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IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Election Jurisdiction)

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
31 AUG 2026
PRINCIPAL REGISTRY 1
P.O. BOX 50067, LUSAKA

2026/HP/EP/038

IN THE MATTER OF: ARTICLES 45(2)(a) -(e) OF THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT NO. 2 OF 2016 AS AMENDED BY ACT NO. 13 OF 2025.

AND

IN THE MATTER OF: THE PARLIAMENTARY ELECTIONS HELD ON 13th AUGUST, 2026 FOR ROMA PARLIAMENTARY CONSTITUENCY

AND

IN THE MATTER OF: CONTRAVENTION OF SECTIONS 29, 37, 50, 65,68(d), 71,72,73 AND 81 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 AS AMENDED BY ACT NO.12 OF 2026

AND

IN THE MATTER OF: SECTION 97 (1), (2)(b) AND (4) AS READ TOGETHER WITH SECTIONS 83(2) 98 (a)(b) and 99(a) OF THE ELECTORAL PROCESS ACT No. 35 OF 2016 AS AMENDED BY ACT NO.12 OF 2026

IN THE MATTER OF: SECTION 4(1) AND (2) (a), (b) AND (c) OF THE ELECTORAL COMMISSION ACT No. 25 of 2016

AND

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

AND

IN THE MATTER OF: THE ELECTORAL (CODE OF CONDUCT) REGULATIONS 2011 STATUTORY INSTRUMENT NO. 52 OF 2011

BETWEEN:

CHILANDO CHITANGALA	**PETITIONER**
AND	
ROSS KASIKILI	**1st RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	**2ndRESPONDENT**
ATTORNEY GENERAL	**3rd RESPONDENT**

PETITION

Pursuant to Rule (9) of the High Court (Election Petition) Rules, 2026 Statutory Instrument 31 of 2026

THE HUMBLE PETITION OF CHILANDO CHITANGALA (hereinafter referred to as "The Petitioner") shows that:

FACTS ABOUT THE PETITIONER AND RESPONDENT

[THE PARTIES]

[1.] The Petitioner is an adult female of sound mind, a citizen of the Republic of Zambia and a duly registered voter in the Roma Parliamentary Constituency. At the General Elections held on 13th August 2026, the Petitioner was a candidate for election as Member of Parliament for the Roma Parliamentary Constituency, having contested the said election on the ticket of the Resolute Party. The Petitioner resides at House No. 121A, Ngwerere Road, Roma, in the Lusaka District of the Lusaka Province of the Republic of Zambia.

[2.] The Petitioners' address for service for the purposes of this Petition shall be **care of Messrs. Messrs:** Aongola & Co. Legal Practitioners |Plot No. 5873, Kasiya Crescent, off Lusemfwa road, Kalundu, Lusaka, |email: info@aongolaandco.com.

[3.] The 1st Respondent is an adult citizen of the Republic of Zambia who contested the election to the National Assembly for the Roma Parliamentary Constituency as the candidate of the **United Party for National Development (UPND)** and who was purportedly declared by the Electoral Commission of Zambia to have been duly elected as Member of Parliament for the said Constituency on 15th August 2026, having allegedly obtained **17,201 votes**, whilst the Petitioner was declared to have obtained **16,257 votes**.

[4.] The **3rd** Respondent is the Electoral Commission of Zambia (hereinafter referred to as "the ECZ"), an independent Commission established under Article 229 of the Constitution of Zambia. Act No. 2 of 2016 as amended by Act No.13 of 2025, and governed by the applicable provisions of the Electoral Process Act No 35 of 2016 as amended by Act No.12 of 2026. The 2nd Respondent is

constitutionally charged with the mandate and responsibility of conducting and/or supervising referenda and elections to any elective body or office established by the Constitution, and such other elections as may be prescribed by law.

[5.] The 3rd Respondent is the Honourable Attorney-General of the Republic of Zambia, being the principal legal representative of the Government, and is herein cited in that capacity pursuant to section 12 of the State Proceedings Act, Chapter 71 of the Laws of Zambia, as the proper party against whom these proceedings lie.

FACTS IN SUPPORT OF THE PETITION/GROUNDS

[6.] . The Petitioner challenges the validity of the Parliamentary Election held in the Roma Parliamentary Constituency on 13th August 2026, in which the 1st Respondent, having contested the said election on the ticket of the United Party for National Development (herein UPND), was purportedly declared duly elected by the Electoral Commission of Zambia on 15th August 2026, having obtained 17,201 votes, as against 16,257 votes purportedly obtained by the Petitioner, who contested the election on the ticket of the Resolute Party.

[7.] The Petitioner avers that the events which unfolded at the University of Zambia ("herein UNZA") polling stations on 13th and 14th August 2026 constitute matters of grave electoral irregularity and are material to the determination of whether the election in the Roma Parliamentary Constituency was conducted in accordance with the Constitution and the Electoral Process Act.

[8.] Prior to the commencement of polling, and at approximately **22:00 hours on 12th August 2026**, ballot boxes and other electoral materials were handed over by the Electoral Commission of Zambia ("herein

ECZ/2nd Respondent") in the presence of accredited monitors, including the Petitioner's monitors, for onward distribution to the respective polling stations.

[9.] The Petitioner's monitor responsible for the UNZA polling stations followed the distribution of the electoral materials and was present when the ballot boxes were delivered to the UNZA polling stations at approximately midnight, in the early hours of **13th August 2026**.

[10.] The electoral materials were thereafter arranged and the polling stations prepared for the commencement of voting and on the morning of 13th August 2026, the Returning Officer and/or the responsible ECZ officials announced that polling at the UNZA polling stations would commence at **06:00 hours and close at 18:00 hours**.

[11.] Voting accordingly commenced at approximately 06:00 hours and proceeded throughout the day. By approximately **17:00 hours**, the majority of persons who had presented themselves to vote had completed the voting process, and the monitors and electoral officials remained at the polling stations awaiting the statutory closing time.

[12.] At approximately **18:00 hours**, the polling stations were formally closed and the process of counting the votes commenced.

[13.] The Petitioner avers that, whilst counting was underway, persons associated with the **UNZA Students' Union leadership**, including persons said to be former UNZA student leaders, together with persons associated with the **UPND**, appeared at the polling stations and demanded that the counting be stopped and the polling process reopened.

[14.] The said persons represented that there were students who had not yet voted and who were required to be permitted to cast their ballots notwithstanding the fact that the polling stations had already closed and the counting of votes had commenced.

[15.] Accredited observers and monitors present at the polling stations, including representatives of civil society organisations such as the **Young Men's Christian Association of Zambia (herein YMCA)**, the **Young Women's Christian Association (herein YWCA), Law Association of Zambia (herein 'LAZ')** and other monitoring organisations, objected to the reopening of the polling stations and protested that counting had already commenced.

[16.] Notwithstanding the said objections, and in circumstances which the Petitioner shall contend were irregular and unlawful, the ECZ officials and/or the Returning Officer permitted the polling stations to be reopened.

[17.] Upon such reopening, ballot papers which had already been brought into the counting process were put aside and/or the counting process was interrupted in order to permit further persons to vote. On the first such occasion, a number of persons were permitted to enter and cast ballots after the official closing of the polling station.

[18.] The Petitioner avers that, astonishingly, the said persons were permitted to vote without the proper verification of the voters' register being undertaken to establish whether each such person was duly registered at the relevant UNZA polling station or stream and was thereby entitled to vote.

[19.] The Petitioner shall contend that the fact of allowing voting to resume past the statutory time and issuing of ballot papers without proper verification against the voters' register constituted a fundamental departure from the safeguards governing the integrity of the electoral process. After the

said persons had voted, they departed from the polling station at approximately **19:00 hours**, whereupon the counting process resumed.

[20.] The Petitioner further avers that at approximately **22:00 hours**, and whilst counting was again underway, another group of persons arrived at the University of Zambia polling station and the voting process was once more reopened. The said persons were again permitted to cast their ballots notwithstanding the fact that the prescribed polling period had long since expired and counting was already in progress.

[21.] The second illegal period of voting continued for several hours and extended into the early hours of **14th August 2026**. This entails that persons were permitted to vote through the midnight period and went all the way into the early hours of the 14th August, 2026 as averred above. During these successive reopenings, the Petitioner avers that there was no proper, transparent and verifiable reconciliation of the voters' register with the persons being permitted to cast ballots, such as would establish that those persons were duly registered voters entitled to vote at the relevant polling stations or streams.

[22.] The Petitioner shall further contend that the circumstances surrounding the reopening of the polling stations were particularly egregious because the process of **counting votes and voting was conducted contemporaneously**: whilst votes already cast were being counted in certain streams, persons were being permitted to enter other streams and cast further ballots.

[23.] Such a process, the Petitioner shall contend, offended the very architecture of an orderly election, for the law cannot sensibly contemplate that a polling station should be simultaneously engaged in the final counting of votes and the issuing of fresh ballots to persons seeking to vote.

[24.] The Petitioner further avers that the reopening of the polling stations was accompanied by an organized scheme whereby students were encouraged, procured and/or induced to vote for UPND candidate for Member of Parliament for Roma Parliamentary Constituency.

[25.] The Petitioner shall rely upon communications circulated in groups associated with the UPND and/or persons acting in concert with the UPND at UNZA, in which students were encouraged to attend the polling stations and, after voting, to provide proof that they had voted.

[26.] The said proof was, in various instances, required to be in the form of a photograph or screenshot demonstrating that the student had voted for the UPND presidential candidate and/or the UPND parliamentary candidate, students who participated in the scheme were promised and/or paid monetary allowances for voting in the manner directed.

[27.] The sums allegedly paid or promised varied, with some students receiving approximately **K200.00**, whilst others were paid or promised amounts of approximately **K500.00** and the Petitioner shall rely upon messages exchanged within the relevant groups in which students complained that they had received K200.00 instead of K500.00 and demanded payment of the higher amount.

[28.] The Petitioner avers that the requirement that voters should photograph, capture or otherwise provide proof of how they had voted is itself wholly antithetical to the secrecy of the ballot and constitutes compelling evidence of an organized attempt to monitor, verify and reward the manner in which particular voters exercised their franchise.

[29.] The Petitioner shall contend that the payment, promise of payment, inducement or reward of voters, coupled with the requirement to provide proof of voting, constituted electoral malpractice and materially

compromised the free exercise of the franchise and this was happening in collaboration with the 1st Respondent.

[30.] When the Petitioner and/or her representatives attempted to raise objections to the foregoing conduct and to question the circumstances under which persons were being permitted to vote after the closure of polling, they were confronted, obstructed and/or forced away from the polling environment by persons associated with the UPND and/or persons acting in support of the 1st Respondent.

[31.] The Petitioner shall contend that such conduct was calculated to prevent her, her agents and/or monitors from properly observing, documenting and challenging the irregularities taking place at the polling stations.

[32.] Following the conclusion of the successive periods of voting, the Returning Officer and/or ECZ officials directed that the various streams at UNZA should conduct their respective counts separately. The streams were accordingly divided for purposes of counting, with monitors and ECZ officials assigned to the respective streams and the counting process continued throughout the night and into the morning of **14th August 2026**, ultimately continuing until approximately **08:00 hours**.

[33.] Upon completion of the counting process, the ballot papers and other electoral materials were packed by the ECZ officials and loaded onto a truck for transportation to the relevant tallying and/or totaling centre.

[34.] The Petitioner avers that, after the electoral materials left the UNZA polling stations, the Petitioner and her monitors had no knowledge of what transpired with the said materials at the totaling and/or tallying centre.

[35.] The Petitioner avers that, upon a subsequent comparison of the results announced and/or aggregated by the Electoral Commission of Zambia with the results recorded in the copies of the relevant GEN 20 Forms duly retained by the Petitioner and her accredited monitors, material and unexplained discrepancies were discovered between the figures declared by the Electoral Commission of Zambia and those recorded at the respective polling stations.

[36.] The Petitioner shall contend that the said discrepancies operated to the manifest advantage of the 1st Respondent and, correspondingly, to the prejudice and detriment of the Petitioner, thereby materially affecting the integrity and accuracy of the final result declared in the Roma Parliamentary Constituency

[37.] By reason of the matters hereinbefore set out, the Petitioner contends that the Roma Parliamentary Election held on **13th August 2026** was neither free nor fair, having been conducted in circumstances materially tainted by irregularities, malpractices, unequal treatment, interference and other matters hereinbefore particularized, which collectively impaired the integrity of the electoral process.

BREACHES OF THE CONSTITUTION AND ANY OTHER LAW

[I] By reason of the conduct of the 1st Respondent, acting himself and/or in collaboration, connivance or concert with members and supporters of the UPND, in procuring, inducing and/or purchasing the votes of students and other voters at the University of Zambia, by offering and/or causing to be offered monetary payments in exchange for votes and requiring proof of the manner in which such votes were cast, the 1st Respondent contravened Article 45(1) and (2) of the Constitution.

[II] By permitting and/or failing to prevent the reopening of polling after the prescribed closing time, whilst the counting of votes was already in progress; permitting persons to vote without proper verification against the voters' register; and permitting the polling and counting processes to proceed contemporaneously, the 2nd Respondent contravened section 4 of the Electoral Commission of Zambia Act No. 25 of 2016, which requires the Commission to direct, supervise and control elections in a fair and impartial manner and to ensure that elections are free and fair.

[III] By reason of the conduct of the **1st** Respondent, whether personally or through persons acting with his knowledge, consent, approval and/or connivance, in procuring voters by the giving, promising and/or procuring of money, including payments of approximately **K200.00 and K500.00**, in consideration for voting for the UPND candidates, the 1st Respondent contravened section 81 of the Electoral Process Act No. 35 of 2016, which prohibits the corrupt giving, promising, lending or procuring of money or other valuable consideration to or for a voter in connection with an election.

[IV] By organizing, encouraging and/or causing students and other voters to attend the UNZA polling stations after the prescribed closing time and by procuring their votes through monetary inducements, coupled with the requirement that voters demonstrate how they had voted, the 1st Respondent and persons acting in concert with him exercised and/or attempted to exercise undue influence over registered voters, contrary to section 83 of the Electoral Process Act.

[V] By requiring voters to capture, photograph, screenshot and/or otherwise communicate proof of the manner in which they had voted, and by the subsequent circulation of such proof within UPND-associated WhatsApp groups, the 1st Respondent and persons acting in concert with him contravened section 91 of the electoral process

[VI] By reopening the polling stations after the prescribed closing time, permitting further voting whilst counting was underway, and permitting persons to cast ballots without proper verification against the voters' register, the 2nd Respondent **refused** to perform their statutory functions in accordance with the Electoral Process Act, thereby contravening section 92 of the Electoral Process Act No. 35 of 2016.

[VII] By permitting ballot papers to be issued and cast after the prescribed close of polling and without proper verification of the entitlement of the persons receiving the same, the responsible persons contravened the provisions of the Electoral Process Act regulating the lawful conduct of the poll and the issue and use of ballot papers.

[VIII] By suspending the announcement of results, and failing to properly verify, reconcile and transparently account for the results contained in the original GEN 20 Forms before declaring the final result, the 2nd and 3rd Respondent failed to ensure the independence, accountability, efficiency and transparency of the electoral process, thereby contravening Article 45(2)(c);

[IX] By failing to ensure that the votes cast at polling-station level were accurately, simply and practically counted, transmitted, tabulated, verified and consolidated, and by announcing figures which the Petitioners aver materially differed from the results recorded in the original GEN 20 Forms, the 2nd and 3rd Respondent contravened Article 45(2)(d), which requires a simple and practical system of voting and tabulating votes.

SUBSTANTIVE RELIEFS SOUGHT

37. The Petitioner, therefore, humbly prays that this Honourable Court be pleased to grant the following substantive reliefs:

[I] A Declaration that the 1st Respondent was not validly elected as Member of Parliament for Roma Parliamentary Constituency held on 13th August 2026 and such his election was null and void

[II] A Declaration that the 3rd Respondent, by its acts and omissions complained of herein, contravened Articles 47(1) and 101 of the Constitution of Zambia;

[III] A Declaration that the 2nd and 3rd Respondent contravened sections 29, 37, 50, 65, 67(3),68(d), 71, 72, 73 and 81 of the Electoral Process Act No. 35 of 2016, thereby materially compromising the conduct, integrity, tallying and declaration of the Presidential Election;

[IV] A Declaration that, by reason of the material constitutional and statutory contraventions, irregularities, malpractices and omissions hereinbefore particularized, the Parliamentary Election held on 13th August 2026 was not conducted in accordance with the Constitution and the Electoral Process Act and is accordingly null and void, and;

[V] Such further and/or consequential orders as this Honourable Court may deem just, expedient and necessary for the preservation of the integrity of the electoral process and for giving effect to the true will of the electorate; and

[VI] An Order for the costs of and incidental to these proceedings to be borne by the Respondents And so, the humble Petitioner shall forever pray.

Dated at Lusaka this ..... Day of ..... 2026.

PETITIONER

PER: Messrs. Aongoia & Co. Legal Practitioners |Plot No. 5873, Kasiya Crescent, off Lusemfwa road, Kaiundu, Lusaka, |email: info@aongoiaandco.com.

ADVOCATES FOR THE PETITIONER

IN THE HIGH COURT FOR ZAMBIA
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HOLDEN AT LUSAKA
(Election Jurisdiction)

2026/HP/EP/038

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BETWEEN:
CHILANDO CHITANGALA — **PETITIONER**
AND
ROSS KASIKILI — **1st RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA — **2nRESPONDENT**
ATTORNEY GENERAL — **3rd RESPONDENT**

SKELETON ARGUMENTS IN SUPPORT OF PETITION
Pursuant to Rule (9)(3)(b) of the High Court (Election Petition) Rules, 2026 Statutory Instrument 31 of 2026

IF IT MAY PLEASE THIS HONOURABLE COURT The Petitioners shall rely upon the following authorities, copies of unreported decisions and excerpts from other works in support of their Petition and arguments:

1. LIST OF AUTHORITIES;

1.1. LEGISLATION

1. Constitution of Zambia (Amendment) Act No. 2 of 2016 as Amended by Act No. 13 of 2025.
2. The Electoral Process Act No. 35 of 2016 as Amended by Act No.12 of 2026
3. The Interpretation and General Provisions Act Chapter 2 of the Laws of Zambia
4. The Electoral (Code of Conduct) Regulations 2011 Statutory Instrument No. 52 of 2011
5. The High Court (Election Petition) Rules 2026 of the Laws of Zambia

1.2. CASES

1. Anderson Kambela Mazoka & Others v Levy Patrick Mwanawasa & Others, Presidential Election Petition Nos. SCZ/01/02/03/2002;
2. Bowman Lusambo Vs Bernard Kanengo & The Electoral Commission of Zambia 2021-CCZ-A0019 – Jul 2022
3. Luo v Mwamba and Another Selected Judgment No. 51 of 2018
4. Masumba v Kamondo (2017) 3 Z.R. 130
5. Mutapwe v Shomeno Appeal No. 19 of 2017

MAY IT PLEASE THIS HONOURABLE COURT, we, on behalf of the Petitioner, respectfully tender these Skeleton Arguments in support of the Petition and Affidavit filed herein. For ease of reference, all underlining appearing in these Arguments has been employed solely to emphasize words or phrases considered to be of particular significance.

1.0 BACKGROUND

1.1 **IF IT MAY PLEASE THIS HONOURABLE COURT** at the heart of the matter is the validity of the election and declaration of the 1st Respondent as duly elected Member of Parliament for Roma Constituency. The 1st Respondent shall demonstrate, by reference to the facts and the

applicable law, that the Petitioner's case is with sufficient foundation and that the reliefs sought ought to be granted.

2.0 ARGUMENTS TO SUPPORT THE PRAYER THAT THE ELECTION OF THE 1st RESPONDENT SHOULD BE NULLIFIED

2.1 My Lord/My Lady, the evidence demonstrates that at the University of Zambia ("UNZA"), polling was reopened on two occasions after the prescribed closing time; voting continued whilst counting was already underway; persons were permitted to vote without proper verification against the voters' register; voters were induced and/or paid to vote for the UPND candidates and required to provide proof of how they had voted; and material discrepancies subsequently emerged between polling-station GEN 20 Forms and the results aggregated and declared by the ECZ.

2.2 Article 45(1) of the Constitution provides that the electoral system shall ensure, inter alia, that citizens are free from interference in the exercise of their political rights[1].The evidence shows that students were encouraged and/or procured to vote for the UPND candidates, were required to provide photographic or other proof of how they had voted, and were promised and/or paid approximately K200.00 and K500.00 for voting in the manner directed. A vote purchased is not a vote freely exercised. A citizen who must prove how she voted in order to receive money is not exercising her political right free from interference. The conduct therefore violated Article 45(1)[2].

2.3 Article 45(2) further provides that the electoral process and system of administering elections shall ensure that elections are free and fair, free from violence, intimidation and corruption, and characterized by independence, accountability, efficiency and transparency, together with a simple and practical system of voting and tabulation of votes. The conduct at UNZA offended

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[1] Constitution of Zambia (Amendment No. 2 of 2016)
[2] Ibid

each of these safeguards. Polling was reopened after 18:00 hours whilst counting was underway; persons were permitted to vote without proper verification; and voting and counting proceeded contemporaneously. The process was therefore neither free nor fair; neither transparent nor orderly; and the system of voting and tabulation was plainly compromised. The constitutional command is mandatory. Where the process prescribed by the Constitution ceases to protect the free choice of the voter, the resulting declaration cannot be allowed to stand.

2.4 My Lord/Lady, section 4(1) of the Electoral Commission of Zambia Act No. 25 of 2016 provides that:

> *"Subject to the Constitution, the Commission shall direct, supervise and control elections in a fair and impartial manner. "Section 4(2) further requires the Commission to ensure that elections are free and fair, promote conditions conducive to free and fair elections and promote the democratic electoral process.*[3]

2.5 My Lord/Lady, the ECZ officials permitted polling to be reopened after the announced closing time of 18:00 hours, interrupted counting, permitted further voting, and thereafter allowed the process to continue into the early hours of 14th August 2026. That conduct was the very antithesis of directing, supervising and controlling an election in a fair and impartial manner. The statutory duty was not merely to administer an election; it was to administer a **fair and impartial election**. The ECZ failed that duty.

2.6 My Lord/Lady, section 81 of the Electoral Process Act No. 35 of 2016[4] prohibits a person from corruptly giving, promising, lending or procuring money or other valuable consideration to or for a voter in connection with an election. The evidence is that students were encouraged to vote

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[3] Electoral Process Act No 35 of 2016
[4] Ibid

for the UPND candidates, required to provide proof of their votes, and were paid or promised payments of approximately K200.00 and K500.00. Communications further record complaints concerning the amounts paid. The conduct falls squarely within the mischief prohibited by section 81. The ballot is the voter's sovereign choice. It cannot lawfully be converted into a commodity to be purchased.

2.7 My Lord/Lady, further to the foregoing, section 83 of the Electoral Process Act prohibits the use, directly or indirectly, of force, violence, restraint, threats or other means calculated to induce or compel a registered voter to support a candidate. The evidence demonstrates an organized effort to procure students to vote for the UPND candidates, coupled with the requirement that they provide proof of their votes in order to obtain payment. Such conduct interfered with the free exercise of the franchise and constituted an improper influence upon voters.

2.8 The provisions of the Electoral Process Act requiring the secrecy of voting prohibit persons attending at a polling station from communicating information concerning how a person voted except as authorised by law. Students were required to photograph, capture and/or communicate proof of how they had voted, and such material was circulated in UPND-associated groups. The secrecy of the ballot cannot coexist with a system in which a voter must produce proof of the candidate for whom she voted in order to receive payment. The statutory secrecy of the ballot was thereby defeated.

2.9 My Lord/Lady, section 92 of the Electoral Process Act addresses offences by election officers who fail to perform the functions imposed upon them by the Act. The ECZ officials permitted voting to resume after closure, whilst counting was underway, and permitted persons to vote without proper verification against the voters' register. The electoral officers thereby failed to maintain the orderly and lawful conduct of the poll entrusted to them. The Petitioner does not invite this Honourable Court to nullify the election merely because irregularities occurred. She

invites the Court to do so because the irregularities went directly to the **casting, counting, verification and aggregation of votes**.

2.10 The evidence establishes that voting continued after the announced close of polling, counting was interrupted and conducted alongside further voting, persons were permitted to vote without proper verification, voters were allegedly procured through monetary inducements, and the secrecy of their ballots was compromised. Further, the subsequent comparison of the ECZ results with the GEN 20 Forms retained by the Petitioner and her monitors disclosed material and unexplained discrepancies, operating to the advantage of the 1st Respondent and to the prejudice of the Petitioner.

3.0 THE COURT MUST ANNUL THE ELECTIONS-CONDUCT OF THE 1ST RESPONDENT

3.1 **My Lord/Lady,** in terms of our electoral law as applied and established in the Zambian jurisdiction, the threshold for nullifying an election of a Member of Parliament where corrupt practice, illegal practice or other misconduct is alleged in an election petition, is governed by the provisions in section 97(2) of the Electoral Process Act[5], which is couched in the following manner:

> *"(2) The election of a candidate as 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*
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> *(ii) with the knowledge of and consent or approval of a candidate or of that candidate's election agent or polling agent; and the majority of voters in the constituency, district or ward*

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[5] The Electoral Process Act No.35 of 2016, section 97(2)

were or may have been prevented from electing the candidate in that constituency, district or ward whom they preferred.[6]"

3.2 My Lord/Lady, section 97(4) of the Electoral Process Act No.35 of 2016 further provides that

> ***(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.***

3.3 **My Lord/My Lady,** the Constitutional court had occasion of interpreting the above provision in the case of **Masumba v Kamondo**[7], stated that:

> ***"The requirement in the current law for nullifying an election of a Member of Parliament is that a petitioner must not only prove that the respondent has committed a corrupt or illegal act or other misconduct or that the illegal act or misconduct complained of was committed by the respondent's election agent or polling agent or with the respondent's knowledge, consent or approval, but that he/she must also prove that as a consequence of the corrupt or illegal act or other misconduct committed, the majority of voters in the constituency were or may have been prevented from electing a candidate whom they preferred."***

3.4 **Further, in the case of Luo v Mwamba and Another**[8] **the constitutional court went on to hold that:**

> *"Section 97(2) of the (Electoral Process) Act is central to the judicial resolution of electoral disputes...In order to successfully have an election annulled, 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 agent, 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... In addition,*

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[6] Ibid

[7] Masumba v Kamondo (2017) 3 Z.R. 130

[8] Luo v Mwamba and Another Selected Judgment No. 51 of 2018

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.

3.5 **My Lord/Lady,** section 97(2) of the Electoral Process Act No. 35 of 2016 provides the governing threshold. It requires the Petitioner to establish, first, that a corrupt practice, illegal practice or other misconduct was committed in connection with the election by the candidate, or with his knowledge, consent or approval; and, secondly, that "the majority of voters in the constituency ... were or may have been prevented from electing the candidate ... whom they preferred."

3.6 In the instant case, the first limb is established by the evidence concerning the conduct at the University of Zambia ("UNZA"). The evidence demonstrates that, after the close of polling at 18:00 hours and whilst counting had commenced, polling was reopened; students were permitted to vote without proper verification against the voters' register; and persons associated with the UPND procured students to vote for the UPND candidates by offering and/or paying monetary allowances and requiring them to provide photographic or other proof of how they had voted. The communications produced in evidence further demonstrate students confirming that they had voted and demanding payment of the promised allowances. These acts constitute the very conduct proscribed by sections 81 and 83 of the Electoral Process Act and materially undermine the secrecy of the ballot.

3.7 My Lord/Lady, the question therefore becomes whether that conduct was attributable to the 1st Respondent within the contemplation of section 97(2). The Petitioner shall contend that the evidence, taken as a whole, demonstrates that the activities were not isolated acts of individual voters, but an organized scheme undertaken by persons associated with the

UPND and acting in furtherance of the 1st Respondent's candidature. The requirement that voters provide proof of having voted for the UPND candidate, coupled with the payment of K200.00 and K500.00 and the coordinated reopening of polling to permit further persons to vote, provides the evidential basis upon which the Court may find knowledge, consent, approval and/or participation on the part of the 1st Respondent.

3.8 My Lord/Lady, the second limb of section 97(2) is equally material. In Masumba v Kamondo (2017) 3 Z.R. 130, the Constitutional Court made clear that proof of malpractice alone is insufficient; the Petitioner must further demonstrate that, as a consequence of the malpractice, the majority of voters "were or may have been prevented from electing a candidate whom they preferred."

3.9 My Lord/Lady, that requirement is satisfied, or at the very least raised compelling evidence capable of satisfying the Court, by the circumstances surrounding the UNZA polling stations. The reopening of polling after 18:00 hours allowed additional persons to cast ballots after the lawful polling period had ended, whilst the counting of votes was already underway. Those additional votes were then introduced into the same electoral process upon which the final result depended. The Petitioner's evidence further demonstrates that those voters were procured to support the UPND candidates and required to furnish proof of their voting.

3.10 My Lord/Lady, the prejudice is rendered more concrete by the subsequent discovery of material discrepancies between the results announced and/or aggregated by the ECZ and the figures recorded on the GEN 20 Forms retained by the Petitioner and her monitors. Those discrepancies operated to the advantage of the 1st Respondent and to the detriment of the Petitioner. The declared margin between the parties was 944 votes, being 17,201 votes for the 1st Respondent against 16,257 votes for the Petitioner. The integrity of that margin cannot be presumed where the very process by which votes were cast, counted and aggregated is impugned.

3.11 My Lord/Lady, the decision in Luo v Mwamba and Another, Selected Judgment No. 51 of 2018, reinforces the point. The Court held that section 97(2) requires the Petitioner to prove the malpractice and, in addition, adduce "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."

3.12 My Lord/Lady, the Petitioner does not rely upon a solitary irregular ballot or an isolated administrative error. The evidence concerns repeated reopening of polling, successive groups of voters being admitted after closure, voting occurring alongside counting, failure to verify voters, an organized system of monetary inducement and the compulsory production of proof of voting. These matters occurred within the same polling environment and formed part of one continuing process which directly affected the votes upon which the final result was founded.

3.13 My Lord/Lady, the significance of the malpractice is further demonstrated by the fact that the Petitioner was unable to ascertain, with certainty, the number of additional persons permitted to vote, the basis upon which they were admitted to the poll, and the manner in which those additional ballots were subsequently incorporated into the count. The uncertainty is not collateral; it goes directly to the reliability of the declared result.

3.14 My Lord/Lady, further, section 97(4) cannot avail the Respondents. That provision preserves an election only where, notwithstanding an election officer's breach of official duty, the election was "substantially in accordance with the provisions of this Act" and the breach "did not affect the result." On the evidence before the Court, neither condition is met. The reopening of polling, simultaneous voting and counting, failure of verification, alleged inducement of voters and subsequent discrepancies in the declared figures go beyond a mere technical breach and directly concern the result itself.

3.15 My Lord/Lady, the thrust of the case, therefore, is not one in which the Court is being invited to overturn the will of the electorate because of some trifling departure from procedure. It is the converse. The Petitioner asks the Court to intervene because the evidence demonstrates that the very process by which the electorate expressed its will was materially compromised.

3.16 The Petitioner has therefore demonstrated the statutory ingredients contemplated by section 97(2): corrupt and illegal practices and other misconduct connected with the election, attributable to the 1st Respondent and/or persons acting with his knowledge, consent or approval, and conduct which prevented or may have prevented voters from electing the candidate whom they preferred. The election of the 1st Respondent as Member of Parliament for the Roma Parliamentary Constituency ought accordingly to be declared void and set aside.

4.0 WHAT THEN IS THE STANDARD OF PROOF?

4.1 My Lord/Lady, it is also settled that the applicable standard of proof in an election petition is higher than that required in an ordinary civil action but lower than the standard of beyond reasonable doubt required in criminal matters. Furthermore, the evidence adduced in support of the allegations made must prove issues raised to a fairly high degree of convincing clarity. This position of the law was restated by the constitutional Court in the case of **Mutapwe v Shomeno**[9] where it was held that:

> "*The petitioner in an election, just as in any other civil matter, bears the burden to prove the electoral offence complained of. However, the standard of proof in an election petition is higher than that required in an ordinary civil*

[9] Mutapwe v Shomeno, Appeal No. 19 of 2017

action. The evidence adduced in support of the allegations made in an election petition must prove the issues raised to a fairly high degree of convincing clarity."

4.2 My Lord/Lady, the Petitioner respectfully submits that she has met the requisite standard of proof, as the allegations contained in the Petition demonstrates cogent evidence demonstrating that the 1st Respondent personally committed, authorised, consented to or had knowledge of any corrupt practice, illegal practice or other misconduct.

5.0 CONCLUSION

5.1 My Lord/Lady, in conclusion an election is the lawful translation of the people's choice into a result. Where votes are bought, voting continues after closure, the secrecy of the ballot is compromised, and the count itself becomes entangled with further voting, the Court cannot be asked to sanctify the resulting declaration merely because a Returning Officer has announced it.

5.2 The Petitioner has therefore demonstrated the statutory ingredients contemplated by section 97(2): corrupt and illegal practices and other misconduct connected with the election, attributable to the 1st Respondent and/or persons acting with his knowledge, consent or approval, and conduct which prevented or may have prevented voters from electing the candidate whom they preferred. The election of the 1st Respondent as Member of Parliament for the Roma Parliamentary Constituency ought accordingly to be declared void and set aside.

Dated at Lusaka this.....day of 2026

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To: The Respondent & their solicitors

The Electoral commission of Zambia

Messrs: Aongola & Co. Legal Practitioners |Plot No. 5873, Kasiya Crescent, off Lusemfwa road, Kalundu, Lusaka, |email: info@aongolaandco.com. Advocates for the PETITIONER

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Election Jurisdiction)

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
31 AUG 2026
PRINCIPAL REGISTRY 1
P.O. BOX 50067, LUSAKA

2026/HP/EP/ 038

IN THE MATTER OF: ARTICLES 45(2)(a) -(e) OF THE CONSTITUTION OF ZAMBIA (AMENDMENT) ACT NO. 2 OF 2016 AS AMENDED BY ACT NO. 13 OF 2025.

AND

IN THE MATTER OF: THE PARLIAMENTARY ELECTIONS HELD ON 13th AUGUST, 2026 FOR ROMA PARLIAMENTARY CONSTITUENCY

AND

IN THE MATTER OF: CONTRAVENTION OF SECTIONS 29, 37, 50, 65,68(d), 71,72,73 AND 81 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 AS AMENDED BY ACT NO.12 OF 2026

AND

IN THE MATTER OF: SECTION 97 (1), (2)(b) AND (4) AS READ TOGETHER WITH SECTIONS 83(2) 98 (a)(b) and 99(a) OF THE ELECTORAL PROCESS ACT No. 35 OF 2016 AS AMENDED BY ACT NO.12 OF 2026

IN THE MATTER OF: SECTION 4(1) AND (2) (a), (b) AND (c) OF THE ELECTORAL COMMISSION ACT No. 25 of 2016

AND

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

AND

IN THE MATTER OF: THE ELECTORAL (CODE OF CONDUCT) REGULATIONS 2011 STATUTORY INSTRUMENT NO. 52 OF 2011

BETWEEN:

CHILANDO CHITANGALA — **PETITIONER**

AND

ROSS KASKILI — **1st RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA — **2nRESPONDENT**

ATTORNEY GENERAL — **3rd RESPONDENT**

PETITIONER'S BUNDLE OF DOCUMENTS

Pursuant to Rule (9)(3)(e) of the High Court (Election Petition) Rules, 2026 Statutory Instrument 31 of 2026

Description of document in the buddle	page Number
GEN 20 Form for ALL UNZA Streams	

Dated at Lusaka this.....day of 2026

PER Messrs. Aongola & Co. Legal Practitioners |Plot No. 5873, Kasiya Crescent, off Lusemfwa road, Kalundu, Lusaka, |email: info@aongolaandco.com.Advocates for the PETITIONER