IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF GHANA
ACCRA – A. D. 2022

SUIT NO. J1/11/2022

J7/16/2022

MICHAEL ANKOMAH-NIMFAH ****
***PLAINTIFF/APPLICANT/RESPONDENT**
H/NO. 65 OB APIATUAA STREET,
ASSIN-BEREKU

VRS

1. **JAMES GYAKYE QUAYSON *1ST DEFENDANT/RESP/APPLICANT**
   HSE. NO. SD/16 SDA
   ASSIN-BEREKU

2. **THE ELECTORAL COMMISSION 2ND DEFENDANT/RESP/RESPONDENT**
   HEAD OFFICE
   RIDGE, ACCRA

3. **THE ATTORNEY-GENERAL**3RD DEFENDANT/RESP/RESPONDENT**
   ATTORNEY-GENERAL'S DEPARTMENT
   MINISTRIES, ACCRA

MOTION ON NOTICE
APPLICATION FOR AN ORDER REVIEWING THE MAJORITY DECISION OF THE SUPREME COURT DATED 13TH APRIL, 2022
[Article 133(1) of the 1992 Constitution, section 6(1) of the Courts Act, 1993 (Act 459) and rules 54, 55, 56 and 57 of C. I. 16]

PLEASE TAKE NOTICE that pursuant to the provisions of article 133 of the Constitution, this Honourable Court will be moved by counsel for and on behalf of the 1st Defendant/Respondent/Applicant herein praying this Honourable Court for an order reviewing the majority decision of this Supreme Court dated 13th April, 2022 upon the grounds contained in the statement of case and accompanying affidavit.

AND for any further or other order or orders as this Honourable Court may deem meet.

COURT TO BE MOVED on Tues the 17th day of May, 2022 at 9.30 O'clock in the forenoon or so soon thereafter as counsel for and on behalf of the 1st Defendant/Respondent/Applicant may be heard.

DATED AT KAPONDE & ASSOCIATES, SUITE 606/607, 6TH FLOOR, REPUBLIC HOUSE, GHANA SUPPLY COMPANY BUILDING, ACCRA THIS 25TH DAY OF APRIL, 2022.

COUNSEL FOR THE APPLICANT/APPLICANT
JUSTIN PWAVRA TERIWAJAH, ESQ.
SOLICITOR'S LICENCE NO. **eGAR 00011/22**
CHAMBER'S REGISTRATION NO.

JUSTIN PWAVRA TERIWAJAH
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ePP00756/21

THE REGISTRAR,
SUPREME COURT,
ACCRA.

AND TO:

1. THE PLAINTIFF/APPLICANT/RESPONDENT OR HIS LAWYER, FRANK DAVIES ESQ., OF MESSRS DAVIES & DAVIS, E 335, KOJO SRO ST. GA 232-4172, BEHIND FOUNTAIN OF GLORY ASSEMBLIES OF GOD CHURCH, EAST AIRPORT, ACCRA; AND

2. THE 2ND DEFENDANT/RESP/RESPONDENT OR ITS LAWYER, EMMANUEL ADDAI ESQ., ELECTORAL COMMISSION, # 8TH AVENUE RIDGE, ACCRA.

3. THE ATTORNEY-GENERAL 3RD DEFENDANT/RESP/RESPONDENT

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF GHANA
ACCRA – A. D. 2022

SUIT NO. J1/11/2022

MICHAEL ANKOMAH-NIMFAH **** **** **** **** **** **** PLAINTIFF
H/NO. 65 OB APIATUAA STREET,
ASSIN-BEREKU

VRS

1.JAMES GYAKYE QUAYSON **** **** **** **** **** 1ST DEFENDANT
HSE. NO. SD/16 SDA
ASSIN-BEREKU

2.THE ELECTORAL COMMISSION **** **** **** **** **** 2ND DEFENDANT
HEAD OFFICE
RIDGE, ACCRA

3. THE ATTORNEY-GENERAL**** **** **** **** **** **** 3RD DEFENDANT
ATTORNEY-GENERAL'S DEPARTMENT
MINISTRIES, ACCRA

AFFIDAVIT IN SUPPORT OF MOTION ON NOTICE FOR REVIEW

I, JAMES QUAYSON A.K.A. JAMES GYAKYE QUAYSON, of digital address number CR-2523-3742 and also of H/No. SD/16 SDA, Assin Bereku in the Central Region of the Republic of Ghana do hereby make oath and say as follows:

1. That I am the Applicant herein and the deponent hereto.

2. That the facts deposed hereto are matters within my personal knowledge, information or belief unless otherwise stated.

3. That the Plaintiff filed a Writ in the Supreme Court on 24th January 2022 invoking the original jurisdiction of this court to declare my election as Member of Parliament for Assin North invalid.

4. That thereafter the Plaintiff filed a motion on notice for an interlocutory injunction to restrain me from holding myself out as Member of Parliament for Assin North and performing my duties as Member of Parliament

5. That on 13th April 2022 this Honourable Court granted, by a 5-2 majority decision, the said application and made orders of interim injunction against me.

6. That attached herewith and marked as **"Exhibit JQ"** is the ruling of the Court with the various opinions of the panel of judges.

7. That at the hearing of this application my Counsel will seek leave of the court to refer to processes filed in this suit as if they were exhibited with this affidavit.

8. That I rely entirely on my affidavit in support of my case filed in this suit together with the Statement of Case filed on my behalf by my lawyer on 12th April 2022.

9. That there are exceptional circumstances in this case that necessitate a review by this court of its decision of 13th April 2022 which has occasioned a grave miscarriage of justice against the people of Assin North as well as myself.

10. That by this application for review, I am seeking to have this Honourable Court to reverse what I am advised by Counsel and verily believe are patent and fundamental errors in the majority ruling.

11. That, among these errors, as I am advised and verily believe, this court assumed jurisdiction over a suit involving declaring the results of a Parliamentary election invalid when this court itself has previously decided on many occasions that it does not have jurisdiction over such a suit.

12. That this and other grounds of patent and fundamental error are set out in the Statement of Case that accompanies the motion paper and this affidavit.

13. That it is in the interest of justice that this court reviews its decision of 13th April 2022 in this suit.

14. **WHEREFORE** I swear to this affidavit in support of the application for review.

DEPONENT

Sworn at Accra this 25th day of April, 2022.

BEFORE ME

COMMISSIONER FOR OATHS

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF JUSTICE
ACCRA – A.D. 2022

SUIT NO. J1/11/2022

MICHAEL ANKOMAH-NIMFAH — **PLAINTIFF/APPLICANT/RESPONDENT**
H/No. 65 OB Apiatuaa Street,
Assin-Bereku

AND

1. **JAMES GYAKYE QUAYSON** — **1ST DEFENDANT/RESPONDENT/APPLICANT**
   Hse. No. SD/16 SDA
   Assin-Bereku

2. **THE ELECTORAL COMMISSION** — **2ND DEFENDANT/RESP/RESPONDENT**
   Head Office
   Ridge, Accra

3. **THE ATTORNEY-GENERAL** — **3RD DEFENDANT/RESP/RESPONDENT**
   Attorney-General's Department
   Ministries, Accra

APPLICATION FOR AN ORDER REVIEWING THE MAJORITY DECISION OF THE SUPREME COURT GRANTING ORDERS OF INTERLOCUTORY INJUNCTION DATED 13TH APRIL, 2022

STATEMENT OF CASE OF 1ST DEFENDANT/RESPONDENT/APPLICANT (HEREINAFTER "APPLICANT")

A. INTRODUCTION

1. This is an application for the review by this Honourable Court of its decision on 13th April 2022 to grant orders of interlocutory injunction against the 1st Defendant/Respondent/Applicant herein preventing him from holding himself out as the Member of Parliament for Assin North and from carrying out his duties as such pending the final determination of the suit.

2. The Writ invoking the original jurisdiction of the Supreme Court was filed ostensibly to seek the interpretation of article 94(2)(a) of the Constitution by the Plaintiff who is also the Petitioner in an election petition that he filed in the High Court, Cape Coast in December 2020. A judgment was delivered on 28th July 2021 by His Lordship Justice Boakye granting the reliefs sought by the Petitioner. On 2nd August 2021, 1st Defendant/Respondent/Applicant herein filed an appeal against the decision of Boakye J.

3. In this Statement of Case we show why their Lordships lacked the jurisdiction to make the orders that were made and the nature of patent and fundamental errors made in the majority decision which have occasioned a miscarriage of justice against the Applicant herein.

4. The affidavit in support of this application sets out the factual background of this case.

B. GROUNDS OF APPLICATION

5. The following are the grounds of the application:

   i) The majority decision was in patent and fundamental error and violated article 129(3) of the Constitution in assuming jurisdiction over the determination of the validity of a Parliamentary election and proceeding to grant the application for interim injunction.

   ii) The majority decision was in patent and fundamental error in failing to appreciate that the suit was in reality an attempt to enforce the decisions of the High Court disguised as an invocation of the original jurisdiction of the Supreme Court.

   iii) The majority decision was in patent and fundamental error in granting an order of interlocutory injunction pending the determination of the suit based on a High Court judgment and an earlier High Court interlocutory decision both of which, on their face, violated article 130(2) of the Constitution and, in the case of the judgment, also violated section 20(d) of the Representation of People's Law, 1992, PNDC Law 284.

   iv) The majority decision was in patent and fundamental error in granting an order of interlocutory injunction pending the

determination of the suit when what the Applicant was seeking by this application was for the execution of decisions in the courts below and this error occasioned a gross miscarriage of justice against the 1st defendant/respondent.

v) The majority decision was in patent and fundamental error in granting an order of interlocutory injunction pending the determination of the suit when the Applicant failed, prima facie, to demonstrate a legal or equitable right that ought to be protected by the court, thereby occasioning a gross miscarriage of justice against the 1st defendant/respondent.

vi) The majority decision violated article 296(a) and (b) of the Constitution in exercising discretion unfairly and unreasonably.

vii) The decision to proceed with the hearing of application for the interim injunction brought under the High Court (Civil Procedure) Rules C.I. 47 prior to the preliminary objection raised by the Applicant herein was per incuriam the binding precedents of **Koglex v. Attieh** [2003-2004] 1 SCGLR 75 and **Ampofo v. Samanpa** [2003-2004] 2 SCGLR 1155.

C. LEGAL ARGUMENTS IN SUPPORT OF GROUNDS

Ground i)

The majority decision was in patent and fundamental error and violated article 129(3) of the Constitution in assuming jurisdiction over the determination of the validity of a Parliamentary election and proceeding to grant the application for interim injunction.

6. The reliefs sought by the Plaintiff in the writ are stated as follows:

    1. A Declaration that upon a true and proper interpretation of Article 94(2)(a) of the Constitution, 1992 of the Republic of Ghana at the time of filing his nomination form between 5th-9th October 2020 to contest the 2020 Parliamentary elections for the Assin North Constituency the 1st Defendant was not qualified as a member of Parliament.
    2. A Declaration that upon a true and proper interpretation of Article 94(2)(a) of the Constitution, 1992 of the Republic of Ghana the

decision of 2nd Defendant to permit the 1st Defendant to contest Parliamentary Elections in the Assin North Constituency when the 3rd Defendant owed allegiance to a country other than Ghana is inconsistent with and violates Article 94(2)(a) of the Constitution of the Republic of Ghana.

3. A Declaration that upon a true and proper interpretation of Article 94(2)(a) of the Constitution, 1992 of the Republic of Ghana the election of the 1st Defendant as Member of Parliament for the Assin North Constituency was unconstitutional.
4. A Declaration that upon a true and proper interpretation of Article 94(2)(a) of the Constitution, 1992 of the Republic of Ghana the swearing in of 1st defendant as member of Parliament for the Assin North Constituency was unconstitutional, null and void and of no legal effect.
5. Any further Orders and/or Directions as the Court may deem fit to give effect or enable effect to be given to the Orders of the Court.

7. These reliefs essentially sought to invalidate the election of the 1st Defendant as Member of Parliament for the Assin North Constituency. The application for interim injunction sought to restrain the 1st Defendant from holding himself out as Member of Parliament for the Assin North Constituency and performing his duties as such.

8. In **Yeboah v. JH Mensah [1998-99] SCGLR 492,** the defendant had been elected as the Member of Parliament for the Sunyani East Constituency in the then Brong -Ahafo Region. Plaintiff filed a writ invoking the original jurisdiction of the Supreme Court in terms of articles 2, 94(1) and 130 of the Constitution, 1992 and rule 45 of the Supreme Court rules, 1996 [C.I. 16], claiming that defendant was not qualified or competent to become a Member of Parliament because of article 94(1)(b) of the Constitution, 1992 which provides that:

> *"Subject to the provisions of this article, a person shall not be qualified to be a member of parliament unless –*
>
> *b) he is resident in the constituency for which he stands as a candidate for election to Parliament or has resided there for a total period of not less than five years out of the ten years immediately preceding the election for which he stands, or he hails from that constituency;".*

9. The defendant raised a preliminary objection to the action on the ground that plaintiff's action was instituted in the wrong forum, hence incompetent. The Supreme Court upheld the objection relying on the provisions of section 16 of PNDCL 284 and article 99 of the Constitution and held that the validity of an election to Parliament may be questioned only by a petition presented to the High Court, not by a writ invoking the jurisdiction of the Supreme Court.

10. Just as happened in **Yeboah v. J.H. Mensah**, the Supreme Court did not have jurisdiction to entertain an election petition that, in any case, was already initiated in the High Courts. Exhibits **"MAN 2"** (the judgment of the High Court) and **"MAN 3"** (the ruling of the High Court on an application for interlocutory injunction) which were part of his own affidavit show clearly that there was an election petition filed in the High Court, Cape Coast. The applicant's own affidavit in support of the application for interim injunction, in paragraph 8, quoted in the majority decision, also refers to the 1st defendant pursuing an appeal in the Court of Appeal, Cape Coast. The majority decision, in not declining jurisdiction, was per incuriam **Yeboah v. Mensah** and other binding decisions that we consider below. What befell the applicant, Michael Yeboah, in **Yeboah v. Mensah** is precisely what should have been the fate of the Plaintiff herein, Michael Ankomah-Nimfah.

11. In **Bimpong-Buta vrs General Legal Council [2003-2004]2 SCGLR 1200,** Her Ladyship, Sophia Akuffo JSC (as she then was) provided a summary of how the Supreme Court views its original jurisdiction under both articles 2 and 130(1). One of the four principles she states is that:

> *"(4) Regardless of the manner in which they are clothed,* ***where the real issues arising from a writ brought under article 2 or 130(1) are not, in actuality, of such character as to be determinable exclusively by the Supreme Court, but rather fall within a cause of action cognizable by any other court or tribunal of competent jurisdiction,*** *this court will decline jurisdiction (cf* ***Yiadom 1 v. Amaniampong*** *[1981] GLR 3, SC;* ***Ghana Bar Association v. Attorney-General (Abban Case),*** *Supreme Court, Writ No 8/95, 5 December 1995; reported in [2003-2004] SCGLR 250;* ***Edusei (No. 2) v. Attorney-General*** *supra [[1998-99] SCGLR 753 and* ***Adumoa II v. Twum II*** *[2000] SCGLR 165." (at pp 1216-1217, emphasis added).*

Her Ladyship went on to reach the following conclusion:

"All in all, the reliefs claimed, the pleadings, and the submissions filed in this matter amply demonstrate that ***the plaintiff's action is no more than an ordinary civil suit splendidly arrayed in constitutional clothing.*** *In the circumstances, it is my view that* ***our jurisdiction has not been properly invoked. The plaintiff's reliefs lie elsewhere and we cannot assume jurisdiction to adjudicate upon it under our original jurisdiction.*** *The action must, therefore, be struck out." (p. 1222 emphasis added).*

12 In **Edusei (No. 2) v. Attorney-General** (supra), the Supreme Court, hearing a review application in respect of its earlier decision not to entertain a writ invoking its jurisdiction to interpret and enforce a provision of the Constitution, underlined the need for the court to examine the substance and essence of what is put before it. In the words of Bamford -Addo JSC:

"..the applicant should have applied to the High Court for enforcement of his human rights. Rather, ***he clothed his claim in interpretative garb to enable him to invoke the original jurisdiction of this court."*** *(at p. 759, emphasis added).*

Kpegah JSC also said:

"After examining the reliefs sought in the writ and statement of case as amended, the plaintiff's claim ***was in essence and substance a claim for the enforcement of his fundamental human rights but dressed up as a constitutional issue;*** *and that* ***such a claim was cognizable by the High Court as a court of first instance."*** *(at p. 773 emphasis added.)*

13. In **Republic v. High Court, Ho, Ex parte Attorney-General; (Professor Margaret Kweku and others Interested Parties)** Suit No. :JS/21/2021, 5th January 2021, the Supreme Court (comprising Appau, Marful-Sau, Torkonoo, Honyenuga, Amadu JJSC) held, following **Yeboah v. J.H. Mensah,** that the High Court, exercising its human rights enforcement jurisdiction under article 33 of the Constitution did not have jurisdiction to entertain reliefs which amounted to declaring a Parliamentary election invalid. Appau JSC, delivering the unanimous decision of the court (Suit No.:JS/21/2021), said:

"The law as constitutionally and statutorily provided for and judicially considered by this apex Court in a plethora of decisions,

does not permit the interested parties to include reliefs 1(f), 2 and 3 in the reliefs sought in their apparent human rights action when these reliefs were purporting to challenge the due election of John Peter Amewu as the Member of Parliament Elect for the Hohoe Constituency. *In* ***the Yeboah v. J.H. Mensah case supra, a case whose ratio is similar to the instant matter before us,*** *though factually different, the veteran politician Mr. J.H. Mensah of blessed memory, was elected as the Member of Parliament for the Sunyani East Constituency in the then Brong -Ahafo Region in the 1996 Parliamentary elections on the ticket of the New Patriotic Party (NPP). On 25th February 1997, one Michael Yeboah caused a writ to be filed in this apex court, invoking the original jurisdiction of the Court in terms of articles 2, 94(1) and 130 of the Constitution, 1992 and rule 45 of the Supreme Court rules, 1996 [C.I. 16]. The plaintiff claimed that Mr. J.H. Mensah was not qualified or competent to become a Member of Parliament in terms of article 94(1)(b) of the Constitution, 1992. The defendant, who denied plaintiff's contention, raised a preliminary objection to the action on the ground that plaintiff's action was incompetent, having been instituted in a wrong forum.* ***The Supreme Court upheld the objection on the ground that the Court was not the proper forum for the action. This Court relied on the provisions of section 16 of PNDCL 284 and article 99 of the Constitution, whose combined effect is that the validity of an election to Parliament may be questioned only by a petition presented to the High Court.*** *" (p. 6, emphasis added).*

14. As further emphasized by Appau JSC:

"It is quite clear that our Constitution, 1992 per article 33(1) clothes only the High Court with authority to hear and determine matters pertaining to the violation or infringement of the fundamental human rights of persons. In the same vein, ***the same Constitution per article 99, clothes only the High Court with jurisdiction to hear and determine any question as to whether or not a person has been validly elected as a Member of Parliament. .....In the wake of these two provisions, i.e. article 99 of the Constitution, 1992 and section 16 of PNDCL 284 of 1992, a person cannot sidestep this procedure [of an election petition]*** *and commence an action in the High Court invoking any of the High Court's other jurisdictions to ventilate a grievance that*

borders on the validity of an election to Parliament. " (p. 11 emphasis added).

15. The just quoted passage of the judgment of Appau JSC essentially upheld the submission of the Attorney-General in his Statement of Case to the court:

> *"We submit that, where by the combined effect of Article 99 of the Constitution and section 16 of PNDCL 284, the validity of an election to Parliament may **only** be questioned by a petition to the High Court brought under sections 17 to 26 of PNDCL 284, a person cannot sidestep this and commence an action in the High Court invoking any of the High Court's other jurisdictions to ventilate a grievance bordering on the validity of an election to Parliament. In effect, the jurisdiction of the High Court under article 33 cannot be deployed to address grievances in the nature of a parliamentary election petition." (pages 6-7 of Statement of Case of Attorney-General in **Republic v. High Court, Ho** case).*

16. It had been the submission of the Interested Parties that article 99 of the Constitution did not have the word "only" which is in section 16 of PNDCL 284 and that, in line with article 11(6) of the Constitution, the said section 16 should be read with the necessary modification to give effect to the change effected by the Constitution.

17. While dismissing an application for review of its decision in the **Republic v. High Court, Ho** case (Civil Motion No. J7/07/2021), the Supreme Court also cited with approval the earlier decisions in the **Edusei** cases and stated as follows:

> *"The holdings of this court in the **Edusei v. Attorney -General** cases ... on the severance of the constitutionally created jurisdictions of the Supreme Court in its interpretation and enforcement jurisdiction, and the High Court over the enforcement of human rights are apposite to this instant suit. They help to settle **the firm position in our constitutional jurisprudence** that in construing the 1992 Constitution and statutes on jurisdiction, **the courts have to ensure harmonious co-existence of the various jurisdictions conferred on every court by the Constitution, no matter its place in the hierarchy of courts and where a claim is couched to sound as invoking a particular court's jurisdiction, it is the duty of the court to look at the claim and identify its true call before assuming jurisdiction over it** " (per Torkonoo JSC reading the unanimous decision of the court -*

comprising Appau, Marful-Sau, Lovelace-Johnson, Torkonoo, Amadu, Prof. Mensah-Bonsu and Kulendi JJSC-. 30th March 2021, at p. 12, emphasis added).

18. Later in her ruling, Her Ladyship explained the decision of the ordinary bench of the Supreme Court in terms which are directly applicable to the instant case:

> *"As referred to by Appau JSC on page 7 of the decision under review, this court has settled through cases such as* ***Yeboah v. JH Mensah [1998-99] SCGLR 492*** *and* ***In Re Parliamentary Election for Wulensi Constituency Zakaria v. Nyimakan 2003-2004 1 SCGLR 1,*** *that the effect of* ***Section 16 of PNDC Law 284*** *(continued in force through* ***Article 11(1)(d) of the Constitution)*** *and* ***Article 99*** *is that* ***any cause of action that is in substance and reality one that questions the validity of a parliamentary election and its outcomes, must necessarily be prosecuted through a parliamentary election petition in the High Court. And neither the Supreme Court, in its several jurisdictions, nor the High Court in its various jurisdictions, have jurisdictions to grant reliefs relating to a parliamentary election without a hearing conducted via Petition to question that election in the High Court."*** *(at p. 15, emphasis added).*

19. Torkonoo JSC, justifying why the human rights jurisdiction of the High Court could not be resorted to in a matter that involved challenging the validity of a Parliamentary election, explained the rationale of the **Nyimakan** decision extensively and concluded that part of her ruling as follows:

> *"It must also not be forgotten that when an action is commenced by originating motion as happened in the suit that provoked the application and ruling on review now, the motion can only be responded to with affidavits. On the other hand, a Petition is responded to with an Answer. The Petition and Answer form pleadings pursuant to which a trial can be conducted, while an originating motion is a process that is determined on the strength of arguments backed by affidavit evidence. By providing that* ***the validity of elections is questioned only through a process that allows for a trial, the situation of deciding the validity of an election on the strength of a motion and affidavit evidence has been disallowed by***

statute and judicial interpretation on articles 33 and 99 *cited above." (pp. 16-17, emphasis added).*

20. In the instant case, where a writ has been issued under article 130(1) for interpreting article 94(2)(a) that is in essence a challenge to the Parliamentary election in Assin North, the force of the Supreme Court decision in **Yeboah v. Mensah,** which also involved a writ under article 130 and where interpretation of article 94(1)(b) of the Constitution was being sought from the Supreme Court in an action challenging the election of a Member of Parliament, is completely decisive. Based particularly on the specific pronouncements of this Supreme Court in **Yeboah v. Mensah** and **Republic v. High Court, Ho**, quoted above, this court cannot but recognize that its previous decisions make an election petition under article 99 of the Constitution and Section 16 of PNDC Law 284, and not a writ under article 130 of the Constitution, the proper and only forum in which any relief relating to the validity of the Assin North parliamentary election result **"must necessarily be prosecuted"**, in the words of Torkonoo JSC in the **Republic v. High Court, Ho** case (Civil Motion No. J7/07/2021 at p. 12).

21. An election petition was, indeed, initiated in the High Court Cape Coast by the Plaintiff. Significantly, the reliefs sought in that petition (recorded at page 4 of the judgment in the High Court Exhibit MAN 2) are, in substance, precisely what Plaintiff is seeking by this writ. The High Court delivered judgment, after which an appeal was lodged to the Court of Appeal, Cape Coast by the 1st Defendant: "Aggrieved by the judgment of the High Court, the 1st Respondent appealed to the Court of Appeal, Cape Coast, seeking to set aside the judgment of the High Court. It is against this background that the Applicant commenced the present suit... ". (per Kulendi JSC at p. 4).

22. The following words of Torkonoo JSC in the **Republic v. High Court, Ho** case are wholly and directly applicable to the circumstances in the current suit:

> *"To the extent that the 23rd December 2020* ***proceedings to grant an injunction*** *to restrain the gazetting of parliamentary election outcome and a winner of parliamentary election from taking their place in Parliament,* ***were undertaken without the jurisdiction to pronounce on a parliamentary election conferred by the commencement of an election petition, the proceedings in issue and***

the reliefs they flowed from (sic) constituted a jurisdictional error and had to be quashed. *" (p. 22, emphasis added).*

23. In terms of this passage, the 13th April 2022 injunction order is exactly in the same situation as the 23rd December 2020 injunction order of the High Court, Ho. Kulendi JSC, in the majority ruling in this case, began his analysis on the right note when, in the part of the ruling headed "Analysis" he starts:

> *"We are clear in our minds that* ***this application is founded on a writ invoking our original jurisdiction*** *and* ***does not arise directly from the prior actions in the High Court.*** *Consequently, neither our original jurisdiction nor this application are grounded on the judgment of the High Court." (p. 15, emphasis added).*

24. At this point, His Lordship rightly realizes that an application "founded on a writ invoking our original jurisdiction" under article 130 of the Constitution needs to be treated differently from an action that **"arise[s] directly from the prior actions in the High Court."** This distinction is important first and foremost because, in an action that is invoking the jurisdiction of the Supreme Court to interpret a provision of the Constitution, the Court is not meant to enforce lower court decisions or assume jurisdiction over something which is pending before a lower court or within the jurisdiction of that lower court.

25. However, Kulendi JSC quickly fell into error in his ruling when he proceeds to consider the application for interim injunction entirely on the basis of the decisions of the High Court as deposed to in the affidavit of the applicant. Contrary to his own earlier statement that "neither our original jurisdiction nor this application are grounded on the judgment of the High Court", everything on which Kulendi JSC relies to assume jurisdiction and reach the conclusion he arrived at has to do with the judgment of the High Court and the order of interlocutory injunction in the High Court.

26. Kulendi JSC is categorical in stating:

> *"Per the uncontroverted depositions in the affidavit of the Applicant before us, it is undisputed that the 1st Respondent's election as Member of Parliament for the Assin North Constituency has been declared by the High Court to be "null, void and of no legal effect whatsoever". It is again unchallenged that there was initially an order*

of interlocutory injunction dated 6th January, 2021 restraining the 1st Respondent from holding himself out as a Member of Parliament elect for the Assin North constituency and presenting himself to be sworn in as Member of Parliament until the final determination of a substantive petition filed against him.

Further, it is undisputed that the High Court in its judgment dated 28th July 2021, among others, granted an order of perpetual injunction against the 1st Respondent on the same terms as the preceding order of interlocutory injunction." (p. 16 per Kulendi JSC).

27. Every consideration of why the majority thought the interim injunction ought to be granted, from the above quoted statements at page 16 of the majority ruling till the end of the ruling at page 20, was premised directly on the decisions of the High Court. The majority thus went contrary to the earlier acknowledgment that the jurisdiction that the court was being called on to exercise was the exclusive original jurisdiction of the Supreme Court under article 130 of the Constitution to interpret a provision of the Constitution and **"does not arise directly from the prior actions in the High Court"**. The court gave no consideration to whether it had jurisdiction to entertain the writ. It simply proceeded to hear and grant the orders of interim injunction based on the decisions of the High Court, Cape Coast.

28. The principle on which the Supreme Court proceeded in the **Bimpong-Buta** case was that where the real issue in the writ brought under article 2 or 130(1), was "in actuality" something that fell "within a cause of action cognizable by any other court of competent jurisdiction, this court will decline jurisdiction". (per Sophia Akuffo JSC as she then was, supra). In the **Edusei** cases and the **Republic v. High Court, Ho** decisions also, this court emphasized that all courts should look closely at the matter put before them to ensure that they are not being misled into assuming jurisdiction when the matter is properly cognizable in other courts. The majority decision of the court was per incuriam the decisions of the Supreme Court in **Yeboah v. Mensah, Republic v. High Court, Ho, Bimpong-Buta vrs General Legal Council** (supra) and earlier decisions such as the **Edusei** cases.

29. The majority decision signally failed the test contained in the following passage of the judgment of Sophia Akuffo JSC in the **Bimpong Buta** case:

> *"**Since by his suit the plaintiff has sought to invoke the original jurisdiction of the court, we must, of necessity, ascertain whether or not our jurisdiction under articles 2(1) and 130(1)(a) has been properly invoked,** even though the fourth defendant (at that time in the person of Hon Papa Owusu Ankomah per his counsel, Hon Mr Ambrose Dery, the Deputy Attorney-General) withdrew at the hearing of the action on 20 January 2004 (with the approval of the court), a notice of preliminary objection to our jurisdiction which he had earlier filed. In other words, **does the plaintiff's writ properly raise any real issues of interpretation or enforcement of the Constitution that can only be resolved by this court exercising its original jurisdiction? Jurisdiction is always a fundamental issue in every matter that comes before any court** and, even if it is not questioned by any of the parties, **it is crucial for a court to advert its mind to it to assure a valid outcome. This is even more so in respect of the Supreme Court's original jurisdiction, which has been described as special."** (at p. 1215 emphasis added).*

30. As was also stated by Bamford Addo JSC in **Edusei v. Attorney-General:**

> *"Since jurisdiction is a fundamental issue, the absence of which would render any decision of a court null and void it is of utmost importance for a court to ensure that in any case brought before it, it has the jurisdiction to hear and determine that case. Where there is lack of jurisdiction, the court ought to decline jurisdiction." (at p.757).*

31. Her Ladyship concluded as follows:

> *"..I do not find, in this case, any exceptional circumstances which, in the interest of justice, calls for a review of the decision of the Supreme Court that it has no jurisdiction to entertain this case. **It would have been otherwise if the Supreme Court's decision on jurisdiction had been wrongly decided.** (at p. 763) "*

32. In this case the decision of the ordinary bench to embark on the case was wrong and, therefore, the review ought, in the interest of justice, to succeed on the authority of that case and others cited.

33. At the stage of hearing and determining an application for interim injunction, particularly, the issue of jurisdiction deserved serious consideration since, without jurisdiction on the writ, there would also be no jurisdiction to entertain such an application. Kulendi JSC, however, in the majority ruling, treated the issue of jurisdiction in a rather perfunctory manner in the following passage:

> *"To our minds, the Applicant's plaint is a cognizable cause of action and is by no means frivolous even though we are unable to determine at this stage whether the Applicant will be vindicated or not. Consequently, the writ discloses a prima facie case, is not frivolous and may warrant an injunction." (p. 17).*

34. Being a cognizable cause of action did not make it cognizable in the Supreme Court. His Lordship disregarded the fact that the writ sought to bring the validity of a Parliamentary election before the court. Whether "the Applicant's plaint" was "in actuality" something that fell "within a cause of action cognizable by any other court of competent jurisdiction" as Sophia Akuffo JSC (as she then was) put it in the passage quoted above from the **Bimpong Buta** case, and, therefore, not cognizable in the Supreme Court was not, even for a moment, considered.

35. In the narration of facts, Kulendi JSC had noted that the 1st Respondent had "appealed to the Court of Appeal, Cape Coast, seeking to set aside the judgment of the High Court" (p.3). Nowhere else in the majority ruling does anything about the processes of appeal feature in the considerations of the majority except where His Lordship surprisingly relies on an "unchallenged statement from the Bar" that the appeal had been struck out. The pendency of the appeal from the High Court decision had been admitted in these proceedings in paragraph 8 of the affidavit of the applicant, where it is stated that:

> *"The issue of constitutionality of article 94(2)(a) of the Constitution, 1992,* ***has come up repeatedly in processes filed by 1st defendant in the pursuit of his appeal before the Court of Appeal, Cape Coast*** *and* ***this has occasioned the filing of the instant Writ in the Supreme Court.*** *" (emphasis added).*

36. This paragraph, which was quoted in the majority ruling, put the court on notice that the real issues in the writ were "in actuality" already before the courts below and fell within the principle enunciated in the **Bimpong Buta** case (supra) as well as the **Yeboah v. Mensah** and **Edusei** cases which had been cited with approval and applied in the **Republic v. High Court, Ho** case.

37. The deposition in paragraph 8 of the affidavit of the applicant that the issue of article 94(2)(a) coming up repeatedly in processes filed by 1st defendant in the Court of Appeal is what **"has occasioned the filing of the instant writ in the Supreme Court"** was an explicit admission by the Plaintiff that he was putting before the Supreme Court something that was the subject matter of repeated processes in the court below. Even though the applicant was not candid with the court to indicate that the 1st defendant had sought a reference to the Supreme Court of the interpretation of article 94(2)(a) of the Constitution and had done so repeatedly in the High Court as well, his admission in that paragraph was sufficient basis for the Supreme Court to realize its lack of jurisdiction. That, together with the fact that both the writ invoking the Supreme Court's original jurisdiction and the application for interim injunction (with the High Court judgment exhibited as **Exhibit "MAN 2" and** court notes for the hearing leading to the ruling on the application for interlocutory injunction **(Exhibit "MAN 3")** put forward matters concerning the validity of a Parliamentary election, should have led the Supreme Court to realize its lack of jurisdiction as decided in **Yeboah v. Mensah** and other subsequent cases by this very Supreme Court.

38. It must be pointed out that paragraph 8 of the affidavit of the applicant actually misrepresented what had been raised by the 1st defendant in the Court of Appeal; it was not "the issue of **constitutionality of article 94(2)(a)** of the Constitution", which would have been a matter to brought in this court under article 2(1) of the Constitution, but rather the interpretation of article 94(2)(a) which was raised in the Court of Appeal under article 130. That issue had come up repeatedly in the High Court, as we shall further elaborate below. The contents of both the final judgment of the High Court **(Exhibit "MAN 2")** and the court notes for the hearing leading to the ruling on the application for interlocutory injunction **(Exhibit "MAN 3")**, put it beyond a shadow of doubt that the invocation of the original jurisdiction of the Supreme

Court was not warranted, as the proceedings in the lower courts by way of an election petition were where the Plaintiff should have sought his remedies, including any application for an interlocutory injunction.

39. If only the majority had, indeed, paid attention to contents of both the final judgment of the High Court and the ruling on the interlocutory injunction it would also have become clear that the applicant was not acting in good faith in filing the writ in the Supreme Court for interpretation of article 94(2)(a) of the Constitution when he had persistently and doggedly insisted in the courts below that there was no issue of constitutional interpretation so as to require a reference to the Supreme Court. There was clear lack of candour on the part of the applicant in the said paragraph 8 of his affidavit in not acknowledging what is totally evident on the face of applicant's own exhibits (**"MAN 2"** and **"MAN 3"**), namely that the Plaintiff herein had insisted before the High Court that there was no matter in the election petition that required a reference to the Supreme Court for interpretation. The paragraph also fails to acknowledge that the Plaintiff resisted the application in the Court of Appeal for a reference to the Supreme Court for interpretation of article 94(2)(a) of the Constitution.

40. The Supreme Court being bound by its previous decisions is part of a well-established common law doctrine of stare decisis which enables judicial decision-making to rise above the personal will of each judge. In the words of Asiamah JSC in **In Re Ntrakwa Ntrakwa (Decd) In Re Bogoso Gold Ltd. Vs. Ntrakwa [2007-2008]** SCGLR 389 at ... commenting on decisions of a High Court judge:

"It can be gleaned from the record of the instant proceedings that the trial judge in a matrix of contrivances either purposely or inadvertently appeared in the exercise of his judicial will, to give free rein to his personal will. Justice Marshal in ***Osborne v. Bank of United States*** *9 Wheat 738 at 866 has given a clear direction as to how a court or a judge is expected to manage judicial proceedings and has stated it thus:*

'Judicial power is never exercised for the purpose of giving effect to the Will of the judge; always for the purpose of given effect ... to the Will of the law'."

41. Similarly, Torkonoo JSC stated in **Republic v. High Court (Criminal Division 1) Accra, Ex parte Stephen Kwabena Opuni (Attorney-General, Interested Party)**. Civil Motion No J7/20/2021 26th October 2021 as follows:

> *"My lords, the doctrine of judicial precedent, with the basic rule that 'Like Cases be treated Alike' as already indicated, is a foundational doctrine of the common law system of administration of justice that Ghana operates. The doctrine is the thread of coherence that ensures consistency and predictability in the legal principles used to decide the myriad fact diverse cases that are brought to court. It eschews arbitrariness of a judge, and is therefore a bedrock of assuring justice to the one who comes to the seat of justice. It requires that when a higher court, and definitely the highest court, in our jurisdiction being the Supreme Court, has outlined the contours of a legal principle, that decision upon a question of law is conclusive and becomes an authoritative precedent that must stand, or stare decisis, and bind all lower courts. To quote* ***Salmond on Jurisprudence*** *11th ed. 1957, Sweet and Maxwell, p. 165 an authoritative precedent is "one which judges must follow whether they approve it or not."*
>
> *"In Article 129(3), this common law doctrine of judicial precedent and principle of stare decisis has been elevated to a constitutional pillar on which our legal system operates To reiterate Article 129(3), it reads: 'The Supreme Court may, while treating its own previous decisions as normally binding, depart from a previous decision when it appears right to do so; and all other courts shall be bound to follow the decisions of the Supreme Court on questions of law.'" (at pages 14-15).*

42. These profound observations about the importance of judicial precedent for ensuring consistency and predictability as well as fairness and equal justice within the legal system – all of which are important for national stability and the stability of the constitutional order -are the firm basis on which this court is being asked to review its decision on 13th April 2022 which were per incuriam of the earlier decisions of this court discussed above.

43. In the unreported recent decision in **Saviour Church of Ghana v. Adusei and others** (Civil Motion No. J7/08/2022, Judgment of 9th February 2022) considered as fundamental error the fact that the decision of the

ordinary bench was "per incuriam" and he, therefore, concluded that **"this court should do the needful by reviewing it to ensure that justice is done."** (at p. 24 emphasis added).

44. When the Supreme Court in ***Hannah Assi (No. 2) v. Gihoc Refrigeration*** [2007-2008] SCGLR 16 reviewed a majority decision of its ordinary bench, His Lordship Ansah JSC, who had been part of the majority decision sought to be reviewed, expressed himself with commendable honesty:

> *"Looking at the facts and circumstances of this suit, I think substantial justice would be done the applicant more in granting the application for review than in refusing it. Consequently,* ***I would make a volte-face from my earlier stand in the majority judgment.***" (at p. 43, emphasis added).

45. In **Koglex Ltd. No. 2) v Field (2000) SCGLR 175** Acquah JSC (as he then was) expressed the seriousness with which he undertook the consideration of the review application as follows:

> ***"... in fairness to my conscience and my judicial oath, I cannot condone the perpetuation of such a glaring fundamental error as occurred in this case."***

46. It was imperative for him not to condone the perpetuation of the glaring fundamental error that occurred in that case, occasioning a grave miscarriage of justice to the plaintiff. The majority decision of the Supreme Court was, therefore, reversed by a majority (4-3) decision on a review.

47. In our respectful submission, the majority decision of this court on 13th April 2022 clearly violated article 129(3) of the Constitution by failing to apply numerous previous decisions of this court that determined that the Supreme Court lacks jurisdiction in cases where the invalidity of a parliamentary election is being contested.

Grounds ii) and iii) are argued together

ii) The majority decision was in patent and fundamental error in failing to appreciate that the suit was in reality an attempt to enforce the decisions of the High Court disguised as an invocation of the original jurisdiction of the Supreme Court.

iii) **The majority decision was in patent and fundamental error in granting an order of interlocutory injunction pending the determination of the suit based on a High Court judgment and an earlier High Court interlocutory decision both of which, on their face, violated article 130(2) of the Constitution and, in the case of the judgment, also violated section 20(d) of the Representation of People's Law, 1992, PNDC Law 284**

48. The failure of the majority to see through the disguise that applicant presented his attempt at enforcing a judgment of the High Court in (as if it were a genuine attempt at invoking the original jurisdiction of the Supreme Court to obtain an authoritative interpretation of article 94(2)(a)) was in part because the majority did not consider binding precedents. It was also because the majority decision did not consider the contents of exhibits that were before them as part of the affidavit of the applicant which show clearly that these matters were before the courts below. What the Plaintiff was now trying to do with the writ was to sidestep processes in the courts below and pursue enforcement of orders he had obtained in the High Court when he knew perfectly well why he had not been able to enforce them in the court below.

49. In paragraphs 7 and 10 of the affidavit in support of the application for interim injunction, the Plaintiff/Applicant clearly based himself on the decision of the High Court as well as the ruling of the High Court in respect of the interlocutory injunction both of which are exhibited with the affidavit. These parts of the affidavit were what the majority ruling fastened upon.

50. Remarkably, nowhere in the ruling is there a consideration of the contents of those decisions in the High Court except to repeat what Applicant states in his affidavit about the orders made. In this way, the ruling of His Lordship failed to take note of obvious constitutional flaws in the High Court decisions that were the entire basis of the grant of the order of interlocutory injunction. The court would have saved itself from error by taking account of the contents of both decisions in the High Court which were exhibited with the said affidavit.

51. In the High Court judgment, for instance, it is clear that different interpretations of article 94(2)(a) were before the court and that it was urged on behalf of the 1st defendant/respondent herein that reference be

made to the Supreme Court for the interpretation of article 94(2)(a). It is also clear that an application for interim injunction was filed against the Respondent/Respondent who is the 1st Defendant/Respondent/Applicant herein and that in the affidavit in opposition, the Respondent/Respondent stated that there was a genuine constitutional interpretation issue in relation to article 94(2)(a) of the Constitution and that the court should stay proceedings and refer the matter to the Supreme Court for determination in accordance with article 130(2) of the Constitution. In his ruling on the application for interim injunction, Boakye J. refused to make the reference, claiming, after quoting from a number of authorities, that:

> *"On the question of referral, it does appear to this court that the meaning and effect of article 94(2)(a) of the Constitution are devoid of any ambiguity to warrant a referral. ....*
>
> *".... I disagree with counsel for the 1st Respondent that a constitutional interpretation has arisen and that proceedings ought to be stayed and the issue referred for interpretation and enforcement. ."(pp. 12-13 of Exhibit* ***MAN 3****)*

52. In the final judgment also, Boakye J. insisted that "the meaning and effect of article 94(2)(a) are devoid of any ambiguity to warrant a referral." (page 55 of Exhibit **MAN 2**)

53. This is despite the fact that, in the judgment, Boakye J. he set out different interpretations as the positions of the parties. At page 8, he said:

> *"The Petitioner repeats that not having renounced his Canadian Citizenship at the time of filing the nomination forms with 2nd Respondent, 1st Respondent was not qualified to contest for election as a Member of Parliament in the Parliamentary Elections for the Assin North Constituency organized by 2nd Respondent on 7th December 2020."*

54. At p. 9, Boakye J records the position of the 1st Respondent who is the Applicant herein as follows:

> *"..he says that at the time 2nd Respondent opened nominations and he filed his nomination form that he was not disqualified from standing for elections by any law in force in Ghana. He contends that owing allegiance to another country other than Ghana within the*

meaning of article 94(2)(a) of the 1992 Constitution does not and cannot mean that the person is a dual citizen as the Petitioner seems to suggest ... to him, within the intendment of article 94(2)(a) of the 1992 Constitution, he is only required not to owe allegiance to any other country other than Ghana which he did by disavowing his allegiance to Canada in 2019 prior to the commencement of the nomination processes."

All the way to page 12, there is extensive consideration of the perspectives of the parties from the pleadings.

55. The judgment of His Lordship Justice Boakye clearly recognized that the issue of interpretation had been raised before him. He refused to make the reference, claiming falsely in his judgment that the interpretation of article 94(2)(a) had been settled in the **Zanetor Rawlings** case. Boakye J essentially agreed with the interpretation put forward by the Petitioner, and applied that in his decision, thereby usurping the jurisdiction of the Supreme Court under article 130(1) of the Constitution. It being obvious from his judgment that Boakye J. usurped the jurisdiction of the Supreme Court in interpreting the provision and not staying proceedings and making a reference to the Supreme Court, the unconstitutional act of Boakye J, which is clear on the face of both his final judgment and his interlocutory ruling, can simply not be the basis on which this court purports to grant an interim injunction against the 1st defendant/respondent/applicant as that would amount to the court turning a blind eye to unconstitutional actions of lower courts. Boakye J. even took it upon himself to pronounce on the criminal guilt of the Applicant even before the Applicant had faced criminal charges! He said, responding to an argument of behalf of that Applicant about the role of the Electoral Commission: "Now, if this contention is anything to go by, then the Court asks why then was Adamu Dramani Sakande, a sitting Member of Parliament charged with a criminal offence, convicted and sentenced accordingly by a competent Court of jurisdiction. We should remember that his case falls on force (sic) with the present circumstances." (pp. 33-4). The judgment is riddled with much that is simply unjudicial to say the least.

56. This court in **Attorney-General v. Faroe Atlantic Co. Ltd** [2005-2006] SCGLR 271 made it clear that it must act to give force to the Constitution

even if the constitutional breach was not pointed out in the proceedings in the lower courts. In the words of Dr. Date-Bah JSC:

> *"The Office of the Attorney-General was obliged to raise this point of law, even if belatedly, in discharge of its obligation to uphold the Constitution of Ghana. I believe that this court, equally, is obliged not to refuse to consider a point of law directly relating to the interpretation and enforcement of the Constitution." (at page 301).*

57. Sophia Akuffo JSC also stated:

> *"As the supreme law of the land, the Constitution is applicable at all times and all acts and things, particularly those done for and on behalf of the Republic of Ghana, must always be tested against its provisions. In the course of judicial proceedings,* ***it is incumbent upon every judge to keep its provisions in mind to assure compliance, not only by the parties before it, but also by the court itself.*** *" (at p. 304, emphasis added).*

58. In the circumstances of this case, and on the face of Exhibits MAN 2 and MAN 3, the issue of the unconstitutionality of the High Court proceeding without making a reference to the Supreme Court of the interpretation of article 94(2)(a) had actually been raised from the onset and this court could not simply shut its eyes to the unconstitutional action of the High Court judge, spurred on by the Plaintiff herein, in refusing to make the reference and usurping the jurisdiction of the Supreme Court.

59. The fact that the Plaintiff, who had resisted the attempts of the 1st Defendant to have the reference made to the Supreme Court for interpretation of article 94(2)(a) of the Constitution, has now come before the Supreme Court with the writ invoking the original jurisdiction under article 130, means Plaintiff, at last, recognizes that Boakye J. was wrong in the High Court both when he heard and granted the interlocutory injunction and when he gave his final judgment. Boakye J., at the urging of counsel for the Plaintiff herein, usurped the jurisdiction that this court has under article 130 of the Constitution and which the Plaintiff now invokes to interpret article 94(2)(a) of the Constitution. The issuing of this writ in this court can have no other meaning than that Plaintiff now recognizes that Boakye J. should have made a reference to the Supreme Court and not proceeded with those decisions before obtaining the authoritative interpretation of article 94(2)(a) from the Supreme Court under article 130 of the Constitution.

60. This court, cannot also fail to recognize that and, accordingly, even if this court were to consider that it has jurisdiction to entertain this writ despite all the binding decisions requiring it to decline jurisdiction, this court would still be left with no other conclusion but that the decisions that Boakye J made in proceeding with the hearing and determination of the application for interlocutory injunction on 6th January 2021 and his judgment on 28th July 2021 were in complete error as he usurped the jurisdiction of this court. This court would, therefore, not be able to rely on those decisions of the High Court as the basis for considering that there has been a breach of the Constitution as the majority decision claimed. Indeed, the very act of this court entertaining the writ invoking its original jurisdiction under article 130 cuts the ground from underneath the feet of Boakye J. and renders his judgment as well as his ruling on the application for interim injunction proceedings which usurped the jurisdiction of this court, hence null and void. As such, the majority was patently and fundamentally in error in considering those High Court decisions as the basis for the orders of interim injunction that it made.

61. It is worthy of note that the judgment of Boakye J. also violated section 20(d) of the Representation of People's Law, 1992, PNDC Law 284 which only allows a judge to declare an election void if the court is satisfied that the candidate was not qualified "at the time of the election". By declaring the election of the 1st Respondent therein void by reference to considerations at the time of filing of nominations only, Boakye J, violated the statutory provision. This court cannot countenance such breach of a statute either when its attention is brought to that breach as the basis for the decision of the court below. It was for this reason that the majority of this court in **Republic v. High Court, General Jurisdiction (6) Ex parte Attorney-General -Applicant, Exton Cubic Group Ltd Interested Party** (Civil Motion No. J5/40/2018) decided that a High Court judge who had acknowledged statutory infractions in respect of the granting of mining leases could still uphold the leases. In the words of Marful -Sau JSC in the majority ruling: *"..the three Mining Leases of the interested party were granted in violation of Constitutional and Statutory provisions as demonstrated in this ruling." (p. 14).* Upon the Interested party applying for a review, His Lordship Anin Yeboah CJ, giving the majority (5-2) decision dismissing the application, observed:

> *"In this application, a careful reading of the ruling of the learned High Court judge reveals very clearly that he proceeded to catalogue several statutory infractions which were mandatory pre-conditions*

for granting the lease but were ignored by the applicant for no apparent reason(s) whatsoever.

"As the learned judge himself formed the opinion that the lease suffers from statutory infractions, this court was baffled how the same learned judge allowed all those serious statutory infractions which were ignored to stand and delivered a ruling affirming the lease regardless of the infractions." (p. 5).

62. The obvious statutory and constitutional violations on the face of the High Court decisions in Exhibits MAN 2 and MAN 3 should have prevented any reliance on them as the basis for the orders of interim injunction of this court.

63. In the oft-cited case of **Republic v. High Court [Fast Track Division] Ex Parte National Lottery Authority [2009] SCGLR 390** also the Supreme Court re-stated the well-known position of the law that a judge could not countenance a party violating a statute. The trial judge in that case was found to have exceeded his jurisdiction when he failed to enforce the provisions the National Lotto Act, 2006 (Act 722). In the words of Dr. Date-Bah JSC:

"No judge has authority to grant immunity to a party from the consequences of breaching an Act of Parliament. But this was the effect of the order granted by the learned judge. The judicial oath enjoins judges to uphold the law, rather than condoning breaches of Acts of Parliament by their orders."

64. Atuguba JSC also emphasized the weight of statutes by expressing in very clear terms that the court's most sacred duty is to uphold the provisions of statutes and not to condone breaches of them:

"... the Courts are servants of the legislature. Consequently, any act of a court that is contrary to statute ... is, unless otherwise expressly or impliedly provided, a nullity". (at p. 397).

Ground iv)

The majority decision was in patent and fundamental error in granting an order of interlocutory injunction pending the determination of the suit when what the Applicant was seeking by this application was for the execution of

decisions in the courts below and this error occasioned a gross miscarriage of justice against the 1st defendant/respondent.

65. The reliefs being sought by the Plaintiff in the writ, though dressed in the garb of an interpretation of article 94(2)(a) of the Constitution, are no more than attempts to enforce decisions of the High Court. Plaintiff initiated directly after the Court of Appeal had on 24th January 2022 stayed proceedings before it in respect of a pending application for stay of execution. Not having got what he wanted in the Court of Appeal, Plaintiff decided to engage in forum-shopping and proceeded to the Supreme Court despite the pendency of the appeal and the application for stay of execution.

66. The High Court (Civil Procedure) Rules, C.I. 47 make provision for execution of orders and judgments of the court in Order 43 Rule 5, for instance. It is striking that there nowhere in the analysis of the majority ruling that was consideration given to the submission of counsel for the 2nd Defendant/Respondent, opposing the application that, essentially, what the Applicant was seeking to do in this application was to enforce the High Court decisions and that the proper place for him to do so was in the court below and not through the application for an interim injunction in the Supreme Court. That submission is only mentioned at page 6 of the majority ruling in giving an account of what took place in court when the application for an interim injunction was heard. It is our submission that not only has this court no jurisdiction to entertain a writ and an application for interlocutory injunction that were simply disguised efforts to bypass pending processes in the courts below, but this Court is also simply the wrong forum for the Plaintiff to seek to enforce the decisions of the High Court, which is in essence what he sought to do.

67. In these circumstances, the following passage of the dissenting opinion of Amegatcher JSC is impeccable and consistent with the line of authorities referred to above as to the need for the Supreme Court not to entertain matters that are cognizable in the court below which are dressed in the garb of interpretation of a constitutional provision:

"There is no dispute about the fact that a petition under the Representation of People Act, 1992 (PNDCL 284) was filed to challenge the validity of the election of the 1st respondent as the Parliamentary Candidate of the Assin North Constituency. There is also no dispute that the High Court, Cape Coast delivered a judgment on 28th July 2021 and declared 1st respondent's election null and void and restrained him from holding himself out as the Member of Parliament for the Assin North Constituency. There is also no further doubt that the 1st respondent appealed against the judgment to the Court of Appeal, Cape Coast which by the decision of this court in ***In Re Parliamentary Election for Wulensi Constituency; Zakaria v. Nyimakan*** *[2003-2004] SCGLR 1 is the final Court of Appeal in election petitions brought to challenge the validity of Parliamentary Elections. A breach of the order of injunction issued by the High Court should have been enforced at the High Court or the Court of Appeal as the case may be. It seems to me that by the grounds stated in the affidavit in support of the motion for an interlocutory injunction in this court,* ***all that was urged on us is the breach of the Injunction order issued by the High Court. In my view, it is not the responsibility of the Supreme Court to enforce orders of a lower court which are breached unless the matter is on appeal before it and it is seized of the matter.*** *" (pp. 38-39, emphasis added).*

Ground v)

The majority decision was in patent and fundamental error in granting an order of interlocutory injunction pending the determination of the suit when the Applicant failed, prima facie, to demonstrate a legal or equitable right that ought to be protected by the court, thereby occasioning a gross miscarriage of justice against the 1st defendant/respondent.

68. In **Owusu vrs. Owusu-Ansah** [2007-8] SCGLR 870, Sophia Adinyira JSC indicated the following guiding principle for the grant of an interlocutory injunction:

"The guiding principle in such applications is, whether an applicant has by his pleadings and affidavit established a legal or equitable

right, which has to be protected by maintaining the status quo until the final determination of the action on its merits;.."

69. In the circumstances of this case, the status quo actually required maintaining the position of the Applicant as Member of Parliament for Assin North. More so as the Applicant had been cleared by the 2nd Respondent, the body charged, under article 45 of the Constitution, with the conduct of the elections and related matters. Article 46 also provides that:

> *"Except as provided in this Constitution or in any other law not inconsistent with this Constitution, in the performance of its functions, the Electoral Commission, shall not be subject to the direction or control of any person or authority."*

70. The applicant had also been gazetted as the Member of Parliament after he was declared to have won the election decisively. Unverified allegations that he owed allegiance to a country other than Ghana had been put forward before the elections. The Electoral Commission found no basis for his disqualification and cleared him to stand for the election.

71. The need for a prima case of a legal or equitable right to be established is obviously because without such a right being established, the application for interim injunction has no legs to stand on. That is the situation with this application. The whole basis of the application, namely that the applicant herein owed allegiance to a country other than Ghana remained rooted in the view of Plaintiff and Boakye J in the High Court that holding a foreign nationality and owing of allegiance to that foreign nation are interchangeable and, further, that the time nominations closed was the time for the determination of the foreign nationality in relation to the operation of article 94(2)(a). Boakye J states, after quoting from a certificate of renunciation indicating that the applicant herein **"has formally renounced Canadian citizenship** and pursuant to the Citizenship Act **will cease to be a citizen on 26/11/2020.** Minister". According to Boakye J:

> *"The above information from the Certificate of Renunciation, without more, is completely conclusive. It caused the damage and destroyed 1st Respondent's case." (at p. 42). With respect, this is absurd; nothing in the said certificate related to owing of allegiance. Indeed, Boakye J. fails to read the document in its entirety. The opening words relate to*

the past, stating that the person named, being the applicant herein ***"has formally renounced Canadian citizenship..."***.

72. The implications that this renunciation, which is expressed in the past tense, has on whether he "owes allegiance" to Canada is not part of what the document is about. It is only about citizenship.

73. It is clear that in the writ issued by the Plaintiff in this court, all the reliefs being sought are expressed in terms of article 94(2)(a) which is about "allegiance" and not nationality. Indeed, as the owing of allegiance relates to a foreign country, it is submitted that without evidence that, by the law of Canada, owing of allegiance is to be equated with nationality, it cannot be contended that a prima facie case has been made that the applicant owed allegiance to Canada at the time of nomination or at any time after his renunciation of Canadian citizenship and return to Ghana to stand for the Parliamentary election.

74. Section 1(2) of the Evidence Act, 1975, provides that:

> *"The determination of the law of an organisation of states to the extent that such law is not part of the law of Ghana, or of the law of a foreign state or sub-division of a foreign state, is a question of fact, but it shall be determined by the court."*

Instead of proceeding according to this statutory requirement, Boakye J. again flouted the statutory provision and rather resorted to Wikipedia (at p. 45) as his basis for making pronouncements on Canadian law! This frankly extraordinary disregard for the legal process established by statute for ascertaining foreign law cannot be countenanced as a basis for a claim that a prima facie case has been established regarding the applicant owing allegiance to Canada.

75. Furthermore, it is only because of the interpretation placed on article 94(2)(a) by the judge of the High Court, usurping the jurisdiction of the Supreme Court, that it is claimed that the period of nomination is the crucial period. That interpretation is inconsistent with what the Supreme Court decided in **Republic v. High Court (Commercial Division) Accra; ex parte Electoral Commission, Papa Kwesi Nduom Interested Party** [2015-2016] 2 SCGLR 1091. In that case, the Electoral Commission was required to allow a period beyond the designated nomination period to enable the exercising of the rights of the candidate to be heard to address issues arising from the nomination form he filled. A candidate who had been

denied such hearing had to be given the opportunity. The judgment of Boakye J. was, again, per incuriam that Supreme Court decision.

76. Boakye J. sought to back his position about the time of nomination with a stark falsehood:

> *"article 94(2) of the Constitution* ***has received judicial consideration and clarity by the Supreme Court*** *which is by law, the highest court and the final court of appeal in Ghana in Republic vs High Court [General Jurisdiction], Accra; Ex Parte Dr. Zenator Rawlings [Ashittey and National Democratic Congress as Interested Parties]". (See p. 55, emphasis added).*

77. This false claim is repeated in the following passage on page 56 of the judgment:

> *"In the considered view of the Court the answer to the issue as to whether the eligibility or qualification to become a Member of Parliament begins from the filing of nomination forms with 2nd Respondent or at the time a person is elected and sworn in as such can be found in Ex Parte Zenator Rawlings' case, supra. Why? It is* ***the recent and authoritative decision by the Supreme Court on what point in time the eligibility or qualification criteria as set out in article 94[2][a] of the Constitution come into play."*** *(Emphasis added).*

78. Article 94(2) did not receive judicial consideration in the **Zanetor Rawlings** case. It was article 94(1)(a) which was before the court in that case and the provisions of the two articles differ in material respects.

79. It is significant that in section 20(1)(d) of the Representation of People's Act, PNDC Law 284, the time of the election is the critical time. It is provided that:

> *"(1) The election of a candidate shall be declared void on an election petition if the High Court is satisfied:*
>
> > *"...(d) that the candidate was* ***at the time of his election*** *a person not qualified or a person disqualified for election." (Emphasis added).*

The operative phrase is **"at the time of his election"**. Furthermore, while section 9(1) of the Representation of People's Act, 1992, PNDC Law 284, which is in terms of article 94(1)(a) of the Constitution, refers to the time of candidacy: " A person shall not be qualified **to be a candidate for the office of member of Parliament** unless...", section 9(2), the equivalent of article 94(2)(a) of the Constitution, reads as follows: "A person shall not be **qualified to be a member of Parliament** if he—
(a) owes allegiance to a country other than Ghana; or..."

83. The disqualification here is expressed in respect of "to be a member of Parliament" and not, as in the qualification in section 9(1)(a) -"to be a candidate to be a member of Parliament."

84. If the Constitution makers had wished to make the disqualification in article 94(2)(a) simply a matter of holding the nationality of another country, they would surely have stated just that. They did not. There specifically referred to "ow[ing] allegiance to a country other than Ghana", rather than simply "being a national of a country other than Ghana". Conflating the holding of dual nationality with the issue of "ow[ing] allegiance to a country other than Ghana", which is what article 94(2)(a) provides for, undermines the Constitution and takes away the right that Ghanaians with dual nationality have to serve the country as members of Parliament. Whoever seeks to debar them must show that the person they seek to debar "owes allegiance to a country other than Ghana". The determination of whether a person is serving two masters on which Counsel for Plaintiff hinges his whole case cannot be settled by the blanket assertion that the holding of dual nationality automatically means owing allegiance to another country.

85. Ultimately, in any case, the issue of interpretation is recognized to have been outside the jurisdiction of Boakye J, and his interpretation, which is null and void, cannot begin to establish a prima facie case that the applicant owed allegiance to a country other than Ghana at the time material for the operation of article 94(2)(a) of the Constitution.

86. Nor do the passages quoted by Counsel for Plaintiff from a minority opinion of Atuguba JSC in **Asare v. A-G** [2012] 1 SCGLR 460 at 483-485 concerning the certification requirements for dual nationals, nor the long quote from the Report of the Committee of Experts at pages 175-176, nor the quote from Prof. Kumado's book, A Handbook of the Constitutional Law of Ghana and its History, provide any support whatsoever to the interpretation of article 94(2)(a) in the judgment of Boakye J. or the Statement of Case of

Plaintiff. If anything, the decision of the majority in the **Asare** case, in considering certain administrative documents that were required of dual nationals as unconstitutional, shows that the Supreme Court did not consider such documentation as the crux of even the dual nationality issue. A fortiori, in respect of the issue of allegiance, administrative documentation cannot be the decisive determinant of that question as Boakye J held.

87. In all the circumstances, no prima facie case was made out which justified a consideration that the applicant herein owed allegiance to a country other than Ghana so as to warrant the interim injunction.

Ground vi)

The majority decision violated article 296(a) and (b) of the Constitution in exercising discretion arbitrarily and capriciously and wholly unreasonably.

88. The exercise of judicial discretion requires due consideration of all relevant circumstances in arriving at a decision. Article 296 of the Constitution establishes an important framework for how discretionary power is to be exercised by any person or authority in whom discretionary power is vested. Article 296(a) and (b), which apply to judges, are in the following terms:

> *"(a) that discretionary power shall be deemed to imply a duty to be fair and candid;*
>
> *(b) the exercise of the discretionary power shall not be arbitrary, capricious or biased either by resentment, prejudice or personal dislike and shall be in accordance with due process of law;"*

89. In our respectful submission, the manner in which consideration was given to the factors that were urged by the applicant in support of his application was one-sided. As shown in our previous submissions, if the ruling of the majority had only looked at the exhibits that were part of the case put forward by the Plaintiff, it would have been clear that the decisions of the High Court were flawed by the usurpation of the jurisdiction of the Supreme Court and the failure of the judge to act in accordance with constitutional obligations under article 130 and in accordance with statutes and judicial precedents. Passages such as that "allegations of willful continuing breach of the Constitution and allegations of contemptuous defiance of the authority

of the High Court, a Superior Court of Judicature" (p. 16) repeat editorial opinions and legal conclusions that were expressed in the affidavit of the Plaintiff rather than facts. It should have been obvious from the accounts of the different positions of the parties in the High Court that there were serious issues of interpretation of the Constitution which the High Court judge repeatedly refused to refer to the Supreme Court.

90. Clear breaches of the Constitution and of statute by the High Court are glossed over in the majority ruling. The relevance of the appeal and related processes that followed the High Court are not considered at all in the majority ruling. *"No court, organ or agency of the Republic can or should be insensitive, aloof, indifferent and/or unconcerned about an allegation of a violation of this sacred and basic law, let alone a continuing violation"*, says Kulendi JSC (P. 18). Surely, a mere allegation of constitutional violation cannot suffice to justify the grant of an interim injunction. As shown in our earlier submissions above, whether or not there was, indeed, a constitutional violation turns on interpretation of a provision of the constitution which had not previously been interpreted though Boakye J. falsely claimed it had been so as to evade the constitutional obligation he had to make a reference to the Supreme Court. If anything, the applicant, who had from the onset, sought to have a reference to the Supreme Court, was the one seeking to prevent unconstitutional conduct from the judge. Clearly, if the reference had been made in January 2021, the Supreme Court would have resolved the interpretative issue by now and there would not be ongoing unclarity on this matter.

91. By relying simply on an unverified allegation which is entirely dependent on an interpretation by a judge who usurped the jurisdiction of the Supreme Court to provide an interpretation based on false premises in every way, their Lordships in the minority have effectively prejudged that very issue of interpretation. Thus the ruling of the majority only considered that: *"..the Applicant and the constituents of Assin North would have had an unqualified member of Parliament should the Applicant succeed."* It is really only the possible success of the Applicant that is considered. There is unfairness in weighing the balance of convenience as if upholding the Constitution requires the grant of the interim injunction, since it is as if the matter of the interpretation of article 94(2)(a) is already settled in favour of applicant.

92. Paragraph after paragraph of the ruling of the majority proceeds in this way:

"In this regard, the balance of convenience tilts in favour of the Ghanaian people whose community of interest in the Constitution is sought to be vindicated if the Applicant's complaint is eventually upheld by this Court."

A balanced view would also have given thought to the possibility that the Applicant in respect of the application for interim injunction could be found not to be right, in which case the assumption of a community of interest with the Constitution would have been shown to be without a basis.

93. Scant consideration was given to the effect of the interim orders on 1st Defendant/Respondent/Applicant herein and Ghanaian citizens in the Assin North constituency who are now deprived of representation in Parliament in the following passage:

"We are not unmindful of the fact that if we grant the instant application and the 1st Respondent in the end be adjudged by this Court as duly qualified to have filed a nomination and for that matter be elected Member of Parliament, he would have suffered damage, loss and injury on account of an interlocutory restraint. Similarly, his constituents as well as the party on whose ticket he is in Parliament would have been affected. Consequently, the absence of the 1st Respondent, even if temporarily, will occasion some inconvenience." (p. 17).

94. Here, there is no recognition of a community of interest between the 1st Defendant/Respondent/Applicant herein and the Constitution or the community of interest between Assin North constituents and the Constitution which makes provision for their democratic representation in Parliament.

95. The fact that the 1st defendant/respondent went through the process established by 2nd defendant/respondent and was cleared to stand for the election is a circumstance in this case which make the exercise of the discretion by the Supreme Court to grant the order of interlocutory injunction in this case more unreasonable.

96. A more reasonable exercise of discretion in this matter would have involved a decision to expedite the hearing as provided for in Order 25 rule 5 of C.I. 47.

97. It was rightly noted in the majority decision, that:

"injunctions being primarily discretionary, the bonafides and malafides of the parties cannot be ignored in ascertaining whether to grant or refuse. ***[See Owusu vrs. Owusu-Ansah (Supra)]"***

98. The lack of good faith and candour on the part of the Plaintiff/Applicant are evident in his concentration on decisions of the High Court only, while avoiding any specifics about the processes in the Court of Appeal. Among such specifics was the pendency of an application for stay of execution of the High Court judgment at the time of filing of the writ, and the decision of the Court of Appeal the very morning of the day the writ was filed to stay proceedings pending the hearing and determination of an application in the Supreme Court for certiorari to quash the decision of the Court of Appeal, Cape Coast, and refer the interpretation of article 94(2)(a) of the Constitution to the Supreme Court. The lack of candour and the bad faith of the Plaintiff should have been significant factors in the exercise of the court's discretion but played no part in the majority decision to grant an interlocutory injunction.

Ground vii)

The decision to proceed with the hearing of the interim injunction prior to the hearing of the preliminary objection raised by the Applicant herein was per incuriam the binding precedents of Koglex v. Attieh [2003-2004] 1 SCGLR 75 and Ampofo v. Samanpa [2003-2004] 2 SCGLR 1155.

99. The Plaintiff had filed the application for interim injunction specifically under the High Court (Civil Procedure) Rules C.I. 47. This was in direct defiance of the Supreme Court's decisions in **Koglex v. Attieh [2003-2004] 1 SCGLR 75** and **Ampofo v. Samanpa [2003-2004] 2 SCGLR 1155.** In **Koglex** in particular the Supreme Court made it clear that it was not for counsel to predetermine the application of the High Court Rules whenever there was no express provision in the Supreme Court Rules, C.I. 16. Rule 5 required the Court itself to prescribe what should happen.

100. In its consideration of the preliminary objection, Kulendi JSC starts off by observing that:

"In respect of the legal objection by Counsel for 1st Respondent, we note that the 1st Respondent's Counsel neither cited any rule on the face of his "Notice of Preliminary Objection" nor made reference to any rule to justify the jurisdiction of this Court to entertain the "notice

of preliminary objection". We think this is rightly so, because the rules of Court do not supplant the established practice of the Court. The fact that the rules of Court are silent on any procedure or practice would not affect this Court's procedural jurisdiction over same. It is important to note that, "the Rules of Court cannot expressly cover every conceivable situation that arises." [See the dictum of Atuguba JSC in Merchant Bank v. Similar Ways Ltd [2012] 1 SCGLR 440 @ at page 446] ." (p. 7).

101. What Kulendi JSC sought to do in this passage does not address the issue raised in the preliminary objection. It is well known that there are procedures that are attributable to the inherent jurisdiction of the courts as a necessary part of the conduct of cases. The raising of preliminary objections is an example of a procedure that arises under the inherent jurisdiction of the court. It would have been open to counsel not even to provide advance written notice of such a preliminary objection but to raise it on his feet.

102. The attempt to equalize the notice of preliminary objection not having been made referable to a rule of court to a motion by an applicant in the Supreme Court being brought explicitly in terms of High Court Rules is simply unjustified. Plaintiff did not seek to bring his application for an injunction in terms of the inherent jurisdiction of the court. Rule 5 of the Supreme Court Rules is also clear in its terms:

> *"Where no provision is expressly made by these Rules regarding the practice and procedure which shall apply to any cause or matter before the Court, the Court shall prescribe such practice and procedure as in the opinion of the Court the justice of the cause or matter may require."*

103. There is obvious good sense in such a provision which enables the court itself to determine what to prescribes what in its opinion the justice of the cause or matter requires. This is not to be left to counsel to jump the gun and seek to initiate a process without seeking the requisite prescription by the good. There is really no discussion of the two judicial precedents which are binding on the court nor was any indication given that the court was seeking to depart from them. Instead, in the majority ruling the issue is avoided by the statements such as that: *"It is beyond doubt that this Court has jurisdiction to entertain injunction applications whenever its original jurisdiction is invoked."* (p. 8). **Ekwam v Pianim (No 1)** [1996-97] SCGLR 117 is then cited. The

fact that it is beyond doubt that the Supreme Court has jurisdiction to entertain injunction applications whenever its original jurisdiction is invoked does not mean an injunction application explicitly under High Court (Civil Procedure) Rules without seeking the prescription by the court of the procedure to follow is warranted. Counsel in Ekwam v. Pianim did not bring his application under the High Court Rules while invoking the original jurisdiction of the Supreme Court. It was never suggested by Counsel in raising the objection that the Supreme Court could not grant orders of injunction when exercising its original jurisdiction. It would appear that there was a misapprehension as to the objection.

104. Another statement in the majority ruling that *"the jurisdiction of the Superior Courts to entertain applications for injunction cannot be traced to any known express rule of Court"* (p. 10) is, with respect, unhistorical. In the Ghanaian context, the current High Court Rules took their origin from the 1954 Rules which go back to earlier Rules of Court. The development of orders of injunction from the old courts of equity is also well known in legal history. None of that, however, provides a justification for the court ignoring its own precedents as to how to proceed before it. This is what the majority of this court deprecated in the recent **Saviour Church case** as well as the **Ex parte Opuni case** referred to earlier.

105. Article 129(4) of the Constitution also does not address the issue since the Supreme Court having all the powers, authority and jurisdiction vested in any court established by this Constitution does not allow counsel to choose for the court the operation of High Court Rules. That provision in the Constitution rather reinforces the import of Rule 5 of the Supreme Court Rules and the two precedents cited before the court.

106. It is also significant that in **Edusei v. Attorney-General, [1998-99] SCGLR 753,** Kpegah JSC at 775 made it clear that article 129(4) of the Constitution cannot be used as a catchall provision enabling the court in every case to exercise any jurisdiction that any court could exercise! He said: "The above provision of the Constitution does not permit the Supreme Court to claim concurrent original jurisdiction with all adjudicating tribunals created by the Constitution or any other law. The influential condition is that the Supreme Court must first be determining a matter "within its jurisdiction" before it can have all the powers, authority and jurisdiction vested in any court."

D. CONCLUSION

108. The lack of jurisdiction of the Supreme Court over matters involving the validity of a Parliamentary election is a sufficient basis on which this court should review its majority decision on 13th April 2021 to grant orders of interim injunction. It is the High Court which has been held by precedents of this court to have exclusive jurisdiction under article 99 of the Constitution and the Representation of People's Law, PNDCL 284.

109. This court, we submit, therefore, *"should do the needful by reviewing [its decision] to ensure that justice is done"*, in the prescient words of Dotse JSC. quoted above.

DATED AT KAPONDE & ASSOCIATES, SUITE 606/607, 6TH FLOOR, REPUBLIC HOUSE, GHANA SUPPLY COMPANY BUILDING, ACCRA THIS 25TH DAY OF APRIL, 2022.

SOLICITOR FOR THE APPLICANT/APPLICANT

JUSTIN PWAVRA TERIWAJAH, ESQ.

SOLICITOR'S LICENCE NO. eGAR 00011/22

CHAMBER'S REGISTRATION NO. ePP00756/21

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THE REGISTRAR,

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AND TO:

1. **THE PLAINTIFF/APPLICANT/RESPONDENT OR HIS LAWYER, FRANK DAVIES ESQ., OF MESSRS DAVIES & DAVIS, E 335, KOJO SRO ST. GA 232-**

4172, BEHIND FOUNTAIN OF GLORY ASSEMBLIES OF GOD CHURCH, EAST AIRPORT, ACCRA;

2. THE 2ND DEFENDANT/RESPONDENT/RESPONDENT OR ITS LAWYER, EMMANUEL ADDAI ESQ., ELECTORAL COMMISSION, # 8TH AVENUE RIDGE, ACCRA; AND

3. THE ATTORNEY-GENERAL 3RD DEFENDANT/RESPONDENT/RESPONDENT