he found the 1st Respondent distributing pens with K50 notes attached. PW16 obtained a pen with a K50 attached to its clip and asked the 1st Respondent why he had been given a pen when pens were available inside the polling station. The 1st Respondent told him that the pens inside were not working properly and instructed him to use the pen he had been given to vote for all NRPUP candidates. According to PW16 the 1st Respondent gave him the K50 so that he votes for him. PW16 accordingly voted as instructed. He stated that Dambo Secondary School had four

polling streams and that the 1st Respondent contested as a Member of Parliament for Kabushi Constituency under NRPUP.

11.99. In cross-examination, PW16 confirmed that he already knew whom he intended to vote for. He confirmed that there was a crowd at the gate and that he had queued to obtain the pen. PW16 confirmed that he knew the 1st Respondent prior to 13th August, 2026. He did not have the pen or a photograph of it. He further confirmed that no one forced him to vote once he was in the polling station, although he did not vote for a candidate of his choice

11.100. There was no re-examination.

11.101. Ephraim Kawangu, a 29-year-old Student of Kabushi, Ndola District testified as PW17. He testified that on 13th August, 2026 at around 11:00 hours, while proceeding to Dambo Secondary School to vote, he encountered a motor vehicle in which the 1st Respondent and three other persons were travelling. The driver called him to the motor vehicle, where he identified the 1st Respondent. The 1st Respondent asked whether he was going to vote and whether he had a pen. Upon being told that he did not have one, and that there must be a pen inside, the 1st Respondent gave him a blue pen with white stripes and a K50 note attached to its clip. The 1st Respondent explained that the pens provided inside the polling station could rub off. The 1st Respondent told him that he was standing as member of Parliament for Kabushi Constituency under NRPUP and instructed PW17 to vote for him and all NRPUP candidates. PW17 agreed and voted for the 1st Respondent at Dambo Secondary School, Dambo Stream 2, Kabushi Ward which had 981 registered voters.

11.102. In cross-examination, PW17 confirmed that he already knew whom he intended to vote for. He did not believe that a pen mark could be rubbed off and did not have

the pen with him. He confirmed that police officers were present at the polling station and that no one forced him to vote. He stated that he voted for the 1st Respondent and that, even without receiving the K50, he would have voted for him.

11.103. There was no re-examination.

11.104. Simon Mukuka a 54-year-old self-employed construction artisan of Kafubu Dam Water Works Compound, Ndola District testified as PW18. It was his testimony that on 13th August, 2026 between 08:00 hours and 09:00 hours, while on the queue at Kafubu Dam Polling Station in Chichele Ward, he saw a white Prado Land Cruiser with tinted windows in which the 1st Respondent who contested as member of parliament for Kabushi Constituency under NRPUP was seated with Joseph Mulenga and a driver. The 1st Respondent called him to the motor vehicle and gave him a pen and K100, instructing him to vote for him and all NRPUP candidates. PW18 returned to the queue about 5 meters away and observed the 1st Respondent's group give another person, whom he identified as Paul Bulongo (PW27), a pen and K100. He further observed a young woman receive a number of pens and a large amount of money from the motor vehicle. After the motor vehicle left, PW18 saw the woman give another lady a pen with money attached within the polling station premises. PW18 subsequently proceeded to vote.

11.105. In cross-examination, PW18 stated that he had not decided whom to vote for when he left home and did not support any political party. He confirmed that he knew the Petitioner and that she contested the election under the UPND. He stated that Kafubu Dam Polling Station had one polling stream and that there was a crowd at the polling station. He did not have the pen allegedly given to him or a photograph of it. He confirmed that a police officer was stationed at the entrance of the polling station. He also confirmed that the 1st Respondent went around the

compounds campaigning. However, the 1st Respondent did not attract a crowd when he was openly handing out money. He did not know the registration number of the motor vehicle and had not captured any evidence of the alleged distribution of pens. He further confirmed that no one forced him to vote and that there was no violence at Chichele Ward.

11.106. There was no re-examination.

11.107. Robert Chilayi, a 28-year-old mobile money agent of Kabushi, Ndola District testified as PW19. He testified that on 13th August, 2026, he was a polling agent for the UPND at Dambo Combined School, Stream 1 in Kabushi Ward. He arrived at about 05:00 hours and polling commenced at 06:00 hours. At about 14:00 hours, the 1st Respondent who stood as a member of parliament for Kabushi Constituency under NRPUP entered the polling station and subsequently, the polling stream and began flashing the lamp party symbol for NRPUP. PW19 consulted the presiding officer and complained that the 1st Respondent was not supposed to be in the polling station as he was not voting there. Instead of removing the 1st Respondent, PW19 stated that the presiding officer chased him from the polling stream at about 15:00 hours. PW19 left the 1st Respondent inside the polling stream.

11.108. In cross-examination, PW19 confirmed that a police officer was stationed at the entrance of the polling station and was aware of persons entering and leaving the polling station. He stated that, before the 1st Respondent's arrival, voters were voting freely, but that after his arrival, the 1st Respondent began showing voters his party symbol and there was confusion. PW19 did not lodge a formal complaint with the presiding officer or the police and had no documentary evidence that he had notified the police. He maintained that the 1st Respondent was flashing the party symbol

inside the polling station and polling stream. Further, that the party symbol was popular.

11.109. There was no re-examination.

11.110. Joseph Simunyama, a 37-year-old businessman of Kabushi, Ndola District testified as PW20. It was his testimony that on 13th August, 2026 between 15:00 hours and 16:00 hours, while proceeding to vote, he encountered the 1st Respondent, Lazarous Tembo and three ladies near Kaloko Police Post. The 1st Respondent asked him to vote for NRPUP candidates and gave him a blue pen with white stripes and K50 attached to the pen clip. The 1st Respondent instructed him to use the pen when voting because the pens provided inside the polling station by the 2nd Respondent would allegedly rub off. According to PW20 the K50 was given to him in favour of votes for the 1st Respondent and all other candidates from his party. PW20 thereafter proceeded to Kaloko Primary School, Polling Stream 3, to vote.

11.111. While inside the polling stream, PW20 heard noise and the 1st Respondent and his supporters shouting that they should be declared winners, they had already won the elections. PW20 identified Lazarous Tembo and the 1st Respondent when Lazarous pushed a woman and that the 1st Respondent was nearby. Police officers attempted to stop the violence but were unsuccessful, resulting in people scattering and pulling each other from the seven streams. He later saw a blue Toyota Hilux being struck by people, after which soldiers arrived. According to PW20, the soldiers caused people in the queues to run away, following which the 1st Respondent and Lazarous Tembo left the polling station. The gate to the polling station was closed between 16:00 hours and 17:00 hours.

11.112. In cross-examination, PW20 confirmed that he met the 1st Respondent and others around 14:00 hours. He also confirmed that he did not have the pen or a photograph of it. He confirmed that he had known the 1st Respondent and Lazarous Tembo from their campaigns. He heard the noise while inside the polling stream, recognized the 1st Respondent's and Lazarus Tembo's voice and saw them but was able to vote without interruption. He stated that he witnessed a person being pushed and people running around after voting. He could not say with certainty when the polling station was closed, had not produced any report concerning its alleged premature closure, and could not say whether voting continued after he left the polling stream. He further confirmed that the soldiers restored peace.

11.113. There was no re-examination.

11.114. Sizo Lloyd Nkonde, a 35-year-old Businessman of Main Masala, Ndola District testified as PW21. It was his testimony that on 13th August, 2026 after voting at Lyuni Primary School in Skyways Ward he continued with his duties as an election monitor. Between 16:00 hours and 17:00 hours, he received a phone call reporting violence at Kaloko Ward and proceeded there. He found people and voters outside the polling station and was permitted by police officers to enter the premises with a blue Toyota Hilux motor vehicle, registration number ADE 8080 and parked it. He stated that persons belonging to NRPUP, led by the 1st Respondent and Lazarus Tembo, accused him of carrying pre-marked ballot papers and surrounded the vehicle. As he attempted to leave, the windscreen and tail lights of the vehicle were damaged. Police officers assisted him towards the gate, where soldiers arrived and helped him leave. He stated that the gate to the polling station was subsequently closed at about 17:15 hours while voters were outside waiting to vote. On 14th August, 2026 around

08:00 hours, PW20 reported the malicious damage to the motor vehicle at Masala Police Station and was issued a police report.

11.115. In cross-examination, PW21 confirmed that he arrived in Kaloko Ward after 16:00 hours and was not aware that the 1st Respondent was in Kabushi Ward at the same time. He confirmed that the vehicle belonged to the Petitioner and that he did not take photographs or lodge a formal complaint with the 2nd Respondent regarding the damage. He further alleged that there was commotion before he arrived. He was an election monitor under the UPND and stated that his duties involved moving around the ten wards of Kabushi Constituency to ensure that elections were free and fair. He stated that, based on what he observed at Kaloko Polling Station, the elections were not free and fair because of the violence and disagreements there. He confirmed, however, that he was unaware of any allegation or report of miscounting of votes. He did not go around the seven polling streams at Kaloko Polling Station and therefore could not speak to what occurred in all the polling streams.

11.116. There was no re-examination.

11.117. Mwenya Mwelwa, a 28-year-old Businessman of Kabushi, Ndola District testified as PW22. He testified that on 13th August, 2026 while proceeding to vote at Dambo Secondary School, in Kabushi Ward, he encountered the 1st Respondent and Steven Mulenga, who stood as NRPUP Councillor for Kabushi Ward in a motor vehicle parked before the gate to the polling station. The 1st Respondent asked whether he had gone to vote and whether he knew whom he would vote for. PW22 stated that he did not know. When he indicated that he did not have a pen, the 1st Respondent gave him a blue and white Zam pen with K50 attached to the clip and instructed him

to use it because the pen provided inside the polling station would allegedly rub off. He was further told not to forget to give them a vote. This occurred at about 06:00 hours near the polling station gate.

11.118. PW22 stated that, upon joining the queue at Dambo 3 Polling Stream, he saw many people with similar pens displaying the lamp symbol of NRPUP. He voted as instructed and left.

11.119. In cross-examination, PW22 confirmed that he did not know whom he intended to vote for when he left home around 05:30 hours. He did not have the pen or a photograph of it. He had not previously seen pen marks being rubbed off but believed that they could be removed using correction fluid. He confirmed that no one forced him to vote inside the polling stream. He further confirmed that he voted for the 1st Respondent because of the pen and K50 he had been given.

11.120. There was no re-examination.

11.121. Amos Mudolo, a 28-year-old general worker of Kantolomba, Ndola District testified as PW23. It was his testimony that on 13th August, 2026 at about 11:30 hours, he proceeded to Sewerage Polling Station in Kantolomba Ward, Kabushi Constituency arriving at about 12:00 hours. At the gate, he found the 1st Respondent, the NRPUP Councillor for Kantolomba Ward and other persons, including a lady who was distributing blue Zam pens with K50 notes attached. PW23 stated that the lady gave him such a pen and instructed him to vote for the 1st Respondent and all NRPUP candidates. He stated that the 1st Respondent was present but did not personally distribute the pen or money and merely stood there listening to what the lady was saying. PW23 thereafter entered the polling station and voted.

11.122. In cross-examination, PW23 confirmed that he already knew whom he intended to vote for. He stated that no one forced him to vote and that he observed no violence at the polling station while he was there. He further confirmed that, when he was given the pen and K50, he was not forced to vote for anyone and that he had the freedom to choose a candidate of his choice.

11.123. There was no re-examination.

11.124. Edith Mulenga, a 38-year-old businesswoman of Lubuto, Ndola District testified as PW24. She testified, that on 12th August, 2026, while selling at Lubuto West Market, she saw people running towards SGC Filling Station. She proceeded there and found the 1st Respondent giving out K50 notes to people. At about 17:00 hours, he gave her K50 and asked for her vote the following day and to vote for all candidates affiliated with the lamp symbol.

11.125. On 13th August, 2026 at about 14:00 hours, PW24 went to Lubuto Primary School to vote. At around 14:00 hours at the gate, an elderly woman gave PW24 a blue pen with white lines and a K50 note attached to its cap and instructed her to use the pen to vote for the candidates represented by the lamp symbol. She entered the polling stream, voted and left.

11.126. In cross-examination, PW24 stated that she already knew whom she intended to vote for and voted for a candidate of her choice. She confirmed that no one forced her to vote, that she was randomly called to receive the pen and K50, and that the atmosphere at the polling station was peaceful. She further confirmed that there were no police officers where the elderly woman was distributing the pens and K50 notes, although police officers were inside, and that she had no photographs of the alleged distribution.

11.127. There was no re-examination.

11.128. Lyness Mutanuka, a 42-year-old businesswoman, of Lubuto, Ndola District testified as PW25. It was her testimony that on 12th August, 2026, while selling at Lubuto West Market, she saw women running towards a filling station after learning that the 1st Respondent had arrived. She proceeded there and found him standing among a crowd. At about 17:00 hours, she saw him giving out K50 notes and saying that they should not forget him the following day when voting.

11.129. On 13th August, 2026 between 13:00 hours and 14:00 hours, PW25 went to Lubuto Secondary School to vote. Before reaching the school, she met the 1st Respondent at the corner of the wall fence. He reminded her not to forget what he had told her the previous day and instructed her not to use the pen provided inside the polling stream. He gave her a blue pen with white lines bearing a K50 note attached to its cap. She voted at about 14:00 hours.

11.130. In cross-examination, PW25 stated that she knew who she was going to vote for, she confirmed that on 13th August, 2026 she met the 1st Respondent only once, while alone, when going to vote. That she did not know the exact time of their meeting. She voted from Mpulungu Stream and confirmed that no one forced her to vote. PW25 stated that she voted for the 1st Respondent because of the K50 she had received and that, without the K50, she would not have voted for him.

11.131. There was no re-examination.

11.132. Clifford Nyambe, a 33-year-old unemployed resident of Lubuto Mangwana, Ndola District testified as PW26. He testified that on 12th August, 2026 between 16:00 hours and 17:00 hours, he arrived at the Centre Bus Station and met four friends. A

Toyota Noah arrived shortly thereafter with three occupants, including the 1st Respondent who contested as member of parliament for Kabushi Constituency under the party affiliated with the lamp symbol. The 1st Respondent asked them whom they intended to vote for and requested them to vote for him. He then gave them K50 notes and told them to remember him the following day. The 1st Respondent further informed them that if they don't see each other the following day, his people would show them where food will be prepared after voting.

11.133. On 13th August, 2026 between 12:00 hours and 14:00 hours, PW26 went to vote at Community Hall in Lubuto Ward. Near the Seventh Day Church, he met a woman and two men who asked whether he had a pen. Upon informing them that pens were available at the polling stream, they told him that those pens rubbed off and the lady gave him a blue Zam pen with white lines bearing a K50 note. They identified themselves as foot soldiers of the 1st Respondent and told him that the K50 was for him to vote for the 1st Respondent. He was also instructed to return after voting to be shown where food was being distributed. After joining the queue, he observed other people holding similar pens. He voted and thereafter went to eat the food.

11.134. In cross-examination, PW26 confirmed that Centre Bus Station is not located near Lubuto West Market. That he did not know the names of the three persons he met and had never previously seen them with the 1st Respondent. He had neither the pen nor the registration number of the Toyota Noah and had no photographs of the incident. He stated that he knew whom he intended to vote for, that no one forced him to vote and that he voted freely.

11.135. There was no re-examination.

11.136. Paul Bulongo, a 24-year-old general worker, of Kafubu Dam, Ndola District testified as PW27. He testified that on 13th August, 2026, between 08:00 hours and 09:00 hours, he went to Kafubu Dam Polling Station in Chichele Ward and joined the queue, ahead of him was PW18. A Toyota Land Cruiser Prado arrived and a person seated at the back called him. He approached the motor vehicle and found the 1st Respondent and Joseph Mulenga. The 1st Respondent gave him a pen and K100 and told him that they were from NRPUP and that he should vote for the NRPUP candidates represented by the lamp symbol. He identified the 1st Respondent as the NRPUP member of parliament candidate for Kabushi Constituency and Joseph Mulenga as the NRPUP candidate for Chichele Ward from the posters in the compound.

11.137. After voting under Kafubu Dam Polling Stream, PW27 observed one woman being called to the motor vehicle and receiving similar items. He also saw another woman, who had not been called, receive several pens and money from the 1st Respondent.

11.138. In cross-examination, PW27 stated that the motor vehicle was approximately two to three meters from the queue, that Kafubu Dam had one polling stream and that there were many people in the queue. He stated that he was not aware that PW2 stated that the 1st Respondent was at Milemu Secondary School at the same time. He did not have the pen or any photograph of the incident and did not note the motor vehicle's registration number. He stated he did not know whom he would vote for before seeing the ballot paper. He confirmed that no one forced him to vote and that he voted freely. He did not report the incident to the police, stating that there was only one police officer inside who was occupied with monitoring the movement of people. He did not witness any violence at the polling station.

11.139. There was no re-examination.

11.140. Vivian Chanda, a 52-year-old businesswoman, of Main Masala, Ndola District testified as PW28. It was her testimony that on 13th August, 2026 at about 13:40 hours, she went to Masala Secondary School to vote at Mutende Polling Stream in Masala Ward. At the second gate, two women called her and asked whether she had a pen. Upon informing them that she did not, one of them gave her a pen bearing a folded K100 note on its cap and instructed her to vote for the 1st Respondent, pointing out the lamp symbol. She entered the polling stream and voted for all Tonse candidates as instructed.

11.141. After voting, PW28 went outside and observed violence in which people, including the two women, were dragging each other. Police officers arrived and ordered those who had voted and those waiting to vote to leave. A motor vehicle in which the 1st Respondent was present then arrived, and the two women entered it. PW28 stated that they were chased together with the motor vehicle before she went home.

11.142. In cross-examination, PW28 confirmed that the two women were strangers and were not with the 1st Respondent when they gave her the pen and K100. She stated that she knew whom she intended to vote for. Although she initially confirmed that she was not forced to vote, she subsequently stated that she was not free to vote because of the two women. She stated that the violence occurred between 13:40 hours and 14:00 hours and that she had captured it on video but did not have the video in court. She further confirmed that no police officer was present when she was given the pen and K100 and that the police only arrived during the subsequent violence.

11.143. There was no re-examination.

11.144. Jane Musonda, a 29-year-old businesswoman, of Main Masala, Ndola District testified as PW29. She testified that on 13th August, 2026, she went to Masala Secondary School to vote at Mwelu Polling Stream under Main Masala Ward, Kabushi Constituency. She found two women at the gate who asked whether she was going to vote and whether she had a pen. Upon stating that she did not have one, they gave her a pen and told her that they were the 1st Respondent's supporters and that she should vote for the candidate represented by the lamp symbol. They also gave her K100. She entered the polling stream, voted and returned outside. She stated that the two women thereafter identified the 1st Respondent to her as the member of parliament for Kabushi Constituency. At about 13:40 hours, she saw the 1st Respondent standing outside with the two women.

11.145. In cross-examination, PW29 stated that she already knew whom she intended to vote for. She confirmed that she did not know the two women and that there was no queue when she entered the polling station. She initially stated that she was forced to vote, but subsequently confirmed that no one forced her while she was in the polling stream and that she voted freely. She stated that, after voting, the two women identified the 1st Respondent to her. She further testified that, upon leaving the polling stream, she saw people being removed from the polling station, but when asked whether this constituted violence, she stated that it did not.

11.146. There was no re-examination.

11.147. Gwen Musonda, a 35-year-old businesswoman of Masala, Skyways Ward, Ndola District testified as PW30. She testified that on 12th August, 2026 while at home doing laundry, three people approached her and asked whether she was aware that the

following day was voting day. Upon confirming that she was, they asked for her vote and one of them gave her a pen and K50. She was instructed to vote for all candidates under the lamp symbol. PW30 stated that the three persons were strangers. The one who gave her the K50 and pen, introduced himself as being from the 1st Respondent and requested her to vote for the 1st Respondent and stated that they were together with the 1st Respondent. On 13th August, 2026 PW30 complied and voted for the 1st Respondent at Lyuni Primary School in Skyways Ward.

11.148. In cross-examination, PW30 stated that the three persons visited her between 13:00 hours and 14:00 hours. She further confirmed that she knew whom she intended to vote for. She arrived at Lyuni Primary School at about 16:00 hours on 13th August, 2026. She stated that no one forced her to vote and that she voted freely.

11.149. In further cross-examination, PW30 stated that she had initially intended to vote for the Petitioner, who was standing on the UPND ticket, but changed her mind because of the K50 she had received. She explained that she was not pleased because she had voted for a person other than the one she had intended to support.

11.150. There was no re-examination.

11.151. Jane Kalenga, a 52-year-old a businesswoman of Main Masala, testified as PW31. She testified that on 12th August, 2026 between 11:00 hours and 12:00 hours while at home, she heard noise and went outside to ascertain its cause. She saw two young women and a man approach her yard. The man identified himself as the 1st Respondent, gave her K50 and a pen, asked whether she was aware that the following day was voting day and requested her vote.

11.152. PW31 stated that on 13th August, 2026 she went to Lyuni Primary School in Skyways Ward at about 05:00 hours and voted at approximately 07:00 hours. She stated that she voted as instructed, for all candidates under the lamp symbol. She stated that the 1st Respondent contested as member of Parliament for Kabushi Constituency under Tonse and that the party symbol was the lamp.

11.153. In cross-examination, PW31 confirmed that the 1st Respondent had given her K50 and a pen. She stated that she knew whom she intended to vote for. She voted from Chambishi 2 Polling Stream at Lyuni Primary School at around 07:30 hours.

11.154. PW31 stated that she had been forced to vote by the 1st Respondent and initially stated that she was with him when voting. She subsequently confirmed that the 1st Respondent was not with her in the polling booth. She explained that the K50 she had received was the reason she regarded herself as having been forced to vote. She further confirmed that although there were police officers and polling agents at the polling stream, they did not see the 1st Respondent forcing her to vote.

11.155. PW31 further stated that she did not belong to any political party and that other political parties, including UPND had campaigned in Skyways Ward. She confirmed that none of those parties gave her K50 or anything in return for her vote. She stated that she would not have voted for the 1st Respondent had she not received the K50. She also confirmed that she did not show anyone the candidate for whom she had voted because her vote was secret and that she had no evidence to demonstrate that she had voted for the 1st Respondent. PW31 explained that when she stated that the 1st Respondent had forced her to vote, she meant that he had requested her vote on 12th August, 2026.

11.156. There was no re-examination.

11.157. Daisy Mukuka, a 30-year-old businesswoman of Kabushi, Ndola District, testified as PW32. It was her testimony that on 13th August, 2026, while on her way to vote, she met the 1st Respondent outside Toka Community Hall in Toka Ward between 14:00 hours and 15:00 hours. The 1st Respondent gave her a blue glass pen with a K50 note wrapped inside it and requested her to vote for all Tonse Alliance candidates, whose party symbol was a lamp. PW32 thereafter proceeded to vote for all Tonse Alliance candidates at Toka Community Hall, Chigwirizano 2 Polling Stream. She further stated that there were five polling streams at Toka Community Hall.

11.158. In cross-examination, PW32 stated that she knew whom she intended to vote for. She confirmed that she met the 1st Respondent outside Toka Community Hall between 14:00 hours and 15:00 hours and entered the polling station at about 15:00 hours. She did not take a photograph of the pen and K50. She further stated that she did not know why she had been given the K50.

11.159. PW32 further confirmed that she did not observe any violence at the polling station and that no one physically forced her to vote. However, she stated that she did not vote freely because her mindset was influenced by the fact that she had been given K50. She further confirmed that the 1st Respondent had asked for her vote when he gave her the pen and K50 and that she voted for him because of the K50.

11.160. There was no re-examination.

11.161. Misheck Mumbi Chungu, a 57-year-old driver of Kabushi, Ndola District testified as PW33. He testified that on 13th August, 2026 he went to Toka Community Hall to vote and arrived in the afternoon. While in the queue, he observed that people in front of and behind him had blue pens with white stripes. A young woman behind him told him that he should obtain a pen because the pens inside the polling station

were rubbing off. Upon asking where the pens were being obtained, the woman offered to take him to the source.

11.162. PW33 stated that he left the polling station with the woman and was directed to a place where he found five women and three men whom the woman who gave him directions informed him were Tonse and the 1st Respondent's supporters. The 1st Respondent was not present. One of the women gave him a pen and K60 and advised him to vote on the lamp for all candidates. He then returned to the polling station and voted.

11.163. In cross-examination, PW33 stated that he knew whom he intended to vote for. He stated that he arrived at the polling station at about 14:00 hours and that the woman who directed him to the persons distributing the pens was a stranger. He confirmed that the 1st Respondent was not physically present when he was given the pen and K60. He clarified that he voted from Lundazi 1 Polling Stream.

11.164. PW33 confirmed that no one forced him to vote in Lundazi 1 Polling Stream. However, he stated that he did not vote freely because he had been forced to obtain the money. He further confirmed that he was not aware that the 1st Respondent was not a candidate for Tonse.

11.165. There was no re-examination.

11.166. Esther Katiba, a 23-year, chef of Kabushi, Ndola District testified as PW34. She testified that on 13th August, 2026, she left home in the afternoon to cast her vote. Upon reaching Toka Community Hall, in Toka Ward, she met the 1st Respondent outside the polling station between 14:00 hours and 15:00 hours. He gave her a blue

glass pen and told her that the pens inside the polling station were rubbing off. He further asked her not to forget to vote for him.

11.167. PW34 stated that upon examining the blue glass pen, she discovered K100 wrapped inside it. She stated that she voted for the 1st Respondent under Chigwirizano Polling Stream in accordance with his instructions.

11.168. In cross-examination, PW34 confirmed that she knew whom she intended to vote for and that she met the 1st Respondent outside the gate to the polling station between 14:00 hours and 15:00 hours. She confirmed that he gave her the pen and that she discovered K100 inside it. She did not take a photograph of the pen. PW34 entered the polling station between 14:00 hours and 15:00 hours and proceeded directly to Chigwerizano Polling Stream, where there was no queue.

11.169. PW34 stated that she was forced to vote. When asked who had forced her in the polling booth, she stated that it was her mind. She confirmed that no one physically forced her to vote in the polling booth and maintained that she did not vote freely.

11.170. There was no re-examination.

11.171. This marked the close of the Petitioner's case.

12. 1ST RESPONDENT'S EVIDENCE AT TRIAL

12.1. To rebut the Petitioner's allegations, the 1st Respondent testified and called five other witnesses, hereinafter referred to as "RW1 to RW6".

12.2. Tilas Titus Sichinga a 40-year-old businessman and politician of Sugar Compound kabushi, Ndola District and 1st Respondent herein testified as RW1. He testified that he was adopted as the NRPUP parliamentary candidate for Kabushi Constituency on

23rd May, 2026. Following the validation of his nomination papers by the 2nd Respondent, a campaign timetable exhibited as **"STT1"** in his affidavit in opposition was issued for the nine parliamentary candidates contesting in the constituency, which comprised ten wards.

12.3. He stated that his campaign commenced on 1st June, 2026 and continued until 12th August, 2026. According to him, his campaign was peaceful and centered on the principles of agape love, peace and justice. Owing to limited resources, his team adopted a door-to-door campaign strategy and adhered to the timetable issued by the 2nd Respondent. On 12th August, 2026, his campaign committee comprising his colleagues from NRPUP and family members and himself campaigned in Skyways Ward, beginning at ZamBeef in Masala at about 09:00 hours and proceeding towards Kapalala Market. Between 16:00 hours and 17:00 hours, RW1 fell ill and instructed his campaign committee to return home. He stated that his residence in Sugar Compound served as his only campaign command center. He further testified that he instructed his campaign committee to rest that evening because he was unwell.

12.4. On 13th August, 2026 RW1 woke up between 08:30 hours and 09:00 hours and left home at 10:00 hours, accompanied by his family friend, Humphrey Sichone, in a Toyota Ipsum motor vehicle, to cast his vote at Samfya Polling Station at Lubuto Secondary School. Upon arrival, he was received by journalists who escorted him to the polling stream where he was registered to vote. Police officers and agents of the 2nd Respondent advised him, as a parliamentary candidate, to proceed directly into the polling stream rather than join the queue. He voted for his preferred candidates in the presidential, parliamentary, councillor and mayoral elections and completed voting at 11:32 hours.

12.5. After voting, RW1 gave a brief media interview by the entrance to Lubuto Secondary School in which he thanked the Government and the 2nd Respondent for their professionalism and commended the electorate for turning out to vote for leaders of their choice. He then returned home, arriving between 12:15 hours and 12:20 hours. He testified that he spent the remainder of the day at home with his family because he was unwell.

12.6. RW1 further testified that on 15th August, 2026 at about 15:00 hours, he went to Milemu Secondary School Hall, the constituency's totaling center, following a call from one of his campaign monitors, Felix Musonda (RW6). At the center, the Returning Officer, Mr. W. Chilala, announced the election results and declared him duly elected member of parliament for Kabushi Constituency, having polled 14,635 votes as evidenced by exhibit **"STT3 "**, declaration of the results of the poll form exhibited in his affidavit in opposition. He stated that the symbol of NRPUP was a lamp and that he subsequently received summons to defend his election victory.

12.7. Under cross-examination, RW1 confirmed that he had received orientation on electoral rights and prohibited conduct from the 2nd Respondent. He acknowledged that only authorized persons, including polling agents and candidates, could sign GEN 20 forms. He confirmed that Gideon Mvula, although an NRPUP member and candidate for Mukuba Ward, had not signed the GEN 20 form exhibited as **"STT3"** in his affidavit in opposition as his agent, while Lazarus Tembo, an NRPUP member and councillor for Kaloko Ward, had signed it as his agent. He confirmed that he was aware of allegations concerning the conduct of the two individuals before the Court.

12.8. He denied that the elections were not free and fair, while agreeing that campaigning on polling day, violence and the distribution of pens and money by candidates or their agents would undermine the fairness of an election.

12.9. RW1 confirmed the geographical proximity of several wards within Kabushi Constituency and agreed that a motor vehicle could enable a person to traverse the constituency within an hour. He also confirmed that most wards had central polling locations, although he disputed that Milemu Secondary School was the only polling location in Kafubu Ward, explaining that voting also took place at Ndola Main Primary School.

12.10. He acknowledged establishing the Tilas Titus Sichinga Foundation on 28th April, 2023 serving as one of its directors and operating its offices in Kafubu Ward, near Puma Filling Station. He agreed that the Foundation had undertaken donations within Kabushi Constituency. However, he denied that the Foundation had been used as a conduit for bribery during campaigns or that he had announced his intention to contest the parliamentary election at its premises.

12.11. He denied allegations by several witnesses that he had distributed pens bearing K50 or K100 notes to induce voters to vote for him. These included allegations from PW3, PW5, PW6, PW8, PW10 and other witnesses. He also denied paying PW3 K200 to distribute pens at Milemu Secondary School. RW1 further denied distributing K50 notes at SGC Filling Station near Lubuto West Market on 12th August, 2026.

12.12. Regarding his presence at Lubuto Secondary School on polling day, he maintained that after voting, he had only addressed the media to thank the electorate for turning up in huge numbers to vote for candidates of their choice and to express his gratitude to the Government and the 2nd Respondent for conducting the elections professionally but denied campaigning or displaying his party symbol. He explained that journalists had contacted him at home to establish where he would be voting from so that they could cover the candidates in the constituency. He

denied that the media coverage was broadcast live on Chimwemwe Radio, stating that he had no knowledge of such a broadcast.

12.13. He admitted that he had no medical evidence before the Court to establish that he had been unwell. He nevertheless maintained that he had not campaigned on polling day, engaged in bribery or participated in violence at Chichele, Lubuto or Kabushi Wards. He attributed his victory to his campaign message of agape love and insisted that he had complied with the 2nd Respondent's electoral rules.

12.14. RW1 acknowledged that he was aware of allegations of bribery and campaigning on polling day, including allegations concerning Kafubu, Lubuto, Kaloko and Kayele Secondary School but denied having engaged in such conduct. He also stated that he did not know any of the thirty-four witnesses and did not address their allegations against him because most of them lied against him.

12.15. Still under cross-examination, as regards the conduct of the election, RW1 stated that the 2nd Respondent was responsible for announcing the results after verification. He acknowledged that he did not supervise every polling station and therefore could not testify to what occurred at every station. He relied on reports from his agents, who informed him that voting and counting had been properly conducted.

12.16. RW1 further acknowledged that the allegations of corrupt practices, bribery, campaigning on polling day and distribution of pens bearing money were serious. He agreed that, if proved, their effect on the election was a matter for the Court to determine and that an election could be nullified if the allegations were established. He confirmed that police officers were present at Lubuto Secondary School on polling day and maintained that they conducted themselves professionally without obstructing voters or preventing any voter from casting their vote.

12.17. There was no re-examination.

12.18. Oscar Sichilima, a 40-year-old businessman of Kabushi, Ndola District testified as RW2. It was his testimony that that on 13th August, 2026 he left home at about 17:20 hours and proceeded to Kaloko Primary School to cast his vote. He arrived at the polling station, joined the queue and voted at approximately 18:15 hours at Chimwemwe Polling Stream. He thereafter returned home.

12.19. Under cross-examination, RW2 denied being in the company of the 1st Respondent or any other person suggested to him and stated that he had gone to vote alone and could not testify to the allegations against the 1st Respondent. He confirmed that he resided in Kaloko Ward but was not a neighbour of the 1st Respondent. He acknowledged that he had not produced his voters' card or the voters' register to establish that he had voted in Kaloko Ward. He further denied belonging to NRPUP, stating that he was an independent voter, and indicated that he did not know PW13 nor that she was one of the people injured on polling day.

12.20. Still under cross-examination, RW2 reiterated that he had voted at Kaloko Primary School at approximately 18:15 hours and confirmed that he had voted freely and fairly. He also maintained that Kaloko Primary School was open when he arrived at 17:20 hours and that police officers were present to maintain peace. He confirmed that he was the third person from the last on the queue and that the polling station remained open beyond 18:15 hours.

12.21. There was no re-examination.

12.22. Theresa Musonda, a 35-year-old businesswoman of Sugar Compound, Kabushi, Ndola District testified as RW3. She testified that she served as a polling agent for

NRPUP at Chitimukulu 1 Polling Stream at Kaloko Primary School. She arrived at the polling station at about 05:30 hours and found other polling agents and officials of the 2nd Respondent. She stated that the 2nd Respondent's officials conducted the pre-voting procedures properly and voting commenced peacefully.

12.23. She testified that voting continued without incident. At approximately 18:18 hours, the police closed the polling stream, after which the counting of votes commenced. She explained that the officials of the 2nd Respondent placed trays bearing the names of the political parties and emptied the ballot boxes. Each ballot paper was displayed to the agents before being placed in the tray corresponding to the party voted for. The ballots were then counted, placed in labelled plastics and sealed.

12.24. She further testified that, after counting, the results were entered on the GEN 20 forms and shown to the agents for verification. The agents were invited to sign the forms after confirming the figures, and they were given carbon copies. RW3 left the polling station around 04:00 hours on 14th August, 2026.

12.25. In cross-examination, RW3 confirmed that she had been appointed a polling agent by NRPUP and had campaigned for the 1st Respondent by going around the roads and encouraging voters to support him. She acknowledged that she was not always in the company of the 1st Respondent during campaigns but had worked hard to secure his victory. She further conceded that, having spent most of the voting period inside Chitimukulu 1 Polling Stream, she could not testify to what transpired outside the polling stream and polling station or dispute allegations of campaigning and distribution of pens and K50 attached. She further stated that the NRPUP party symbol is a lamp.

12.26. Still under cross-examination, RW3 confirmed that she had been appointed to represent the interests of RW1 and that her duties included observing the electoral process and reporting to him. She maintained that voting and counting were conducted openly and transparently. She did not witness any misallocation of votes belonging to PW1 to RW1 and confirmed that no polling agent objected to the counting process. She further stated that the results were entered on the GEN 20 forms, which the agents had an opportunity to verify and sign. No agent refused to sign the forms on account of disputed figures.

12.27. There was no re-examination.

12.28. Rodgers Lwimba, a 49-year-old businessman and student of Kabushi, Extension, Ndola District testified as RW4. It was his testimony that on 13th August, 2026 he served as a polling agent for NRPUP at Kawambwa 1 Polling Stream at Milemu Secondary School. He arrived at approximately 05:50 hours. Upon entering the polling stream, he found other agents representing different political parties and officials of the 2nd Respondent.

12.29. He stated that voting commenced at 06:00 hours and proceeded without incident. After 18:00 hours, voters who remained in the queue were ushered in by the police and cast their votes. Voting was completed between 19:00 hours and 20:00 hours, after which the counting of ballots commenced in the presence of all agents. He testified that the ballot papers were displayed by the officials of the 2nd Respondent for verification by the agents.

12.30. He further stated that, after counting, the presiding officer entered the results on the GEN 20 forms between 01:00 hours and 02:00 hours and that no one was permitted to leave until the process was completed.

12.31. In cross-examination, RW4 confirmed that Milemu Secondary School was the constituency's totaling center and that it accommodated five of the eight polling streams in Kafubu Ward. He acknowledged that his evidence was confined to what transpired at Kawambwa 1 Polling Stream and that he was unfamiliar with the school's surroundings. He further stated that he did not know RW1 personally and had only seen his name.

12.32. Still under cross-examination, RW4 confirmed that he had been appointed as an NRPUP agent and had received one day of training from the party. He maintained that he remained at the polling station until approximately 03:20 hours but was not present during the declaration of results. He described the counting process as transparent, explaining that ballot papers were displayed to the agents before being placed in the respective party trays. He did not witness any miscounting of votes or misallocation of votes belonging to PW1 to RW1 or any objection by agents to the counting process. He further confirmed that the results were entered on the GEN 20 forms and that the agents present were given an opportunity to verify and sign them.

12.33. There was no re-examination.

12.34. Emmanuel Chola, a 29-year-old businessman of Twapia, Ndola District testified as RW5. He testified that on 13th August, 2026 he served as a polling agent for NRPUP at Hope Church of God Polling Station in Chichele Ward. He arrived at approximately 05:30 hours and stated that voting commenced at about 06:00 hours and closed at 18:00 hours without confusion.

12.35. He testified that counting commenced after voting, with the 2nd Respondent's agents removing the ballot papers from the boxes and placing them in trays for each party. The results were subsequently entered on the GEN 20 forms in accordance

with the votes obtained by each candidate. RW5 identified his signature on the GEN 20 form exhibited as **"STT2A"** in RW1's affidavit in opposition and stated that, after the forms were signed, the agents escorted the ballot papers to the totaling center. However, he remained outside the totaling center at Milemu Secondary School due to lack of accreditation to enter and was therefore not present when the winner was announced.

12.36. Under cross-examination, RW5 confirmed that Hope Church of God was not the only polling station in Chichele Ward and that 308 voters had cast their votes at the polling stream reflected in exhibit **"STT2A"** in RW1's affidavit in opposition. He further acknowledged that **"STT2A"** in the said affidavit did not identify the individual voters or record events outside the polling station, including alleged distribution of money or violence. He further confirmed that he was not at Kafubu Dam Polling Station on polling day and had neither met PW18 nor PW27 on 13th August, 2026. He also stated that he had not been in the company of RW1 that day.

12.37. Still under cross-examination, RW5 maintained that voting and counting were conducted transparently and there was peace and tranquility during both processes. RW5 confirmed that a police officer was present at Hope Church of God and maintained that the officer kept order and was present during the counting of votes. He admitted that his duties ended at the polling station and that he had not been permitted to enter the totaling center because he lacked the requisite authorization.

12.38. There was no re-examination.

12.39. Felix Musonda, a 33-year-old safety officer of Kabushi, Ndola testified as RW6. It was his testimony that on 13th August, 2026 he was assigned by NRPUP to monitor the elections in Kabushi Constituency, which comprised ten wards. He stated that

he visited various polling stations across the constituency to ensure that polling agents were present, receive reports of any challenges and monitor the maintenance of peace.

12.40. He testified that he commenced his monitoring activities in Kantolomba Ward at approximately 05:00 hours, where he visited Sewerage Polling Station and Rainbow Polling Stations and found voters queued peacefully. Between 05:00 and 06:00 hours, he proceeded to Kayele Secondary School in Mukuba Ward, where voting had commenced peacefully. He thereafter visited Kaloko Ward between 06:00 hours and 07:00 hours and subsequently proceeded to Kafubu Polling Station and Masala Secondary School, where he also observed peaceful voting.

12.41. RW6 further stated that he returned to Kaloko Ward between 17:00 hours and 18:00 hours and found voting still proceeding peacefully. Between 19:00 hours and 20:00 hours, he visited Lubuto Community Hall, where voting had ended. During the afternoon, he also monitored polling stations in Kaloko, Lubuto, Kafubu, Community Hall, Masala Secondary, Masala Community Hall and Kabushi A under Mukuba Ward and maintained that he observed peace at the locations visited.

12.42. He testified that he arrived at the totaling center at Milemu Secondary School at approximately 05:00 hours on 14th August, 2026 where he spent the day. He stated that the environment at the center was peaceful. On 15th August, 2026 RW1 was announced and declared the winner without any counting of votes taking place at the center.

12.43. In cross-examination, RW6 acknowledged that his evidence-in-chief did not state that he was the campaign manager for RW1 or that he signed the GEN 20 form after the declaration of the winner. He confirmed that exhibit **"STT3"** in RW1's affidavit in

opposition identified him as the person who witnessed the declaration and recorded his organization as NRPUP. He also confirmed that he was pleased that RW1 had won.

12.44. RW6 stated that he had toured approximately 96 polling streams across the ten wards. He acknowledged that his evidence-in-chief did not address allegations involving several named witnesses and polling areas, including Main Masala, Lubuto and other locations. He further stated that he was not aware of allegations of bribery and had not been with RW1 at SGC Filling Station on 12th August, 2026.

12.45. He maintained that Kaloko was peaceful and fair, but acknowledged that he did not know some of the persons referred to in the allegations concerning that area and had not spoken to them. He similarly acknowledged that his evidence did not address allegations concerning Toka Ward, Kabushi Ward and Kayele Secondary School, including allegations of bribery.

12.46. RW6 admitted that, if a candidate bribed voters, the election would not be free and fair. He nevertheless maintained that, from what he observed and the reports he received from his agents, the election was conducted peacefully and fairly.

12.47. There was no re-examination.

12.48. This marked the 1st Respondent's case.

12.49. Both the 2nd and 3rd Respondents did not call any witnesses and placed reliance on the filed answers and the attendant affidavits.

13. SUBMISSIONS

13.1. PETITIONER'S SUBMISSIONS

13.2. The Petitioner's submissions filed on 9th October, 2026 began with a summary of the documents filed and evidence of the Petitioner's and Respondent's witnesses which require no repetition.

13.3. The gravamen of the Petitioner's submissions was that, the burden of proving the allegations in an election petition rests on the Petitioner, who must establish the alleged electoral offences to a fairly high degree of convincing clarity, beyond the ordinary civil standard of proof on a balance of probabilities. The cases of **Akashambatwa Mbikusita Lewanika and Others v Frederick Jacob Titus Chiluba**[1]and **Brelsford James Gondwe v Catherine Mwangala**[2], were cited in support.

13.4. The Petitioner submitted that proof of an electoral offence alone is insufficient, the Petitioner must also establish that the offence was widespread and prevented, or may have prevented, the majority of voters from electing the candidate of their choice as espoused in the cases of **Austin Liato v Sitwala Sitwala**[3], and **Chrispin Siingwa v Stanley Kakubo**[4].

13.5. The Petitioner relied on **Section 97(2) of the Electoral Process Act**[1] to submit that an election may be declared void where a corrupt practice, illegal practice or other misconduct has been committed by a candidate or, with the candidate's knowledge, consent or approval, by the candidate's election or polling agent, and the majority of voters in the constituency were or may have been prevented from electing their preferred candidate.

13.6. Relying on **Section 81 of the Electoral Process Act**[1], the Petitioner contended that bribery includes giving, offering or promising money or other property to induce a voter to vote for a particular candidate. It was submitted that the giving of money to voters, including money concealed in pens, constituted bribery and compromised the free choice of the electorate.

13.7. Relying on the cases of **Michael Mabenga v Sikota Wina and Others**[5], **Leonard Banda v Dora Siliya**[6] and **Margaret Mwanakatwe v Charlotte Scott and Attorney General**[7] the Petitioner submitted that an election may be nullified where an electoral offence is committed by the candidate or by the candidate's election or polling agent with the candidate's knowledge, consent or approval, provided the requisite effect on the electorate is established.

13.8. The Petitioner contended that the evidence demonstrated the 1st Respondent's personal involvement in bribery and his knowledge, consent and approval of the corrupt practices allegedly committed in his presence. It was further submitted that the 1st Respondent failed to take reasonable steps to prevent or stop those practices.

13.9. The Petitioner went on to submit that the majoritarian principle required the Court to determine whether the alleged electoral offences prevented, or may have prevented, the majority of voters in Kabushi Constituency from electing a candidate of their choice, the cases of **Akashambatwa Mbikusita Lewanika and Others v Fredrick Jacob Titus Chiluba**[1] and **Margaret Mwanakatwe v Charlotte Scott and Attorney General**[7] were cited in support of this submission.

13.10. It was the Petitioner's contention that the evidence established widespread bribery across all ten wards of the constituency and that the inducement of voters compromised their electoral choices. It was further argued that, given the proximity

of the wards, the alleged practices could not be considered isolated incidents and were sufficient to satisfy the requirements of Section 97(2) of the Act.

13.11. The Petitioner maintained that the evidence, considered as a whole, established the alleged electoral offences to the requisite standard and demonstrated their potential effect on the electorate. The Petitioner accordingly urged the Court to allow the petition and grant the reliefs sought.

13.12. **1ST RESPONDENT'S SUBMISSIONS**

13.13. In the submissions filed on 15th October, 2026 the 1st Respondent submitted that the Petitioner had failed to discharge the burden of proving the allegations of bribery, corruption, violence, illegal campaigning, obstruction of voters and irregularities in the counting and tallying of votes.

13.14. Relying on the case of **Chrispin Siingwa v Stanley Kakubo**[4], the 1st Respondent submitted that allegations of electoral misconduct must be established by credible and cogent evidence to a fairly high degree of convincing clarity. The 1st Respondent cited the cases of **Richwell Siamunene v Gift Sialubalo**[8] **Mulope v Shakafuswa and Another**[9] and **Steven Masumba v Elliot Kamondo**[10], to emphasize the importance of independent corroboration and sufficient evidence in proving electoral malpractice.

13.15. With regards the allegations that the 1st Respondent was campaigning on polling day at Lubuto and Kafubu Ward and canvassing for votes at Milemu Polling Station, this Court was referred to the cases of **Banatib Issa Taligola v Electoral Commission and Wasugoya Bob Fred**[11], **Michael Mabenga v Sikota Wina, Mafo Wallace Mafiyo and George Samulela**[3] and **Chipota v Katuta and Anor**[12] to submit that in

the absence of sufficient evidence to a fairly high degree of convincing clarity, the Petitioner's allegations must fail.

13.16. It was the 1st Respondent's submission that partisan witnesses with an interest to serve required their evidence to be corroborated. This Court was further referred to the case of **Bornface Chanda Chola and Others v The People**[13] in support of this proposition.

13.17. On the effect of the alleged malpractice, the 1st Respondent relied on a number of authorities among them **Nkandu Luo and the Electoral Commission of Zambia v Doreen Sefuke Mwamba and the Attorney General**[14], **Sunday Chitungu v Rodgers Mwewa and the Attorney General**[15], and **Akashambatwa Mbikusita Lewanika and Others v Fredrick Jacob Titus Chiluba**[1] to submit that the Petitioner was required to prove that the alleged malpractice was sufficiently widespread to have prevented, or potentially prevented, the majority of voters from electing the candidate of their choice.

13.18. The 1st Respondent went on to contend that the Petitioner's witnesses gave contradictory evidence and failed to establish a sufficient link between the alleged misconduct and the 1st Respondent's election. It was pointed out that the 1st Respondent obtained 14,635 votes, compared with the Petitioner's 8,698 votes, and submitted that the alleged irregularities had not been shown to have affected the election outcome.

13.19. Regarding the allegation that the Petitioner's agents were denied access to the GEN 20 forms and to sign the same, it was submitted that failure to sign the declaration form did not invalidate the results of the election. The 1st Respondent relied on Section 36 (2) of the Electoral Process Act, Regulation 5(2) of the Electoral

Code of Conduct and the case of **Mulope v Shakafuswa and Anor**[9] to fortify this position.

13.20. The 1st Respondent accordingly urged the Court to find that the Petitioner had failed to satisfy Section 97(2) of the Electoral Process Act and to dismiss the petition with costs.

13.21. **2ND RESPONDENT'S SUBMISSIONS**

13.22. The 2nd Respondent's submissions dated 16th October, 2026 also began with a summary of the documents filed and evidence of the Petitioner's and Respondent's witnesses which require no repetition.

13.23. The gist of the 2nd Respondent's submissions was that the petition was anchored on Article 73(1) of the Constitution and Section 97(2) of the Electoral Process Act. That the allegations against it concerned the alleged denial of the Petitioner's agents' opportunity to sign GEN 20 forms, miscounting or misallocation of votes, and refusal to verify the results after their declaration.

13.24. Being aided by the cases of **Daniel Nyirenda v University of Zambia Council**[16], **Akashambatwa Mbikusita Lewanika and Others v Fredrick Jacob Titus Chiluba**[1], and **Brelsford James Gondwe v Catherine Namugala**[2], the 2nd Respondent submitted that the Petitioner bore the burden of proving her allegations to a fairly high degree of convincing clarity.

13.25. Further relying on the case of **Sibongile Mwamba v Kelvin Sampa**[17], the 2nd Respondent argued that, under section 97(2)(b) of the Electoral Process Act, it was insufficient merely to allege non-compliance with electoral procedures. The Petitioner

was required to demonstrate how the alleged non-compliance affected the result of the election.

13.26. The 2nd Respondent contended that the Petitioner's allegations were unsupported by sufficient evidence. The 2nd Respondent referred to the testimony of PW7, PW14 and PW21, who, according to the submissions, neither witnessed any miscounting of votes nor knew that such an allegation had been made. It was further submitted that the Petitioner had not specified the number of votes allegedly miscounted or reported the alleged irregularities to the 2nd Respondent.

13.27. The 2nd Respondent maintained that the election had been conducted in accordance with the applicable law and that the 1st Respondent was duly declared elected. It was submitted that the Petitioner had failed to establish that the alleged irregularities affected the result or conferred an electoral advantage on any candidate. The 2nd Respondent therefore urged the Court to dismiss the petition with costs.

13.28. **3RD RESPONDENT'S SUBMISSIONS**

13.29. In the 3rd Respondent's submissions dated 16th October, 2026 the 3rd Respondent equally begun with a summary of the documents filed and evidence of the Petitioner's and Respondent's witnesses which require no repetition.

13.30. The 3rd Respondent submitted that the issues for determination were the applicable standard of proof and whether the Petitioner had established her case against the 3rd Respondent.

13.31. Relying on the case of **Nkandu Luo v Doreen Sefuke Mwamba and the Attorney General**[14] the 3rd Respondent submitted that a Petitioner seeking to nullify an election must prove that the candidate or the candidate's duly appointed agent

committed an electoral offence, or that the misconduct occurred with the candidate's knowledge, consent or approval. The Petitioner must further establish that the malpractice was sufficiently widespread to have swayed, or potentially swayed, the majority of voters from electing their preferred candidate.

13.32. The 3rd Respondent further relied on the cases of **Abuid Kawangu v Elijah Muchima[18],** and **Jere and Others v Zulu[19]**, to submit that allegations of electoral malpractice must be supported by cogent evidence and that the Court cannot fill gaps in a party's evidence. The case of **Jonathan Kapaipi v Newton Samakayi[20],** was cited on the requirement to establish the widespread nature and potential electoral effect of the alleged misconduct.

13.33. On the assessment of evidence, the 3rd Respondent relied on the case of **Mushemi Mushemi v The People[21],** and **Shawaza Fawaz and Prosper Chelelwa v The People[22],** to submit that witness credibility must be assessed in the context of the evidence as a whole, particularly where the Petitioner's and Respondent's witnesses give conflicting accounts. The 3rd Respondent further relied on the cases of **Richard Sikwebele Mwapela v Chinga[23],** and **Poniso Njeulu v Mubika Mubika[24]** to emphasize the need for careful scrutiny of the evidence of alleged recipients of bribes or accomplices.

13.34. Regarding the allegations of police misconduct, the 3rd Respondent relied on Sections 4(6) and 38(2)(c) of the Electoral Process Act concerning the role of the Zambia Police Service in maintaining law and order at polling stations. It was submitted that those statutory duties did not, without supporting evidence, establish that particular police officers had committed the alleged misconduct or that the 3rd Respondent was liable. The 3rd Respondent contended that the Petitioner had failed

to identify the officers involved or sufficiently establish the particular acts or omissions complained of.

13.35. The 3rd Respondent accordingly submitted that the Petitioner had failed to establish her case against the 3rd Respondent and urged the Court to determine the matter on the evidence on record.

14. ANALYSIS AND DECISION OF THE COURT

14.1. Having carefully considered the pleadings, the evidence presented by the parties, and the respective submissions of Counsel, I am of the considered view that the following issues arise for determination:

i. Whether the Petitioner has proved the allegation of bribery against the 1st Respondent, before and on polling day, to a fairly high degree of convincing clarity warranting the nullification of the 1st Respondent's election under Section 97(2)(a) of the Electoral Process Act No. 35 of 2016;

ii. Whether the Petitioner has proved the allegation of illegal practice and other misconduct, namely, violence and campaigning on the polling day, against the 1st Respondent to a fairly high degree of convincing clarity warranting the nullification of the 1st Respondent's election under Section 97(2)(a) of the Electoral Process Act No. 35 of 2016; and

iii. Whether the 2nd Respondent, in the conduct and management of the election, failed to comply with the Constitution, the Electoral Process Act and other applicable electoral laws and regulations, and whether such alleged non-compliance compromised the fairness and integrity of the electoral process or

affected the result of the election within the meaning of Section 97(2)(b) of the Electoral Process Act No. 35 of 2016.

14.2. The jurisdiction of the High Court to hear and determine election petitions in relation to parliamentary elections is provided for in **Article 73 of the Constitution**[1], which provides that:

"(1) A person may file an election petition with the High Court to challenge the election of a Member of Parliament."

14.3. On who may file an election petition, **Section 98 of the Electoral Process Act** is instructive. It lists persons who qualify. Section 98 (c), lists a person who was a candidate at the election to which the election petition relates.

14.4. With regard to how an election is questioned and the instances when the High Court can nullify an election or declare the election of a candidate void, **Section 97 of the Electoral Process Act**[2] provides as follows:

"(1) An election of a candidate as a Member of Parliament, Mayor, Council Chairperson or Councillor shall not be questioned except by an election Petition presented under this Part.

(2) The election of a candidate as a Member of Parliament, Mayor, Council Chairperson or Councillor shall be void if, on the trial of an election Petition, it is proved to the satisfaction of the High Court or a Tribunal, as the case may be, that-

(a) a corrupt practice, illegal practice or other misconduct has been committed in connection with the election –

(i) by a candidate; or

(ii) with the knowledge and consent or approval of a candidate or of that candidate's election agent or polling agent; and the majority of voters in a constituency, district or ward were or may have been prevented from electing the candidate in that constituency, district or ward whom they preferred;

(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; or

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

(3) Despite the provisions of subsection (2), where, upon the trial of an election Petition, the High Court or a Tribunal finds that a corrupt practice or illegal practice has been committed by, or with the knowledge and consent or approval of, any agent of the candidate whose election is the subject of such election Petition, and the High Court or a Tribunal further finds that such candidate has proved that-

(a) a corrupt practice or illegal practice was not committed by the candidate personally or by that candidate's election agent, or with the knowledge and consent or approval of such candidate or that candidate's election agent;

(b) such candidate and that candidate's election agent took all reasonable means to prevent the commission of a corrupt practice or illegal practice at the election; and

a(c) in all other respects the election was free from any corrupt practice or illegal practice on the part of the candidate or that candidate's election agent; the High Court or a Tribunal shall not, by reason only of such corrupt practice or illegal practice, declare that election of the candidate void.

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

14.5. As can be seen above, Section 97(2)(a) and (b) provide for instances when such an election can be annulled. The Constitutional Court in interpreting the import of Section 97(2)(a) of the Electoral Process Act in the case of **Nkandu Luo and the Electoral Commission of Zambia v Doreen Sefuke Mwamba and the Attorney General**[14], stated that:

"In order for a petitioner to successfully have an election annulled pursuant to section 97(2)(a) there is a threshold to surmount. The first requirement is for the petitioner to prove to the satisfaction of the court, that the person whose election is challenged personally or through his duly appointed election or polling agents, committed a corrupt practice or illegal practice or other misconduct in connection with the election, or that such malpractice was committed with the knowledge and consent or approval of the candidate or his or her election or polling agent..."

14.6. The Court went on to mention that:

"In addition to proving the electoral malpractice or misconduct alleged, the petitioner has the further task of adducing cogent evidence that the electoral malpractice or misconduct was so widespread that it swayed or may have swayed the majority of the electorate from electing the candidate of their choice."

14.7. The necessity for Section 97(2) (a), which is a provision proscribing corrupt practices, illegal practices and electoral malpractice, was aptly captured in the case of **Mbololwa Subulwa v Kaliye Mandandi**[25] wherein it was stated that:

> **"The spirit of Section 97 (2) (a) is to ensure that elections are held in a free, fair and legal manner. This is in order to uphold as well as advance constitutional democratic tenets that provide and enable voters to elect a candidate of their own choice."**

14.8. In an election petition, the Petitioner bears the burden of proving each and every allegation made against the Respondent to the requisite standard of proof, which is, a fairly high degree of convincing clarity. The Supreme Court confirmed this position of the law in the case of **Micheal Mabenga v Sikota Wina, Mafo Wallace and George Samulela**[5] where it was held that:

> **"An election petition like any other civil claim depends on the pleadings and the burden of proof is on the challenger to that election to prove, "to a standard higher than a mere balance of probability." Issues raised are required to be established to a fairly high degree of convincing clarity."**

14.9. The position of the law was also echoed in the case of **Brelsford James Gondwe v Catherine Namugala**[2], wherein it was held that:

> **"The burden of establishing the grounds lies on the person making the allegation and in election petitions, it is the petitioner in keeping with the well settled principle of law in civil matters that he who alleges must prove.**

The grounds must be established to the required standard in election petitions namely, fairly high degree of convincing clarity."

14.10. I will now proceed to evaluate the evidence adduced by the Petitioner in support of the allegations against the Respondents. This will be done by looking at each ground of the allegation as contained in the Petition. But before I do so, I note that the evidence presented at the hearing comprised oral testimonies from witnesses who fell in the category of: witnesses who were partisan, that is, belonged to the political parties which sponsored the Petitioner or the 1st Respondent; and witnesses who were not partisan voters but confessed to receiving money to vote. The credibility of the witnesses will be assessed as this matter is based on the credibility of the witnesses for me to make a finding of fact on the evidence before me. I place reliance, for this approach, on the Constitutional Court guidance in **Mutotwe Kafwaya V Chasaya Katongo and Another**[26] wherein it was guided, inter alia, that a trial court faced with directly conflicting evidence adduced by the Petitioner's witnesses, on one hand, and the Respondent's witnesses on the other, is entitled to determine a matter on the credibility of the witnesses and make a finding of fact based on the evidence adduced.

14.11. Further, and having noted the categories the witnesses have been grouped, I remind myself on the need when assessing the credibility to view the evidence of partisan witnesses with great care, caution, scrutiny and circumspection as they require corroboration to eliminate the danger of exaggeration and falsehood. In the same vein, I remind myself to evaluate the evidence from the other category of witnesses with the same caution. I so propose to proceed on account of the provision under Section 81(1)(f) of the Electoral Process Act No. 35 of 2016, which makes the receiving of money in consideration for voting or agreeing to vote an offence.

14.12. I am fortified by the Constitutional Court guidance in **Richard Sikwebele Mwapela v Miyutu Chinga**[27] where it recognised the importance of examining the possible interest of a witness who alleged involvement in electoral bribery, and held that independent corroboration was required in the circumstances of that case. The evidence of canvassing and solicitation overlaps with some of the bribery allegations as the witnesses are the same. I am mindful of what was postulated by the learned authors of **Halsbury Laws of England, 4th Edition, Volume 15 at page 425, paragraph 780**[1] wherein it stated that the confession of the person alleged to have been bribed is not conclusive. This was in reference to bribery connected to elections.

15. BRIBERY

15.1. In assessing the allegations of bribery against the 1st Respondent, the Petitioner alleged that the 1st Respondent and persons acting on his behalf engaged in bribery by giving money, either separately or concealed in pens, to induce voters to vote for him and other NRPUP candidates. The 1st Respondent denied the allegations maintaining that neither he or his agents engaged in bribery.

15.2. Section 81 of the **Electoral Process Act** prohibits bribery of the voters. In particular, Section 81(1)(a) prohibits the giving or offering of money to a voter in order to induce them to vote. Similarly, Regulation **15(1)(h) of the Electoral (Code of Conduct)** Regulations provides that:

> **"A person shall not offer any inducement, reward or bribe to any person in consideration of such person ...voting or not voting..."**

15.3. I will proceed to assess the evidence adduced in line with the manner the witnesses testified per Ward.

15.4. **KAFUBU WARD**

15.5. The evidence of PW2 James Banda, PW3 Doreen Kayana and PW4 Blessing Chilanga, was that they were at Milemu Secondary School, a polling station in Kafubu Ward, around 09: 00 hours. PW2 testified that, on polling day, at around 09:00 hours he saw PW3 giving out pens bearing K50 notes at the entrance to the polling station and instructing recipients to vote for NRPUP candidates. He stated that present with PW3 was the 1st Respondent, Wilombe Sikazwe who stood as councillor for Kafubu Ward and Mr. Yobo who, according to the witness, used to call himself as the campaign manager and chairman for NRPUP. He stated that he confronted PW3 to stop what she was doing as it was wrong and that the 1st Respondent neither stopped PW3 nor responded when he confronted PW3 about it. PW2 said he went inside the polling station and reported to the police. He went back to the gate with the police to show them but did not find PW3, the 1st Respondent and the other two men. He looked for them but to no avail. He said that there were many people at the gate. He went back to queue.

15.6. In cross examination he stated, that he knew PW3, Yobo and Wilombe as they live together. PW2 also stated that he reported all of them to the police. In addition, he stated that he told the deputy returning officer a Mr. Mwalaba and the chairman who told him that he would follow up. He conceded that he had no documentation of him reporting to the police or the 2nd Respondent. He further stated that the only evidence he had in support of his evidence was a jacket he wore when testifying which had a missing button. According to him the button came out as he was been dragged by Yobo and the 10 young men that he was with.

15.7. I take note, in evaluating his evidence, that PW2 was actually a candidate. He stood as a Councillor for Kafubu Ward under UPND. He stated that he went to report to the

police and that when he went back to the gate to show them, he found that PW3, Wilombe, the 1st Respondent and Yobo had gone. He also testified that while on the queue around the same time, he was harassed and dragged from the queue by Yobo who was with 10 young men causing his jacket to lose a button. This is the same Yobo who was known to him, and knows where he lives, who dragged him out of the polling station prior to him reporting him to the police. PW2 said the police, to whom he had reported the giving of pens and money, advised him, a candidate, to go home and come back to vote later when the situation was calm.

15.8. I find his testimony to be inconsistent and contradictory. I do not believe that the police, to whom a report was made earlier and they even accompanied him to the gate, would then turn around and advise PW2 to go home and come back to vote later. Even when he went back to vote around 16:00 hours, he stated that he was accosted by the same Yobo and that he now voted under police protection. Having regard to his evidence in total, I have considered whether the inconsistency alluded to is a minor variation attributable to ordinary human failure to recollect events succinctly, I find that this concerns material facts which undermine the reliability of PW2's testimony. I therefore hold that the testimony of PW2 requires independent corroboration.

15.9. I will consider the other noted inconsistencies of the testimony of PW2 when considered together with the testimony of PW3 and PW4 at a later stage.

15.10. Coming to the evidence of PW3, she admitted to giving out pens attached with K50 notes at Milemu Secondary School. Subjecting her testimony to the same evaluation as that of PW2, I note that PW3 stated that there were a lot of people at the entrance who were going to vote. She highlighted no challenge with giving out

the pens attached with money but only gave out 40 from 06:30 hours to 14:00 hours when she left. She further mentioned that she did not have any of the 10 pens with K50 notes attached to exhibit in court. I find this to be inconsistent with circumstances of her alleged encounter with the 1st Respondent, Wilombe and another. Consequently, I find that the inconsistency relates to a material fact which undermines the reliability of PW3's testimony.

15.11. PW4 testified that on 13th August, 2026, at around 09:00 hours, PW3 gave her a pen with K50 attached and instructed her to vote for NRPUP candidates. She further stated that she found PW3 was with the 1st Respondent and another at the entrance to the polling station. PW4 falls in the category of witnesses who stated that they received a bribe to vote but are non-partisan. PW4's evidence requires corroboration as she does not only fall in the category of witnesses who may have their interest to serve as an accomplice for receiving a bribe but did not have the pen and K50 she allegedly received to show in court so as to remove the necessity for corroboration of her testimony. PW4's evidence will be evaluated further with the evidence of PW2, PW3 and PW4 considered to ascertain its credibility.

15.12. Apart from the evidence of PW2, PW3 and PW4, there was PW5 Mildred Kunda, and PW6 Dorothy Kalungwe, who testified that they were given K50s by the 1st Respondent on 7th and 12th August, 2026 respectively. PW5 failed to state the town, district or constituency she lives in even after several attempts. I find that the testimony of PW5 requires corroboration as failure to know where she lives weighs against her credibility in light of the detail in her testimony pertaining the alleged encounter with the 1st Respondent on 12th August, 2026, where she was given nshima and chicken and a K50 by the 1st Respondent, at the 1st Respondent's offices near Puma Filling Station in the presence of her friend PW6. With regard to PW6, she stated

that on 7th August 2026, the NRPUP chairlady gave her nshima while the 1st Respondent gave her K50 and requested her vote to for NRPUP candidates. However, PW6 denied being with PW5 when cross examined. PW6's evidence falls in the category of the witnesses who confessed to have received a bribe to vote. Therefore, her evidence needs corroboration for confirmation. I will evaluate further PW6's evidence when considered together with that of PW5.

15.13. Having examined the individual witness inconsistencies within the testimony of PW2, PW3, PW4, PW5 and PW6 arising from the examination in chief and cross-examination, I have further examined whether the accounts of events by PW2, PW3 and PW4 as to what transpired on 13th August, 2026 at Milemu Secondary School around 09:00 hours are consistent when considered together in respect of their encounter with the 1st Respondent. I recognise that witnesses are not expected to give exact accounts of an incident they witnessed. However, since their testimonies relate to their encounter with the 1st Respondent and the people he is said to have been with at Milemu Secondary School, material inconsistencies on their encounter with the 1st Respondent require scrutiny. This is line with guidance alluded to earlier that the credibility of a witness must not be considered in isolation of the other witnesses. In the same vein, a similar examination will be conducted for PW5 and PW6.

15.14. PW2 said that he found PW3 with the 1st Respondent, Wilombe and Yobo. PW3 testified that she was with the 1st Respondent and Wilombe when PW2 confronted her. PW4 stated that she found the 1st Respondent, PW3 and another man standing. The evidence of PW2 is different from that of PW3 on who she was with. PW3 does not make mention of Yobo who PW2 said lives together with PW2 and PW3. Further, as mentioned earlier, PW2 mentioned that he reported PW3, the 1st Respondent, Wilombe and Yobo to the police in the polling station. When he went back with the

police to show them what PW3 was doing, he found that they were not there. On the other hand, PW3 testified that she was at the gate giving out pens until 14:00 hours when she left. On the departure of the 1st Respondent, PW3 testified that the 1st Respondent left after PW2 confronted them.

15.15. PW4 mentioned that there were a lot of people at the gate getting pens even though they did not queue up. PW2 and PW3 echoed the same sentiment. However, from 06:30 hours to 14:00 hours PW3 testified that gave out 40 pens. PW4 stated that she witnessed violence but did not pay attention as she concentrated on getting the pen from PW3. PW3 gave no evidence of PW2 being dragged out of the polling station. I have considered the inconsistencies in the testimony of the three witness and hold that the inconsistencies are not reconcilable and materially undermine the credibility and reliability of the evidence from the trio.

15.16. With regard to PW5 and PW6, though they both speak to different events which occurred on 7th and 12th August, 2026, PW5 Placed PW6 at KX near Puma Filling Station. PW6 refused being with PW5 in cross examination. I therefore find PW5 to be untruthful and her evidence unreliable. I find PW6's testimony as requiring corroboration for confirmation as stated earlier.

15.17. **MUKUBA WARD AND THE MOVEMENT OF VOTERS FROM LUSAKA**

15.18. I have carefully considered the testimony of the witnesses associated with Mukaba Ward. These are PW9 Mwamba Chiti, and PW12 Samwa Njobvu who testified that the 1st Respondent and Gideon Mvula gave them a task of aiding voters ferried from Lusaka to vote under Mukuba Ward. Individual assessment of their evidence reveals that they both admit to having received part payment from the1st Respondent for the

task and that they have not been paid in full as per agreement. I therefore find PW9 and PW12, by their evidence, to be witnesses with a possible interest to serve.

15.19. A collective assessment of their evidence revealed that they both claimed to have personally seen the 1st Respondent distribute the money. Their accounts concerning the arrival of the people, the arrangements made for them and the payments are materially consistent. However, they differ on the numbers of people they attended to at the behest of the 1st Respondent as they alleged. PW9 said they were 60 people, while PW12 stated that she was responsible for 60 and PW9 for 45, and that the total number of people who came from Lusaka and received at PW9's abode is 105. There is a further discrepancy when the payment of K500 was made. PW9 stated that the payment was made on 12th August, 2026 around 17:00 hours while PW12 stated that the payment was made on 13th August, 2026 in the morning before they proceeded to take the people to vote. There is also an inconsistency on the time the people from Lusaka arrived. PW9 stated that it was around 17:00 hours and PW12 on the other hand stated that it was between 19:00 hours and 20:00 hours.

15.20. The inconsistency is material to the evidence as both witnesses perceived the same event. None of the two witnesses stated how the people, they alleged to have helped, went back to Lusaka. No evidence of both PW9 and PW12 following up the balance on the payment from the 1st Respondent after carrying out the task was adduced. No name was mentioned of any person from the people who allegedly traveled from Lusaka and none was called to testify that they indeed traveled from Lusaka to Kabushi Constituency to vote and were paid by the 1st Respondent in favour of votes for NRPUP. I find that the inconsistencies between the two witnesses are irreconcilable seeing that they both counted the people they said they aided. Consequently, I find that the differences in the evidence of PW9 and PW12 materially

undermine the credibility and reliability of the evidence pertaining to the encounter with the 1st Respondent and dealing with voters from Lusaka. Their evidence requires corroboration.

15.21. I will now analyze the evidence of PW10.

15.22. PW10 testified that on polling day at Kayele Secondary School, at 12: 00 hours, the 1st Respondent approached voters, on the queue and distributed pens bearing money. PW10 stated that the 1st Respondent gave him a K100 note attached to a pen and said that the pens provided inside the polling stream were defective. PW10 stated that the 1st Respondent requested him to vote for candidates under the lamp symbol and that he voted accordingly because of the money. PW10 is among the witnesses for the Petitioner who fall in the category of witnesses whose evidence require corroboration for confirmation. PW10, on his own admission, accepted a bribe as consideration for his vote. His admission implies he partook in an illegal enterprise. I find that his evidence requires corroboration.

15.23. **KALOKO WARD**

15.24. With regard to Kaloko Ward, the evidence of PW11 King Humphrey Banda, PW14 Cornelius Chula, and PW20 Joseph Simunyama, placed the 1st Respondent on polling day between 11:00 hours and 12:00 hours at Kaloko Primary School Polling Station. PW11 testified that the 1st Respondent and other persons called him near the entrance to Kaloko Primary School. He stated that the 1st Respondent asked him to vote for Tonse candidates and gave him a pen bearing K50, with an indication that further payment would be available after voting.

15.25. PW14, a UPND polling agent, testified that on 13th August, 2026 between 08:00 hours and 09:00 hours he saw a Toyota SUV flashing lights at the gate of Kaloko Primary School. The 1st Respondent emerged from the motor vehicle and people approached him and he distributed pens with K50 notes attached. The 1st Respondent gave *him* a pen and K50 and asked him to vote for candidates under his party. Further, that the 1st Respondent also distributed pens with K50 to elderly people on the queue and each time the 1st Respondent reached his pocket, he gave the elderly people something. PW14 also described the 1st Respondent displaying the lamp symbol at the polling station which voters also gestured. PW14 voted successfully and did not vote for UPND.

15.26. PW20 similarly testified that on 13th August, 2026 between 15:00 hours and 16:00 hours, he encountered the 1st Respondent and Lazarous Tembo on the way to Kaloko Primary School to cast his vote. The 1st Respondent gave him a pen with K50 attached and instructed him to vote for NRPUP candidates. He stated that he was told the pens supplied inside the polling station would rub off. PW20 also described disturbances later in the day, which are addressed under violence and obstruction of voters.

15.27. The 1st Respondent denied the allegations and maintained that he conducted his campaign lawfully and did not engage in bribery or other illegal practices.

15.28. I have evaluated the evidence of PW11, PW14 and PW20. By their own admission of receiving a bribe to vote, their evidence needs corroboration as they fall in the category of the witnesses who need corroboration. A further evaluation will be conducted later to ascertain the consistency of the evidence when compared with other witnesses from other Wards.

15.29. **KABUSHI WARD**

15.30. I have examined the individual evidence of PW8 Ollne Chikonde, PW16 Davyn Kwanga, PW17 Ephraim Kawangu, and PW22 Mwenya Mwelwa. In brief, PW8 testified that on 13th August, 2026 at around 14:00 hours at the entrance to Kabushi Primary School, the 1st Respondent personally gave her a pen and K50 and requested her to vote for NRPUP candidates. She stated that the payment influenced her to vote for the 1st Respondent, although she was not physically forced to do so inside the polling booth. PW16 testified that on 13th August, 2026 at 14:05 hours, he encountered a group of people near Dambo Road and the 1st Respondent gave him a pen with K50 note attached and instructed him to vote for NRPUP candidates. It was PW16's evidence that he had a conversation with the 1st Respondent at the time he was being the pen where he asked the 1st Respondent why he was giving him the pen when pens are provided inside. PW16 added that there were a lot people and he had to queue up to get a pen.

15.31. PW16, just like other witnesses, did not have the pen nor a picture of it. It's curious that PW16 said that he queued up to get a pen when he knew that pens are given inside to use to vote. PW17 gave a similar account of receiving a pen with K50 from the 1st Respondent who was in a motor vehicle in the company of Joseph Mulenga and the driver on 13th August, 2026 around 11:00 hours while going to Dambo Secondary School to cast his vote and being asked to vote for NRPUP candidates. However, PW17 conceded that he would have voted for the 1st Respondent even if he had not received the money. PW22 also testified that he encountered the 1st Respondent and Steven Mulenga in a motor vehicle parked at the gate of Dambo Secondary School on 13th August, 2026 at around 06:00 hours. The 1st Respondent

gave him a pen bearing K50 and requested his vote. While on the queue, he saw many other people with the same pen. He voted as instructed.

15.32. I find that PW8, PW16, PW17 and PW22 all admitted to have received a pen with a K50 note attached. As indicated, they fall in the category of witness who received a bribe in breach of Section 81 of the Electoral Process Act. None of them retained the pen or money as exhibits. Therefore, their evidence requires corroboration for confirmation.

15.33. **CHICHELE WARD**

15.34. I have carefully examined the individual evidence of PW18 Simon Mukuka, and PW27 Paul Bulongo, who gave a similar account, that between 08:00 hours and 09:00 hours while on the queue at Kafubu Dam Polling Station, a Toyota Prado Land Cruiser came and parked about five meters from the queue. They stated that the 1st Respondent was aboard the car and he called them to the motor vehicle and gave them pens and K100 notes and instructed them to vote for NRPUP candidates. PW18 further stated that he saw the 1st Respondent's group give similar items to PW27 and another woman who collected a lot of pens and a large sum of money and saw the said woman distribute a pen and money to another woman within the premises of the polling station.

15.35. When examined collectively, I note that the evidence of PW18 is in sharp contrast to the evidence of PW27 even though PW27 was immediately behind PW18 on the queue when they allegedly encountered the 1st Respondent. PW27 testified that he entered and voted and when he came out, he saw a lady being given a lot of pens and money by the 1st Respondent. On the other hand, PW18 testified earlier in the

trial that the 1st Respondent left before PW18 went in to vote. I find that there is inconsistency pertaining a material fact which undermines the credibility and reliability of their evidence regarding their encounter with the 1st Respondent.

15.36. **KANTOLOMBA WARD**

15.37. In the case of Kantolomba Ward, I have examined the evidence of PW3 Amos Mudolo. His testimony is that he encountered the 1st Respondent on the polling day at around 12:00 hours while heading to Sewerage Polling Station. According to him a woman in the company of the 1st Respondent and the councillor for Kantolomba Ward was distributing pens with K50 attached. She gave him a pen and K50 attached and instructed him to vote for the 1st Respondent and other NRPUP candidates. He stated that the 1st Respondent was present but did not personally distribute the pen or money and merely stood nearby listening to what the woman was saying. I find that PW23's testimony, on his admission of receiving a pen and K50, requires corroboration for confirmation especially that he did not have any photo or video of the pen or the encounter with the 1st Respondent and the lady he referred to.

15.38. **LUBUTO WARD**

15.39. The evidence under this Ward regarding the allegation of bribery is from PW24 Edith Mulenga, PW25 Lyness Mutanuka, and PW26 Clifford Nyambe. PW24 testified that on 12th August, 2026 around 17:00 hours at SGC Filling Station near Lubuto West Market, the 1st Respondent gave her K50 and asked her to vote for candidates under the lamp symbol. On polling day, an elderly woman at the entrance to Lubuto Primary School gave her a pen with K50 attached and instructed her to vote for the same candidates. PW24 confirmed that she already had a voting preference and ultimately stated that she voted for a candidate of her choice. PW25 confirmed PW24's

testimony. She stated that on 12th August, 2026 around 17:00 hours, at a filling station near Lubuto West Market, 1st Respondent was distributing money and gave her a K50 and asked voters not to forget him the following day. She stated that on polling day between 13: 00 hours and 14:00 hours, she met the 1st Respondent on her way to Lubuto Primary School by the corner of the school fence and he gave her a pen and K50 attached and instructed her not to use the pen supplied inside the polling stream and asked her not to forget his request from the previous day to vote for him.

15.40. PW26 testified that the 1st Respondent who was on board a Toyota Noah gave K50s to him and his friends on 12th August 2026 at 17:00 hours at the Centre Bus Station and asked them to remember him when voting. On polling day between 12:00 hours and 14:00 hours on his way to Lubuto Community Hall to cast his vote, PW26 received a blue pen bearing K50 near Seventh Day from a woman who was in the company of two men who described themselves as the 1st Respondent's foot soldiers. They requested that he votes for the 1st Respondent and return to be taken where food was being prepared and he later ate the food. However, PW26 acknowledged that he did not know their names and had not previously seen them with the 1st Respondent.

15.41. I have carefully examined the individual testimonies of PW24, PW25 and PW26. PW24 and PW25 were together on 12th August, 2026 when they rushed to SGC Filling station where the 1st Respondent is said to have been giving money to a crowd that had gathered. PW25 stated that the 1st Respondent met her on her way to vote at Lubuto Secondary School. He gave her pen and reminded her about his previous day request. When asked in examination in chief as how he remembered her from the crowd at SGC Filling Station when he did not know her, she could not explain. I find her inconsistency material and affects her credibility and reliability.

15.42. A collective examination of the evidence of the trio shows that PW24 and PW25 place the 1st Respondent at SGC Filling Station giving out money and asking for votes. PW26 places the 1st Respondent at Centre Bus Station where he had parked a Toyota Noah and engaged PW26 and his friends and ultimately giving them K50s to vote for him. Clearly, the inconsistency is material rendering their evidence unreliable in the absence of independent corroboration.

15.43. **MASALA WARD**

15.44. I have examined the evidence of PW28 Vivian Chanda, and PW29 Jane Musonda. They both testified that they were given a pen and K100 each by two women whom they found at the gate to Masala Secondary School albeit separately. Both indicated that at the time they were being given, the 1st Respondent was not there. They did not know the women who gave them the pens and money. The evidence of the two witnesses is consistent so a far as the events prior to their voting is concerned. When examined further regarding what they testified happened after voting between 13:40 hours and 14:00 hours, they completely differ. They both testified that when the came out of the polling station, they found the two women who were giving pens and money. However, PW28 said there was confusion at the gate when and the police were chasing those who had voted, she saw the 1st Respondent come in a vehicle and the two women entered and left since the police were chasing people from the gate. PW29's version is that when she came out she found the two women standing at the gate with the 1st Respondent. I find that the inconsistency is not minor. Having been at the same place at the same period; 13:40 hours to 14:00 hours, the inconsistency is irreconcilable. Consequently, I find their inconsistency to undermine the credibility and reliability of the evidence regarding the happenings at Masala Secondary School on 13th August, 2026.

15.45. **SKYWAYS WARD**

15.46. I have examined the evidence in relation to Skyways Ward. The evidence is from PW30 Gwen Musonda, and PW31 Jane Kalenga. PW30 stated that she did not know the three people who came to her abode and gave her a pen and a K50 attached. One of the three strangers introduced himself as being from the 1st Respondent. This witness's testimony is of no evidential value. The people she interacted with are unknown. The Electoral Process Act is clear on who an election agent is as well as on whose actions attach liability to the Respondent in an election petition. Coming to the evidence of PW31, I find that it requires corroboration as she admitted to receiving money from the 1st Respondent on 12th August, 2026 to vote for him.

15.47. **TOKA WARD**

15.48. With regard to the allegation connected to Toka Ward, the evidence I have examined evidence from PW32 Daisy Mukuka, PW33 Misheck Mumbi, and PW34 Esther Katiba. The testimony of PW33 clearly shows that there is no nexus with the 1st Respondent. His testimony is that he did not know the people he collected the pen and K60 from. The amount he collected is even different from what was pleaded in the petition in *casu*. I reiterate the position of the law that a candidate is only responsible for the actions of those stipulated in the Electoral Process Act. I find PW32 and PW 34 as witnesses whose evidence require corroboration. This is on account of their admission to receiving money to vote contrary to Section 81(1)f of the Electoral Process Act.

15.49. Having considered the evidence of the witnesses individually and in relation to the respective polling stations, I now turn to a collective assessment of their testimonies.

15.50. I am alive to the fact that witnesses testified to having met the 1st Respondent and that he gave pens attached with K50 or K100 notes at different polling stations as shown above. Therefore, they place the 1st Respondent at those different locations at substantially the same time.

15.51. It was submitted by Counsel for the Petitioner that the polling stations were not far apart. The 1st Respondent was cross examined about the possibility of traversing Kabushi Constituency in an hour using a motor vehicle and he confirmed.

15.52. I have however looked at the evidence presented and manner and form of interactions the witnesses mentioned, and consequently, I am of the view that that this explanation must be assessed against the actual distances between the polling stations, the times given by the witnesses and the time reasonably required to travel between the locations as well as the duration of the encounters.

15.53. The mere assertion that the polling stations were close to one another does not, without supporting evidence, establish that the 1st Respondent could reasonably have been present at all the locations within the timeframes alleged.

15.54. I find that the evidence touching on the presence of the 1st Respondent at all the polling stations and other places referred to be fundamentally important in the determination of the reliability of the witness testimony who claimed they met the 1st Respondent and given money at the named places. The issue is therefore not merely one of differences in recollection but whether the accounts, when considered together, are physically and logically capable of being true.

15.55. I now proceed to consider and ascertain whether the apparent overlap in the 1st Respondent's alleged whereabouts has been satisfactorily explained or whether it renders the combined accounts inherently improbable.

15.56. I have carefully examined the evidence of the witnesses who testified that they received money from the 1st Respondent on the polling day or before. What is clear is that the 1st Respondent has been placed in different Wards at the same time even though the Wards are differently located. For instance, on 12th August, 2026, the 1st Respondent was placed at SGC Filling Station near Lubuto West Market by PW24 and PW25 and at the same time he was said to have been at Centre Bus Station by PW26.

15.57. My review of the evidence shows the 1st Respondent was placed, on 13th August, 2026, at Giddings around 04:25 hours; at Milemu Secondary School between 08:00 hours and 09:00 hours; at Kafubu Dam Polling Station between 08:00 hours and 09:00 hours; at Kaloko Primary School between 08:00 hours to 09:00 hours; at Kayele Secondary School at 12:00 hours; at Kaloko Primary School between 11:00 hours and 12:00 hours; at Dambo Secondary School around 11:00 hours; at Sewerage Polling Station at around 12:00 hours; at Kabushi Primary School at about 14:00 hours; at Dambo Secondary School at 14:05 hours; at Masala Secondary School at between 13:40 hours and 14:00 hours; at Lubuto Secondary School between 13:00 hours and 14:00 hours; Toka Community Hall between 14:00 hours and 15:00 hours; and at Kaloko Primary School between 15:00 hours and 16:00 hours.

15.58. I have closely looked the evidence presented and I drew my attention to 13th August, 2026 and in particular the period 08:00 hours to 09:00 hours to see if the evidence of the 1st Respondent's whereabouts as told by the Petitioner's witnesses is reconcilable or the conflict materially undermines their reliability. I shall therefore review the evidence pertaining the time I have stated above.

15.59. PW2 testified that at around 09:00 hours he encountered the 1st Respondent at the gate of Milemu Secondary School, in the company of PW3, Wilombe Sikazwe and others. PW3 testified that she distributed pens bearing K50 notes outside Milemu Secondary School from 06:30 hours until 14:00 hours while in the company of the 1st Respondent and Wilombe Sikazwe, though the two left earlier.

15.60. PW4 also placed the 1st Respondent at Milemu Secondary School at 09:00 hours, where she received a pen bearing K50 from PW3. PW7, a polling agent at the same school, testified that she saw the 1st Respondent and Wilombe Sikazwe between 08:00 hours and 09:00 hours in connection with the display of the lamp symbol.

15.61. In contrast, PW18 and PW27 placed the 1st Respondent at Kafubu Dam Polling Station between 08:00 hours and 09:00 hours. PW18 testified that the 1st Respondent arrived in a white Prado Land Cruiser with tinted windows, accompanied by Joseph Mulenga and a driver, and distributed pens bearing K100 notes. PW27 similarly testified that he received a pen and K100 from the 1st Respondent at Kafubu Dam Polling Station during that period.

15.62. These accounts disclose a material conflict. The witnesses place the 1st Respondent at Milemu Secondary School and Kafubu Dam Polling Station during substantially the same period. The evidence does not provide evidence of the distance between the two locations or the precise times of arrival and departure that would enable the determination whether the 1st Respondent could have possibly visited both locations within the period stated.

15.63. Having carefully considered the evidence, I am not persuaded that the inconsistencies and apparent improbabilities identified in the witnesses' accounts have been satisfactorily explained.

15.64. I wish to reiterate at this juncture that the credibility of a witness must be assessed in the context of the evidence as a whole and that the existence of inconsistencies does not, without more, render a witness untruthful. However, in the present case, the difficulties identified concern material aspects of the alleged bribery incidents, particularly the 1st Respondent's presence at the respective polling stations and the circumstances in which the witnesses claim to have received the K50s and K100s from him.

15.65. I find that the explanation that the polling stations were not far apart is insufficient to reconcile the accounts, particularly in the absence of cogent evidence such as videos, photographs, cell phone location reports and social media digital trail, demonstrating that the 1st Respondent could reasonably have been moving between the locations within the periods alleged.

15.66. Consequently, I am unable to place the necessary reliance on the evidence of these witnesses to establish that the 1st Respondent personally engaged in the alleged acts of bribery. The collective effect of the material inconsistencies and inherent improbabilities substantially undermines the reliability of their testimonies.

15.67. I therefore find that the evidence of the witnesses, considered individually and collectively, does not provide a sufficiently credible and reliable basis upon which the allegations of bribery can be sustained. Consequently, I find that the Petitioner has not proved the allegation of bribery to a fairly high degree of convincing clarity.

16. VIOLENCE AND OBSTRUCTION OF VOTERS

16.1. With regard to the allegation of violence, the Petitioner alleged in her petition that the 1st Respondent engaged in acts of violence against voters and other candidates in Chichele, Lubuto and Kaloko Wards. I have examined the evidence adduced by the

Petitioner to support the allegation. I have also examined the evidence from the 1st Respondent. I shall proceed to look at the evidence for each Ward starting with Kaloko Ward.

16.2. **KALOKO WARD**

16.3. The principal question arising from the evidence concerning Kaloko Primary School is whether voting was prematurely interrupted or the polling station closed before all eligible voters who were entitled to vote had been afforded a reasonable opportunity to do so. A related question is whether the alleged interruption was attributable to the 1st Respondent or persons acting on his behalf and, if established, whether it materially affected the conduct or outcome of the election.

16.4. The Petitioner was the first witness to testify on the allegation as PW1 and will be referred to as such at this juncture. PW1 testified that on 13th August, 2026 violence erupted at Kaloko Primary School following the arrival of the 1st Respondent and his supporters who had declared themselves winners and demanded that the polling station be closed there being no need for voting to continue and that voters were chased away while voting was still in progress. She stated that the station had 6,007 registered voters but only 1,800 cast their votes. She attributed the low turnout to the alleged violence and interruption of voting.

16.5. However, under cross-examination, PW1 conceded that she had no evidence establishing her presence at the time she purportedly witnessed the violence involving the 1st Respondent and his agents. Although she maintained that she had been present at Kaloko Primary School and that her motor vehicle was involved in the incident and reported to the police, she did not produce evidence of the police report. Her evidence concerning the alleged violence and the number of voters who were

unable to vote is therefore approached with circumspection. In particular, her assertion that approximately 1,800 voters voted does not, without more, establish that the difference between that figure and the registered electorate resulted from premature closure or intimidation attributable to the 1st Respondent.

16.6. PW11 testified that, on 13th August, 2026 between 11:00 hours and 12:00 hours, he encountered the 1st Respondent, Councillor Lazarus and two women near the gate of Kaloko Primary School. He stated that he received a pen with a K50 from the 1st Respondent and was instructed to vote for candidates on the Tonse ticket. He further stated that, after voting between 15:00 hours and 16:00 hours, he observed confusion and saw the gate being closed between 16:00 hours and 17:00 hours.

16.7. Under cross-examination, PW11 confirmed that he had successfully cast his vote. He could not state precisely when the confusion began and had no evidence establishing that the polling station had been closed prematurely.

16.8. PW13 testified that she went to Kaloko Primary School at 14:00 hours and voted on 13th August, 2026. Thereafter, while waiting for her friend, Faustina, she remained at the polling station. Between 15:00 hours and 17:00 hours, she saw a group led by Lazarus approaching while making noise. When she attempted to move towards the gate, Lazarus pushed her and she fell. She subsequently experienced pain and obtained medical attention. She reported the incident to Kaloko Police Post that Ezra Tembo pushed her, where a docket was opened. She was not cross-examination by any of the Respondents.

16.9. PW14, who served as a UPND polling agent at Chitimukulu 2 Polling Stream, on 13th August, 2026 testified that at about 16:00 hours, he heard noise and a loud bang at the main gate. Police officers left the polling streams and went towards the gate. Upon

looking through the window, he observed people panicking. He stated that the door to his polling stream was closed and that the police informed them that things were not well outside. According to him, the main gate was closed and voting was disrupted. The disturbance continued between 16:00 hours and 17:00 hours, after which the period between 17:00 hours and 18:00 hours was quiet. Counting commenced between 19:00 hours and 20:00 hours.

16.10. PW20 testified that, after receiving a pen and K50 from the 1st Respondent near Kaloko Police Post, he proceeded to Kaloko Primary School, Polling Stream 3. While inside the polling stream, he heard the 1st Respondent and his supporters shouting that they should be declared winners because they had already won. He also saw Lazarus push a woman. According to PW20, police officers attempted to control the violence but were unsuccessful, causing people to scatter. He subsequently saw a blue Toyota Hilux being struck by people, after which soldiers arrived and voters in the queues ran away. He stated that the gate was closed between 16:00 hours and 17:00 hours.

16.11. Under cross-examination, PW20 conceded that he could not state with certainty when the polling station was closed, had no report concerning the alleged premature closure, and could not say whether voting continued after he left the polling stream. He further confirmed that he had managed to vote and that soldiers eventually restored peace.

16.12. PW21, an election monitor, testified that between 16:00 hours and 17:00 hours he received a phone call reporting violence at Kaloko Ward and proceeded there. He found people outside the polling station and was permitted by police officers to enter with a blue Toyota Hilux, registration number ADE 8080. He stated that persons belonging to NRPUP, led by the 1st Respondent and Lazarus, accused him of carrying

pre-marked ballot papers and surrounded his vehicle. As he attempted to leave, the vehicle's windscreen and tail lights were damaged. Police officers assisted him towards the gate, where soldiers arrived and helped him leave. He stated that the gate was subsequently closed at 17:15 hours while voters remained outside waiting to vote.

16.13. RW2, testified that he left home at 17:20 hours on 13th August, 2026 and proceeded to Kaloko Primary School. He stated that he joined the queue at Chimwemwe Polling Stream and voted at 18:15 hours. Under cross-examination, he maintained that the polling station was open when he arrived at 17:20 hours, that police officers were present to maintain peace, and that he was the third person from the last in the queue. He further maintained that the polling station remained open beyond 18:15 hours.

16.14. RW2's evidence was tested in cross-examination on the time he arrived and voted. He was specifically questioned about arriving at 17:20 hours, voting at 18:15 hours and being the third person from the last in the queue. He maintained his account. His evidence on the time he arrived at the polling station and when he voted was not expressly challenged by a suggestion that it was impossible or that he had fabricated it.

16.15. RW3, Theresa Musonda, testified that she was an NRPUP polling agent at Chitimukulu 1 Polling Stream. She stated that voting proceeded peacefully and that the police closed the polling stream at approximately 18:18 hours, after which counting commenced.

16.16. Under cross-examination, RW3 acknowledged that she had spent most of the voting period inside Chitimukulu 1 Polling Stream and could not testify to what transpired outside the polling stream or the polling station. She also conceded that

she could not dispute allegations concerning the distribution of pens and money outside the station.

16.17. RW6, Felix Musonda, testified that he returned to Kaloko Ward between 17:00 hours and 18:00 hours and found voting proceeding peacefully. Under cross-examination, he maintained that Kaloko Ward was peaceful and fair but acknowledged that he did not know some of the persons referred to in the allegations concerning that area and had not spoken to them.

16.18. I have noted that the evidence of PW11, PW14, PW20 and PW21 is broadly consistent in placing a disturbance at Kaloko Primary School during the afternoon and in indicating that the gate was closed at some point between 16:00 hours and 17:15 hours. Their evidence differs, however, in the precision with which the time of closure was stated and in the extent of the events each personally observed. It is trite law that the evidence of PW11 who received a bribe, PW14 a partisan witness, PW20 who received a bribe and PW21 a partisan witness needs to be treated with caution and requires corroboration unless of course the Court is satisfied that the evidence of that witness is so credible, true, cogent and consistent that no further corroboration to lend further confirmation is necessary. As already stated, I find the evidence of PW11, PW 14, and PW20 to be inconsistent with the evidence of PW21 who stated he found voters outside waiting and that the gate was closed at 17:15 and not 16:00 hours to 17:00 hours as contended by the other three witnesses. In this regard, the evidence of PW13 tends to support the evidence of these witnesses that an incident involving physical aggression occurred at Kaloko Primary School during the afternoon although she gave contradicting evidence regarding the identity of the person who pushed her which lowers immensely the weight attached to her evidence.

16.19. I find the evidence of RW2 credible, as well as that of RW3 and RW6, though partisan witnesses. The witnesses were truthful and consistent and forthright and quick to admit matters which were so manifestly obvious that they could not speak to. For instance, RW3 and RW6 when it was suggested to them in cross examination that their observation was limited to the stream they were assigned, they admitted without hesitation unlike PW20 who contended that he was able to recognise the voice of the 1st Respondent from a crowd making noise outside while he was in a classroom. Be that it may, I find that the evidence of RW2, RW3 and RW6 does not wholly displace the evidence of the Petitioner's witnesses concerning an afternoon disturbance. It does, however, weigh against the broader contention that voting at Kaloko Primary School was prematurely and permanently terminated at 16:00 hours.

16.20. From the evidence, I make a finding that there was a disturbance which occurred at Kaloko Primary School during the afternoon of 13th August, 2026 and that voting was temporary interrupted followed by a period in which voting continued. I also find that the interruption did not prevent every voter who remained outside from casting a vote. Further, the precise duration of the interruption and its effect on the number of voters who were unable to cast their votes have not been established by the Petitioner's evidence before this Court. This finding is supported by PW20's evidence that the soldiers eventually restored peace and RW2's testimony that he went and queued up and voted around 18.15 hours and left two voters on the queue.

16.21. I wish to add that the Petitioner testified that 1800 votes were cast when the Ward had 6007 registered voters and attributed it to the violence as alleged. I note that the Petitioner when testifying indicated that 37, 045 votes were cast out of 70200 registered voters for Kabushi Constituency. Going by her figures, the voter turnout was about 52.7 percent for the entire constituency. No evidence was adduced to show

the actual voter turnout for each Ward so as to ascertain whether the low voter turnout she alluded to for Kaloko Ward was only peculiar to Kaloko Ward in light of the turnout at constituency level.

16.22. As to the question whether the alleged interruption was attributable to the 1st Respondent or persons acting on his behalf, I find that the evidence tending to attribute the disturbance to the 1st Respondent and or his agents is from the Petitioner, PW20 and PW21. PW21 said he reported the matter to the police. However, there was no evidence confirming the same. He mentioned that he was told that the matter is under investigations. At the time he was testifying the status had not changed. I find his evidence attributing the disturbance to the 1st Respondent not supported by evidence in light of the absence of any testimony or evidence from the police. I also note that the Petitioner mentioned that she was also there, however she gave no details of her encounter. For PW20, as mentioned earlier, I find his evidence to be unreliable for the reasons highlighted earlier. PW13's evidence as alluded to already, is unreliable to ascertain the identity of the perpetrator. She contradicted herself during examination in chief and rendered her testimony to be unreliable.

16.23. **KAFUBU WARD**

16.24. PW2 testified that on 13th August, 2026 while on the queue to cast his vote at Milemu Secondary School, Mr. Yobo, accompanied by ten young men, grabbed him by his jacket and pulled him and others away from the queue. He stated that six other people were also removed. He subsequently left the polling station but returned at about 16:00 hours and voted under police protection.

16.25. I have carefully examined the evidence of PW2, a partisan witness. His evidence is inconsistent. He said he knew Yobo and he reported him and three others to the

police who even went with him to the gate to see what Yobo, PW3, the 1st Respondent and another were doing. Shockingly, the same Yobo who harassed him for the whole time with a gang of 10 men. I find his evidence not supported by any independent evidence. PW2 mentioned that six others were dragged from the queue but none of them was called to testify. I therefore find in the circumstances of the case that there is no evidence of violence at Milemu Secondary School which disturbed or prevented voters from casting their votes as alleged.

16.26. **CHICHELE WARD**

16.27. The Petitioner also alleged violence in Chichele Ward in her petition but led no evidence to substantiate the same.

16.28. I find no evidence that supports the allegation that the 1st Respondent and his supporters went to Chichele Ward and caused violence with the UPND supporters. As earlier indicated, the Petitioner bears the duty to adduce evidence to substantiate each and every allegation with credible and cogent evidence. I thus find that there was no violence in Chichele Ward. I equally hold the same position for Lubuto Ward as no evidence was called in aid of the allegation.

16.29. **KANTOLOMBA WARD**

16.30. The Petitioner testified that a mob of NRPUP supporters and agents of the 1st Respondent caused violence in the late afternoon and that the polling station was closed for some time. However, she was not present when the alleged incident occurred and confirmed that the 1st Respondent was not present. The evidence does not provide direct evidence to corroborate her testimony and to establish the alleged obstruction or the number of voters affected. No witness was called to testify in support of the allegation.

16.31. Accordingly, the allegation of obstruction of voters at Kantolomba Ward is not established as it based on hearsay evidence which is inadmissible.

16.32. **MASALA WARD**

16.33. PW28 testified that on 13th August, 2026 after voting at Masala Secondary School, she saw two women involved in a confrontation outside the polling station. Police officers arrived and directed those who had voted to leave. She saw the two women who gave her a pen and K50 enter the 1st Respondent's motor vehicle and drove off. PW29 also testified that on 13th August, 2026 after voting at Masala Secondary School, she saw people being removed from the polling station, although she expressly stated that she did not consider what she saw to constitute violence.

16.34. I find that there was no violence in Masala Ward as the evidence presented clearly shows that there was no violence as admitted by PW29.

17. COMPAINGNING ON POLLING DAY

17.1. The Petitioner alleged that the 1st Respondent campaigned on polling day, including by displaying the lamp symbol and soliciting votes at or near polling stations. In particular, Mukuba Ward, Lubuto Ward and Kafubu Ward.

17.2. The 1st Respondent denied campaigning on polling day. He maintained that, after voting at Lubuto Secondary School, he merely addressed the media to thank the Government and the 2nd Respondent for the professional manner in which the elections were conducted and also thank the electorate for turning out to vote and then returned home.

17.3. PW7, a UPND polling agent at Milemu Secondary School, testified that on 13th August, 2026 between 08:00 hours and 09:00 hours the 1st Respondent and Wilombe Sikazwe brought a lamp which was displayed by his polling agents within Kamana 2 Polling Stream. That as voters entered the polling stream, one agent lifted the lamp while the other gestured the lamp symbol with his hands. She stated that the lamp remained there until about 14:00 hours, despite her early complaint. She acknowledged that she did not know the names of the polling agent who lifted the lamp and gestured the symbol and that her evidence concerned only Kamana 2 polling stream, not the other four polling streams. She also had no photograph of the lamp displayed.

17.4. I have considered the evidence regarding the allegation that the 1st Respondent campaigned on polling day. It is settled law that the testimony of a witness must be a recollection of events that the witness perceived and not a recount of conversations told to him about those events. In this case, the Petitioner's allegations were based on reports made to her by her agents which makes her evidence hearsay.

17.5. No evidence was led to support the allegation and I note that the allegation in respect of Lubuto Ward had no specific details other than listing the Ward. I find and hold that the Petitioner has failed to prove the allegation.

17.6. The Petitioner did lead evidence to support her allegation from PW7, PW14 and PW19. However, PW7 and PW19 are partisan witnesses and PW14 is a witness who received a bribe and thus considered as an accomplice. Therefore, the evidence of the three witnesses ought to be treated with caution and the need for the same to be corroborated by independent evidence.

17.7. PW7, testified that the lamp was in the voting stream displayed on the table in full view of the agents of 8 other candidates and additionally, election observers and monitors. None of them were called to testify and corroborate PW7. I note that PW21 was assigned the task of ensuring all party agents have their concerns or observations brought to his attention for action. That is the reason he responded to the call and rushed to Kaloko Primary School. I note also that the Petitioner did not call evidence to support PW14 and PW19. I find that the allegation has not been proved to the required standard.

17.8. **MISCALCULATING OF VOTES**

17.9. The Petitioner's evidence was that some of her votes had not been credited to her and that, in some instances, those votes had been added to the 1st Respondent. She was, however, unable to state the number of votes allegedly affected. She further testified that she had received reports from her agents concerning the alleged miscounting but did not produce evidence demonstrating the specific discrepancies reported.

17.10. I must mention that the distinction between a reported discrepancy and a proved discrepancy is material. The Petitioner being the party alleging that votes were wrongly allocated must place before the Court evidence from which the alleged error can reasonably be identified and assessed. In the present case, The Petitioner's evidence established that she had received complaints from her agents, but she did not personally witness the alleged misallocation. The Petitioner did not lead evidence before this Court, identifying the number of votes allegedly transferred from her to the 1st Respondent and the votes that were not credited to her.

17.11. The 2nd Respondent denied that votes cast in favour of the Petitioner had been unlawfully transferred or allocated to the 1st Respondent. Wilfred Chilala, the Returning Officer for Kabushi Constituency, via his affidavit, maintained that the Presiding Officers counted the votes cast and allocated them to the respective candidates in accordance with the ballot papers counted. The 1st Respondent equally denied the alleged misallocation.

17.12. Further on this matter, PW14 a polling agent testified that some votes were disputed but he did not lodge any formal complaint as envisaged under Sections 69 and 70 (1), (2) and (3) of the Electoral Process Act. PW21 a UPND election monitor on the other hand confirmed however, that he was unaware of any allegation or report of miscounting of votes.

17.13. Still on this matter, RW3 testified that she did not witness any misallocation of the Petitioner's votes to the 1st Respondent. RW4 similarly testified that he did not witness any miscounting or misallocation of votes at Kawambwa 1 Polling Stream. The evidence provides some support for RW3 and RW4's account of the counting process at the polling streams they observed. It does not, however, amount to direct evidence of what occurred at every other polling station.

17.14. I have evaluated the Petitioner's evidence regarding this allegation. I find that none of the witnesses called to testify substantiated the allegation alluded to in the Petitioner's oral testimony. If anything, I find that the evidence presented by the 1st Respondent's witnesses, albeit limited to their polling stations, on how the counting was done, was confirmed by the Petitioner's witnesses. I find that the Petitioner's evidence supporting the allegation of miscalculation and transfer of votes was not only hearsay and inadmissible but did not demonstrate how the declared figures were wrong or inaccurate. The Petitioner ought to have called her agents who perceived

and informed her about the alleged misallocation. I therefore find that the Petitioner has failed to prove that her votes were incorrectly recorded or transferred to the 1st Respondent and I accordingly dismiss it.

18. FAILURE TO SUPPLY GEN 20 FORMS AND EXCLUSION OF POLLING AGENTS FROM SIGNING

18.1. The Petitioner in line with Section 97(2)(b) of the Electoral Process Act alleged that her polling agents were denied the opportunity to sign the GEN 20 forms before the results were submitted for final tallying. In particular, she testified that, at Lubuto Community Hall, the Presiding Officer did not provide the forms to her agents for signing and that, after insisting, one of the agents was given an unsigned copy. Notwithstanding the gravity of the allegation, the Petitioner did not produce the unsigned Gen 20 form and the votes recorded by her agents which, according to the Petitioner, would have shown the discrepancies. In addition, the Petitioner did not mention the name of the agent referred to. She contended that the votes recorded by her agents in various polling stations did not correspond with those entered on the GEN 20 forms.

18.2. The Petitioner was however not certain of the number of registered voters at Lubuto Community Hall. Under cross examination, she admitted that she had not produced evidence demonstrating that the absence of her agents' signatures on the GEN 20 forms had altered the votes recorded. Further, she stated that she equally did not sign on the GEN 20 form, that is the declaration of results form, after the 1st Respondent was declared duly elected because she was not agreeable with the result.

18.3. The 1st Respondent's evidence in rebuttal had the testimonies of RW3 Theresa Musonda, RW4 Rodgers Lwimba, and RW5 Emmanuel Chola. RW3, stationed at

Kaloko Primary School under Chitimukulu 1 Polling Stream testified that the voting and counting processes were conducted openly and transparently. She stated that the agents had an opportunity to verify and sign the GEN 20 forms. She further stated that no agent refused to sign the forms because of disputed figures. RW4, who served as an NRPUP polling agent at Kawambwa 1 Polling Stream at Milemu Secondary School, testified that the ballot papers were displayed for verification and that the agents present had an opportunity to verify and sign the forms after the results were entered. RW5, stationed at Hope Church of God Polling Station in Chichele Ward, testified that the forms were signed after the results had been entered and he confirmed his name and identified his signature on the GEN 20 form produced as exhibit "**STT2a"** in the 1st Respondent's affidavit.

18.4. The 2nd Respondent similarly maintained that the GEN 20 forms were issued to accredited election agents, monitors and observers, including the Petitioner's agents, and that the results were recorded in accordance with the prescribed electoral procedures. The 2nd Respondent contended that the mere failure of an agent to sign a GEN 20 form did not, by itself, render the declared results unauthentic or invalid.

18.5. I have considered the competing accounts. The evidence of RW3, RW4 and RW5 supports the 1st and 2nd Respondents' position concerning the conduct of the counting process at the polling streams with which those witnesses were familiar with. I however, bear in mind the limitation of their evidence as it can only account for what transpired at their respective polling streams. I note, from my perusal of the exhibited Gen 20 forms, that they were duly signed by the agents from UPND. This shows that the forms were available with the limitation alluded to earlier. Accordingly, the evidence of RW4 and RW5 has been assessed within the limits of their respective observations and considered with caution as they are partisan

witnesses whose evidence was corroborated by exhibits **"STT2a-b"**. However, the contention in the allegation makes particular reference to Lubuto Community Hall Polling Station under Lubuto Ward. As earlier indicated, the Petitioner did not mention the name of the agent stationed at Lubuto Community Hall and neither was the agent called as a witness. She did not produce the unsigned Gen 20 form as well.

18.6. Arising from the above, the allegations were anchored on reports made to the Petitioner by her agents who were not called as witnesses to substantiate the allegations. Her evidence is therefore inadmissible hearsay. The Petitioner did not call witnesses to prove these allegations or produce evidence demonstrating that an act or omission by any election officer compromised the principles governing an election or that the absence of her agents' signatures on the GEN 20 forms affected the declared results.

18.7. I have also looked at the effect of a polling or election agent not signing on the Gen 20 form. The answer is in **Regulation 5(2) of the Electoral Code of Conduct**[3] which requires an election or polling agent to counter sign results duly announced or declared by the Presiding Officer or Returning Officer and states the effect of the failure to counter sign. The said provision is couched thus:

> **"An election agent or polling agent shall counter sign the election results duly announced or declared by a presiding officer or returning officer, as the case may be, except that failure to counter sign the election results by such election agent or polling agent shall not render the results invalid."**

18.8. In light of the above observations made regarding this allegation, I find that the Petitioner has failed to prove the allegation and it is accordingly dismissed.

18.9.

19. CONCLUSION AND FINAL ORDERS

19.1. As I conclude, I note that the Petitioner sought to be granted three reliefs. I will first address the third relief, namely, an order of recount of the votes cast pursuant to Section 76 of the Electoral Process Act. I must add that the Petitioner did not advance any argument pertaining this relief in her submissions.

19.2. A total of 37, 047 votes were cast on 13th August, 2026 in the Kabushi Constituency race to Manda Hill contest. In order for those cast votes to be revisited through a recount, the Petitioner ought to have complied with the guidance given by the Supreme Court in the of **Michael Chilufya Sata v Rupiah Bwezani Banda and Two Others**[29] wherein it was guided that:

> **"An order for a recount is interlocutory, made only on the basis of cogent evidence justifying the making of such an order."**

19.3. This position was reaffirmed by the Constitutional Court in the case of **Christabel Ngimbu v Prisca Chisengo Kucheka and Electoral Commission of Zambia**[30] when it held that:

> **'It follows that in order for the High Court to order a recount of votes, a petitioner must make an interlocutory application. "**

19.4. The Petitioner, did not file any interlocutory application in this petition. The Petitioner only indicated it in the petition as one of the three reliefs sought. In the absence of such an application, the order for a recount is not tenable. In any case, and without belabouring the point, the Petitioner has not led any evidence that would have warranted consideration of a recount. For the avoidance of doubt, I have already found that the allegation of miscounting, misallocation and transfer of votes

lacked cogent evidence as it was based on inadmissible hearsay evidence. In the case of **Michael Chilufya Sata v Rupiah Bwezani Banda and Others**[25] the Supreme Court affirmed that, although a court has jurisdiction in a proper case to order a recount of votes, such relief is not available as of right. The Court held that:

> **"A recount may only be ordered upon evidence disclosing good grounds for believing that a mistake has occurred. It further explained that the purpose of a recount is confined to resolving anomalies in the counting, compilation or transmission of election results, so as to ascertain the correct number of votes cast in favour of each candidate. Questions concerning the legality of the election or non-compliance with electoral law stand on a different footing and, without more, do not provide a proper basis for a recount."**

19.5. The Petitioner, and rightly so, did not make any argument in the submissions in support of this relief. The prudent course would have been to make the application for an order of recount at a much earlier stage of the proceedings, rather than waiting until the judgment stage. In addition, Section 99 of the Electoral Process Act outlines the orders that the Court can make at the end of the election petition trial and recount and verification are not among them. On account of lack of cogent evidence and there being no interlocutory application made, the relief sought is misconceived and cannot be granted.

19.6. With regard to the second limb dealing with an order for the verification of votes, as submitted by the 2nd Respondent, Section 76 of the Electoral Process Act, it is the Electoral Commission of Zambia, the 2nd Respondent, and not the High Court which is empowered to conduct votes verification. Section 76 is instructive. It provides that:

"The Commission may correct a mistake committed by an electoral officer in the tabulation of results within seven days after the declaration of the results."

19.7. Further, Regulation 53 of the **Electoral Process (General) Regulations**[4] provides for verification of ballot papers by the returning officer. Therefore, this Court cannot grant the order of verification of votes. Just like the prayer for a recount, I find the relief sought of an order for verification to be misconceived as the Court has no jurisdiction to grant the relief sought. It is a preserve of the 2nd Respondent.

19.8. Coming to the first and second reliefs, I find, on the totality of the evidence adduced before me and in view of the findings that I have made on the allegations that have been made against the 1st Respondent, 2nd Respondent and the 3rd Respondent, I find and hold that the Petitioner has failed to prove her case against the Respondents to the required standard of a fairly high degree of convincing clarity. I therefore decline to grant the declaratory order sought in the petition that the 1st Respondent was not duly elected Member of Parliament for Kabushi Constituency.

19.9. The Petitioner having failed to prove her case that there were electoral malpractices and also non-compliance with the provisions of the law governing the conduct of elections, I declare that the 1st Respondent, Tilas Titus Sichinga, was duly elected Member of Parliament for Kabushi Constituency in Ndola District of the Copperbelt Province of Zambia. The petition is accordingly dismissed.

19.10. The 1st and 2nd Respondents prayed for costs. However, I am guided by the Constitutional Court decision in **Chileshe Mpunga Chilufya v Jean Chisenga Ng'andwe and Electoral Commission of Zambia**[31], that in an election petition, costs do not necessarily follow the event as in other civil matters. In the absence of a finding of an erring party, the default position in election petitions is that each party is to bear their own costs. Accordingly, I order that each party shall bear their own costs.

19.11. Leave to appeal is granted.

Delivered at Ndola on the 23rd day of November, 2026.



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C. J. BAKO

HIGH COURT JUDGE