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

2026/HP/EP/035



IN THE MATTER OF: **ARTICLES 47(2), 51, 54,68,72 (2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA**

AND

IN THE MATTER OF: **SECTIONS 81, 89, 97 (1), 98 (C), 99, 100 (2) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**

IN THE MATTER OF: **CODE OF CONDUCT RULES 12, 15 (a), (h), (K)**

AND

IN THE MATTER OF: **VUBWI CONSTITUENCY ELECTIONS HELD IN ZAMBIA ON THE 13TH DAY OF AUGUST, 2026**

IN THE MATTER OF: **RULE 9 (1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026**

BETWEEN:

ACKLEO I. BANDA **PETITIONER**

AND

MARGARET MITI **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

ELECTION PETITION

The Petition of **ACKLEO I. BANDA** of Mthunzi Village, Chief PembaMoyo Vubwi in the Eastern Province of the Republic of Zambia **SHOWTH**:

1. Your Petitioner **ACKLEO I. BANDA** is the person who was a candidate in Vubwi Constituency Parliamentary Elections held on the 13th August, 2026 having been adopted by the United Party for National Development (UPND) and duly nominated.
2. Your Petitioner states that in the Election referred to in paragraph 1 hereof, the following persons were candidates namely:
   Margaret Miti, Akcleo I. Banda, Alex P. Banda and Bathromew Zulu.
   And the Returning officer declared the 1st Respondent as duly elected on 15th August, 2026.

3. The Election was held on the 13th August, 2026 and the Returning Officer declared the following results:

Margaret Miti	NRPUP	7,183
Ackleo I. Banda	UPND	6,397
Alex P. Banda	UPPZ	204
Bathromew Zulu	PP	152

4. Your Petitioner will further say that the said Election was conducted by the 2nd Respondent, the Electoral Commission of Zambia.
5. Your Petitioner states that contrary to the declaration by the Returning Officer that the 1st Respondent was duly elected, the 1st Respondent was not validly elected for the reasons hereunder;
   (i) That the 1st Respondent and her Agents were seen collecting some voter's cards from the UPND members in the UPND strong holds few days before the Polling day and on the actual day of voting and this matter was reported at Vubwi Police Station where the matter is not yet concluded.
   (ii) That the 1st Respondent and her Agents embarked on threats through the Mudzi Wathu Radio Station in Malawi threatening voters living within the borders of Malawi and Mozambique that Zambian Solders would be checking for BCG Vaccination and that if they were found not to have the same, they were going to be arrested.
   (iii) That as a result of (ii) above, a lot of voters in favour of the UPND candidate did not participate in the poll and therefore people in Vubwi did not vote for their preferred candidate.
   (iv) That the 1st Respondent and her Agents were seen distributing non political branded materials such as salt a night before the day of voting just after the campaign period was closed.
   (v) That the 1st Respondent and her Agents were seen giving sim cards to voters with instructions on the voting day on who to vote for assuring the voters that the said sim card contained money as appreciation whose pin numbers were also shared.
   (vi) That the 1st Respondent and her Agents prevented access to the totaling center of all UPND Polling Agents who could not monitor the election results.
6. Your Petitioner states that as a consequence of the aforesaid illegal practices committed by the 1st Respondent and her agents the majority of the voters in the affected area

and/or Polling Stations were prevented from electing the candidate in the Constituency whom they preferred.

BY REASON OF THE FOREGONG, YOUR PETITIONER PRAYS:

1. A declaration that the election of the 1st Respondent as a Member of Parliament for Vubwi Constituency is **NULL AND VOID AB INITIO**.
2. A declaration that the illegal practices committed by the 1st Respondent and/or her agents affected the election result and that the said ought to be nullified.
3. Such other declarations and Orders as this Honourable Court may deem fit including a re-count.
4. An Order that costs occasioned by the Petitioner be borne by the 1st Respondent.

Dated the _____ day of _____ 2026.

Signed by:_____
ACKLEO I. BANDA
PETITIONER

Per; Messrs Muleza Mwiimbu and Company
Plot No. 3796, Ngwerema Close
Off Kwacha Road
Olympia
Email:mulezamwiimbu@gmail.com
LUSAKA
ADVOCATES FOR THE PETITIONER

TO: Margaret Miti
House No.
Chipata
1ST RESPONDENT

TO: The Legal Counsel
Electoral Commission of Zambia
Election House
Haile Selassie Avenue
Longacres
P.O. Box 50274
LUSAKA
ADVOCATES FOR THE 2ND RESPONDENT

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

BETWEEN:

ACKLEO I. BANDA **PETITIONER**

AND

MARGARET MITI **1ST RESPONDENT**

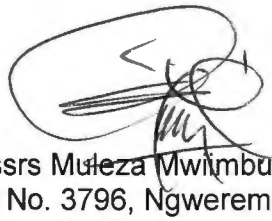
ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

NOTICE OF PETITION

TAKE NOTICE that an Election Petition, a true copy whereof hereto annexed, relating to the Election of Margaret Miti as a Member of Parliament of Vubwi Constituency was duly presented in the High Court for Zambia at the Lusaka Principal Registry by **ACKLEO I. BANDA**, the Petitioner on the _____ day of _____ 2026.

AND FURTHER TAKE NOTICE that the security will be given Pursuant to Section 102 (2) of the Electoral Process Act, No. 35 of 2016 in the sum of ZMW_____.

Dated the _____ day of _____ 2026.



Per; Messrs Muleza Mwiimbu and Company
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ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

LIST OF AUTHORITIES AND SKELETON ARGUMENTS

LIST OF AUTHORITIES

LEGISLATION

1. Constitution of Zambia Act No. 2 of 2016
2. Electoral Process Act No. 35 of 2016
3. The High Court (Election Petition) Rules 2026

CASES

1. Herbet Shaluba v Greyford Monde, Appeal No. 13 of 2016.
2. Poniso Njeulu v Mubika Mubika, Constitutional Court Appeal No. 9 of 2017
3. Nkandu Luo v Sibongile Mwanza CCZ selected Judgment No. 51 of 2018.
4. Richard Mwape v Miyutu Chinga 2016/HP/EP/0016

MAY IT PLEASE THIS HONOURABLE COURT, these are the Petitioner's List of Authorities and Skeleton Arguments presented in this matter. As for facts, we shall rely on the affidavit deposed to by one Ackleo I. Banda, the Petitioner herein;

1. An Election of a candidate as a member of Parliament, Mayor, Council Chairperson or Councilor shall not be questioned except by an election petition presented under this part.

   Instructive of this is Section 97 (2) of the Electoral Process Act No. 35 of 2016 which provides as follows:

"The election of a candidate as a member of parliament, mayor, council chairperson or councilor shall be void if, on the trial of an election petition, it is proved to the satisfaction of the High Court or a tribunal as the case may be that –

(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.

(d) 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-

(i) 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;

(ii) 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

(iii) 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.

(e) 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.

2. In view of the governing laws, specifically Article 45(2) (a) (b) of the Constitution and Sections 97 (2) (a) of the Electoral Process Act No. 35 of 2016, the 1st Respondent personally, through her election agents were involved in the following activities that are and were illegal in Vubwi Constituency as follows:

(i) Electoral Corruption threats
(ii) Undue influence
(iii) Intimidation
(iv) Distributing materials even after Campaigns period had closed.

3. The Constitutional Court of Zambia in the case of **Herbet Shaluba v Greyford Monde, Appeal No. 13 of 2016** cited what amounts to misconduct by stating that:

"It follows therefore, that in order for the prescribed act which is committed to result in the nullification of an election, it must not only be proven but must be widespread within the constituency so as to affect the majority of voters in their choice of candidate, " Emphasis Ours.

4. Further in the case of **Nkandu Luo v Sibongile Mwanza CCZ Selected Judgment No. 51 of 2018,** the constitutional Court held that:

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

5. The above illegal acts as alluded to in the Petitioner's Affidavit verifying facts, were substantial and wide spread so much that they prevented voters to exercise their right freely to elect a candidate of their choice in Vubwi Constituency.

6. As a result of the above illegalities specified in this election in Vubwi Constituency, we implore this Court to nullify the election of the 1st Respondent as Member of Parliament for Vubwi Constituency, as the corrupt, illegal practices and or misconduct were committed by the 1st Respondent personally or through her agents, having knowledge and consent or her approval which resulted in the majority of voters being prevented from electing a person of their choice.

7. In the case of **Poniso Njeulu v Mubika Mubika, Constitutional Court Appeal No. 9 of 2017**, the Constitutional Court cited with approval the decision of the Supreme Court by stating that:
"The provision for declaring an election of a member of Parliament void is only where, whatever, activity is complained of, it is proved satisfactory that as a result of that wrongful conduct the majority of voters in a constituency were, or might have been

prevented from electing a candidate of their choice, it is clear that when facts alleging misconduct are proved fall into the prohibited category of conduct, it must be shown that the prohibited conduct was widespread in the constituency to the level where registered voters in greater numbers were influenced so as to change their selection of a candidate for that particular election in that constituency; only then can it be said that a greater number of voters were prevented from electing their preferred candidate."

8. The above position is and was the case in Vubwi Parliamentary Election. The Respondent and her agents prevented the majority of voters from voting due to misconduct as evident in the events that occurred.

9. It is also a fact that election petitions deal with numbers of votes cast, thus in order to assess the effect, the Court has to evaluate the whole process of election to determine how it affected the result, and then assess the degree of the effect. In this process of evaluation, it cannot be said that numbers are not important conditions, which produced those results are useful in making adjustment to the irregularities.

10. In the case **of Richard Mwapelela v Miyutu Chinga 2016/HP/EP/0016** the petitioner challenged the declaration that the Respondent was duly elected Member of Parliament for Kalabo Central Constituency. The difference between the two candidates was 8,613 votes.

In summing up the judgement the trial judge remarked as follows:

" Arising from the provisions of section 97(2) of the Electoral Process Act, an election of a member of parliament in my considered view can only be avoided if it is proven to the satisfaction of the High Court that such candidate or with his knowledge and consent or approval or that the agent or polling agent committed corrupt practices, illegal practices or other misconduct. The Section goes further that it must be proven that because of such corrupt practices and misconduct, the majority of voters in a constituency were or may have been prevented from electing the candidate of their choice."

11. In the current case, as per Affidavit Verifying facts sworn by the Petitioner, the 1st Respondent, and her polling agents engaged in corrupt and illegal practices, bribery, threats, intimidation and violence in various polling stations in Vubwi Constituency hence preventing the voters from voting for the candidate of their choice. The 1st Respondent even involved a Radio Station in Malawi to threaten voters in Zambia.

12. From the above analysis it is probable that among the majority of voters who were prevented from voting due to dubious activities by the 1st Respondent and her agents,

most of the Petitioner's supporters were prevented from casting their vote amounting to the current results which possibly would have been different.

13. On the basis of the above authority, your Petitioner's prayer to order the recount of the said vote is important to ascertain what had happened with the votes cast in this election.

14. **The Constitution of Zambia Act No. 2 Of 2016 Of The Laws Of Zambia** which is the supreme law of the land binds all persons and any act or omission that contravenes this constitution is illegal as per **Article 1(2) and (3) of the constitution**. Further, elections must be free from violence and corruption as per **Article 45(2)(a)(b)**. These elections in issue in Vubwi Constituency were devoid of threats especially through a foreign Radio Station which were widespread and substantial.

15. The petitioner having discharged his burden in line with section 97 of the Electoral Process Act No. 35 of 2016 of the Laws of Zambia, to the requisite standard, it is our prayer that the Petitioner be granted the reliefs sought in his petition.

Most obliged.

Dated the _____ day of _____ 2026.

Per; Messrs Muleza Mwiimbu and Company
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NOTICE FOR SECURITY FOR COSTS

TAKE NOTICE that the Petitioner has paid the sum of Three Thousand Two Hundred Kwacha **K3,200.00** into Court as Security for Costs.

Dated the .....day of 2026

Per; Messrs Muleza Mwiimbu and Company
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LUSAKA
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AND

MARGARET MITI — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

PETITIONER'S LIST OF WITNESSES

The following is the Petitioner's List of Witnesses the Petitioner will call during trial in this matter;

1. Ackleo I. Banda
2. Bornface Banda
3. Sifoliano Tembo
4. Paul Phiri
5. Justine Mbewe
6. Nakaleti Phiri

Dated the _____ day of _____ 2026.

Per; Messrs Muleza Mwiimbu and Company
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