

**IN THE FCT AREA COUNCIL APPEAL TRIBUNAL  
HOLDEN AT ABUJA  
BEFORE THEIR LORDSHIPS**

<b>HON. JUSTICE SULEIMAN BELGORE</b>	<b>CHAIRMAN</b>
<b>HON. JUSTICE YUSUF HALILU</b>	<b>MEMBER I</b>
<b>HON. JUSTICE JUDE O. ONWUEGBUZIE</b>	<b>MEMBER II</b>

**PETITION NO: FCT/ACET/EP/06/2022  
APPEAL NO: FCT/ACEAT/AP/04/2022**

**BETWEEN:**

<b>1. HON. ABUBAKAR S. ABDULLAHI</b>	}	<b>APPELLANTS</b>
<b>2. ALL PROGRESSIVE GRAND ALLIANCE (APGA)</b>		

**AND**

<b>1. PEOPLES DEMOCRATIC PARTY (PDP)</b>	}	<b>RESPONDENTS</b>
<b>2. JOHN GABAYA SHEWOGAZA</b>		
<b>3. AMINU MUSA</b>		
<b>4. INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC)</b>		

**JUDGMENT**

This appeals concerns the judgment of the FCT Area Council Election Petition Tribunal, Coram, Chief Magistrate Muinat Folashade Oyekan, Chief Magistrate Ahmed Mohammed Ndajiwo and Kimi Livingstone Appah, Esq.

delivered on the 27<sup>th</sup> day of July, 2022 in petition No: PET/ACET/EP/06/2022 Between: **Hon. Abubakar Abdullahi & Anor Vs. Peoples Democratic Party & Ors.** (pages 326 – 397 of the Record of Appeal refers).

Facts leading to the appeal are, briefly put: on the 12<sup>th</sup> day of February, 2022, the 4<sup>th</sup> Respondent, Independent National Electoral Commission (INEC) conducted the Area Council Election, in this Federal Capital Territory. They, INEC, declared and returned the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents as the winners of the election for Bwari Area Council as Chairman and Vice – Chairman respectively.

The Appellants as petitioners were dissatisfied with the judgment. They consequentially filed a petition on the 4<sup>th</sup> day of March, 2022 challenging the declaration and return of the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents. (See pages 1 – 18 of the Record of appeal). The petition was anchored on two (2) grounds to wit:

- (1) By virtue of Section 102(1) (h) and 134(1) (a) of the Electoral Act 2022 (as amended), the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents were not qualified to contest the election into Bwari Chairman Area Council, FCT.
- (2) That the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents are by virtue of Section 102 (1) (h) and 134 (1) (a) of the Electoral Act, 2022 (as amended) not qualified to contest the Chairmanship Election of Bwari Area Council, FCT.

By way of a quick initial observation, the above is one and only one ground. The first is just a repetition of the second one. At the conclusion of a long trial, the Tribunal dismissed the petition for being a pre-election matter and even lacking in proof.

Petitioners, now Appellants, again were not satisfied with the lower Tribunal's Judgment. They consequently approached us, (The Appeal Tribunal) by filing a Notice of Appeal on the 9<sup>th</sup> August 2022 (Pages 398 – 403 of the Record of Appeal refers). The said Notice of Appeal contains four (4) grounds of appeal; thus;

## **GROUND OF APPEAL**

### **GROUND 1**

**The Lower Court erred in law when it struck out ground One and Two alongside reliefs A-F as contained in the Petitioners' Petition.**

### **PARTICULARS OF ERROR**

- i. In **DANGANA VS. USMAN (2013) 6 NWLR (PT. 1349) 50 AT PAGES 89 PARAGRAGHS C-E**, the Court held that issue of qualification under Section 138(1) (a) of the Electoral Act, 2010 (as amended) can be a ground of Petition at the Tribunal.
- ii. That issue under Section 138(1)(a) of the Electoral Act, 2010 (as amended) is both pre-election and post-

election issue which can be litigated upon at the High Court or the Election Tribunal.

iii. That ground 1 of the Appellant's Petition was in respect of qualification of the 2nd and 3rd Respondents in line with Section 138(1) (a) of the Electoral Act, 2010 (as amended).

## **GROUND 2**

The Lower Court erred in law when it relied in the decisions of the Supreme Court and Court of Appeal in **ADEKUNLE ABDULKABIR AKINLADE & ANOR VS. INDEPENDENT NATIONAL ELECTORAL COMMISSION & ORS. (2019) LPELR-55090 (SC)** and **ALLIED PEOPLES' MOVEMENT VS. INDEPENDENT NATIONAL ELECTORAL COMMISSION & ORS (2021) LPELR-54296(CA)**, to hold that the instant Petition is a pre-election matter and ought not to be filed at the Tribunal by virtue of Section 31 of the Electoral Act, 2010 (as amended).

## **PARTICULARS OF ERROR**

i. In **ADEKUNLE ABDULKABIR AKINLADE & ANOR VS. INDEPENDENT NATIONAL ELECTORAL COMMISSION & ORS. (2019) LPELR-55090 (SC)** and **ALLIED PEOPLES' MOVEMENT VS. INDEPENDENT NATIONAL ELECTORAL COMMISSION & ORS (2021) LPELR- 54296 (CA)** what was in issue was issue of submission of false statement in

the Respondent's affidavit containing particulars and personal information in INEC Form CF001.

ii. Section 31 (5) Electoral Act, 2010 (repealed) is not the only applicable Law. Section 138 (1) (h) of the Electoral Act, 2010 (repealed) also empowers the Respondents to take up at the Election Tribunal.

iii. The case of the Appellants is on presentation of forged documents or certificate to INEC, not merely submission of false information to INEC so as to come under Section 31 (5) of the Electoral Act, 2010 (Repealed).

iv. The gravamen of the Petition is the presentation of forged Certificates to INEC by the 2nd and 3rd Respondents which falls within Section 138(1) (a) of the Electoral Act, 2010 (repealed) and not Section 31 (5) of the Electoral Act, 2010 (Repealed).

### **GROUND 3**

**The Lower Court erred in law by being speculative, and reached conclusions based on faulty premises of law and facts.**

### **PARTICULARS OF ERROR**

i. The Lower Court agreed that Admission number 179 in Exhibit P2 does not reflect the name of the 2nd Respondent.

- ii. That the trial Court speculated that at column 177 of Exhibit P2 has the name of the 2nd Respondent.
- iii. The 2nd Respondent's testimonial in aid of his qualification has admission number 179 with the name Gabaya S. John.

#### **GROUND 4**

**The learned trial election tribunal erred in law and made perverse findings based on evidence tendered before it.**

#### **PARTICULARS OF ERROR**

- i. That the learned election tribunal erred when it held that the Petitioners did not establish any of the ingredients as to prove forgery on the part of the 2nd and 3rd Respondents.
- ii. That trial Court failed to review Exhibit P1 in respect of the 3rd Respondent.
- iii. That Exhibits P1 had stated clearly that the name of the School where the 3rd Respondent claimed to have attended is Government Teachers College Maitagari while the official stamp on the Testimonial is that of the Principal, Government Secondary School Maitagari.

- iv. That there is no relationship between a Teachers College that offered Advance Certificate and a Secondary School that offers O' Level.
- v. That Exhibits P1 to P5, were the only documents tendered in evidence before the trial Court on the qualification of the 2nd and 3rd Respondents and none of them were the basis of the Courts finding on the forgery on the part of the 2nd and 3rd Respondents.
- vi. The learned trial Court erred in law when they made out a case for a party (the 2nd Respondent) in respect of column 177 of Exhibit P1 when the same pleading, evidence or reliefs were never before the Court.
- vii. The learned trial Court erred in law when it refused to evaluate the uncontradicted evidence of PW2 where he led evidence to show that the declaration of age of the 2nd Respondent contained in Exhibit P1 was made on a Sunday being a non-judicial day.
- viii. The learned trial Court erred in law when it refused to take cognizance of the fact of material contradictions contained in the school testimonial, Statement of Result and Certificate submitted by the 3rd Respondent in Exhibit P1 in evidence led by PW1.

Both sides eventually filed their Briefs of argument and on 12<sup>th</sup> September 2022, the appeal was heard. Counsel

adopted their respective briefs of argument, proffered oral adumbrations and we adjourned *sine die* for judgment.

In their Brief of arguments dated 29<sup>th</sup> August 2022, the Appellants submitted two issues for determination. They are;

- (1) ***Whether the Tribunal was right when it struck out ground one alongside facts in support as contained in the petitioners' petition contending that it is statute barred and caught by Section 285 (9) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and Section 31(5) and (6) of the Electoral Act, 2010 (as amended) being a pre-election matter.***
- (2) ***Whether the Appellants has proved his (sic) case at the Trial Court to be entitled to judgment at the Trial Court.***

On the 8<sup>th</sup> September, the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents also filed their own Brief of argument. It contained therein two (2) similar issues for determination that runs thus:

- (1) ***Whether the Honourable Tribunal was not right when it struck out ground one and the facts in its support and Relief (1) of the Appellants' petition on the ground that it was a pre-election matter and therefore statute barred by virtue by Section 285 (9) of the 1999 Constitution of the Federal Republic of***



***Nigeria (as amended) and Section 31(5) and (6) of the Electoral Act, 2010 (as amended).***

- (2) *Whether the Appellants have indeed proved their petition to be entitled to judgment.***

On 9<sup>th</sup> and 10<sup>th</sup> September, 2022, the 1<sup>st</sup> and 4<sup>th</sup> Respondents filed their own Briefs of arguments too with the following issues distilled for determination respectively as shown below:

**For 1<sup>st</sup> Respondent**

- (1) *Whether the Honourable Tribunal was right in striking out ground one and two, as well as reliefs A – F of the petition, that the petition is pre-election matter. (Ground 1 and 2 of the Notice of Appeal).***
- (2) *Whether the Honourable Tribunal speculated on Exhibit P2, made perverse findings. (Grounds 3 and 4 of the Notice of Appeal).***

**For 4<sup>th</sup> Respondent**

- (1) *Whether the trial Tribunal Court was right to hold that the ground one of the petition was statute barred given Section 285(14) of the Constitution 1999 (as amended) and struck out same for lack of jurisdiction (Distilled from grounds 1 and 2 of Notice of Appeal).***

**(2) *Whether the Appellant has placed sufficient materials to warrant the trial Tribunal grant the reliefs sought (Distilled from ground 3 and 4 of Notice of Appeal).***

It's very clear that except for styles and wordings, the issues as presented by all the parties are basically the same. Just two issues being repeated in different wordings and sentences.

I therefore feel free to deal with the two issues broadly as if they are one and only refer to Counsel submissions as I deem appropriate. Needless to say the arguments of Counsel are all on printed record and need no reproduction at length in this judgment.

To my mind, a quick answer to a one question will resolve this appeal and thereby deal with the two issues identified in this appeal. The question is; is the Petition of the Appellants at the lower Tribunal a pre-election matter or a post-election matter? If the answer is pre-election matter, the Tribunal would have no jurisdiction to entertain the petition. Conversely, if it is a post-election matter, the Tribunal would be on a very sure and sound footing to wear the jurisdictional garb very fittingly.

It is pertinent at this juncture to mention that the 1<sup>st</sup> Respondent (PDP) has raised a Preliminary Objection vide paragraph 22 – 31, pages 5 and 6 of the 1<sup>st</sup> Respondent's Brief of Argument saying that issue number two (2) submitted for determination by the appellants are not

related to the 3 and 4 grounds of appeal in the Notice of Appeal filed. We do not intend to waste time on this. It suffices to say, this submission is not true.

In any case, since we are treating the two issues together as one, the Preliminary Objection remains moribund of no consequence and not of the moment. The Preliminary Objection is therefore dismissed.

In venturing into the answer for the question I post earlier, the first step is to peep into the facts alleged in the petition and as grounding disqualification of the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents. Those facts are found in paragraphs 14, 15, 16, 17, 18 and 19 of the petition. Pages 15 and 17 of the Record of Appeal refers.

**Paragraph 14:**

***"The 2nd and 3rd Respondents had made affidavit depositions under oath in support of Personal Particulars in INEC Form EC9 and thereon submitted forged documents to the 4th Respondent for the February 12th, 2022 Bwari Chairmanship Area Council Election. The Petitioners plead and shall rely on INEC Forms EC9 of John Gabaya Shekwogaza and Aminu Musa Chairman and Vice-Chairman respectively.***

**Paragraph 15:**

**"The 2nd Respondent, presented a forged Primary School Testimonial from Tokulo Primary School, FCT with Gabaya S. John as Name and admission number 179 to the 4th Respondent in aid of qualification.**

**PARTICULARS OF FORGERY**

**(a) The Admission number 179 contained on the Register of Admission does not reflect the name of the 2nd Respondent Gabaya S. John.**

**(b) The name of the candidate with Admission number 179 is one Dayabi Sanasa and not that of the 3rd Respondent.**

**(c) The Headmaster's signature on the purported Testimonial was not signed by the said headmaster.**

**Paragraph 16:**

**"The Petitioners plead and shall rely on Register of Admission Progress and Withdrawal and the 2nd Respondent's Primary School Testimonial.**

**Paragraph 17:**

**"The Petitioners state that the name on the 2nd Respondent's West African Examination Council (WAEC) Certificate attached to his INEC Form EC9 is**

**different from the name on his INEC Form EC9.**

**Paragraph 18:**

**"The Petitioners state that the 2nd Respondent submitted forged documents to the 4th Respondent in aid of his qualification to contest the election under review.**

**Paragraph 19:**

**"The Petitioners avers that 3rd Respondent presented and submitted a forged Testimonial/Certificate from Government Teachers College, Maitagari to the 4th Respondent.**

**PARTICULARS OF FORGERY**

**(a) The name of the School where the 3rd Respondent claimed to have attended is Government Teachers College Maitagari while the official stamp on the Testimonial is that of the Principal, Government Secondary School Maitagari.**

**(b) There is no relationship between a Teachers College that offered Advance**

**Certificate and a Secondary School that offers O' Level.**

**(c) The 3rd Respondent attached to his Affidavit a Statement of Result of Teachers College Maitagari signed on the 21st June, 2011 issued by the Director of Evaluation, Ministry of Education Kano State and also a Certificate of the same Teachers College Maitagari signed on the 2nd June, 2011 issued by the Permanent Secretary, Ministry of Education Jigawa State.**

**(d) Both documents emanating from the same school are products of two different States in the same month and year.**

**(e) The Headmaster's signature on the purported Testimonial was not signed by the said Headmaster.**

**(f) The 3rd Respondent claimed to have obtained the said Certificates between 1979-1984 from Jigawa State, when Jigawa State was yet to be created.**

**(g) The Admission number on the said Testimonial is 1680 different from the one on the Statement of Result 2851 and that of the Certificate of Higher**

**Elementary Grade Two Teachers Certificate which is 1902288 of the same program.**

**(h) The Certificate was issued on the 22/6/2011 with effect from the same date whereas the Teachers College had long been abolished in Nigeria. The Petitioners shall prove that Teachers' College had been abolished in Nigeria before the year 2011 when the Teachers College had been scrapped in Nigeria.**

**(i) The Testimonial, Statement of Result and Certificate of Teachers College were issued within the Month of June, 2011 when the Teachers College had been scrapped in Nigeria.**

**(j) The documents submitted by the 3rd Respondent to the 4th Respondent are forged documents.**

The totality of the above facts as pleaded in the paragraphs of the petition in my simple understanding painted the allegation of false statement or declaration coupled with forgery of documents in support of those alleged false statement in the affidavits of personal particulars submitted to INEC in Form EC9.

Now, the Form was submitted to INEC on 27<sup>th</sup> May, 2021. It was published in 5<sup>th</sup> June, and the 2021 election was conducted or held on 12<sup>th</sup> February, 2022. These are potent fact that cannot be ignored. The question again; Is the act of filling and submission of personal data or particulars of a prospective candidate(s) at an election a pre-election matter or a post-election matter?

The learned Counsel to the appellants seems to tacitly agreed it is a pre-election matter but contended that it is still cognisable at the Election Tribunal since that matter is rooted in forgery, falsity of statement and ultimately anchored on qualification or disqualification of the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents to contest the election. As far as he is concerned, both pre and post election matters can be presented in any petition to the Election Petition Tribunal. See paragraphs 4.03 – 5.19 of the Appellant’s Brief of argument. But is this a correct postulation in law? It is not. I will come back to this later in this judgment.

Learned Counsel to the 1<sup>st</sup> Respondent; C. I. Okoye was similarly not forthcoming or categorical in saying whether the facts discloses a pre or post-election matter. He cleverly submitted that the Tribunal’s decision is apt and should be upheld. See paragraphs 36 – 43, pages 7 – 10 of the 1<sup>st</sup> Respondent’s Brief of arguments.

As for the learned Counsel to the 4<sup>th</sup> Respondent (INEC) – Bashir M. Abubakar – the pleaded facts falls squarely within the ambit of pre-election matter. He submitted at



paragraphs 4.16, page 11 of their Brief of argument as follows:

**“.....  
the grounds of this appeal are clearly founded on events, issues, and matters that occurs before the actual holding of the election. The grounds of this appeal falls squarely within the ambit of pre-election matters and the trial tribunal was right when it held so.....”**  
**(Underline is ours).**

The learned Counsel to the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents was similarly inclined and categorical in his answer/submission. He wrote at paragraph 5.04, pages 10 and 11 of his Brief of argument thus:

**“The 2<sup>nd</sup> and 3<sup>rd</sup> Respondents submit that by virtue of Section 31 (1) (2) (3) (5) and (6) of the Electoral Act 2010 (as amended), the issue of alleged false statement in a candidates affidavit containing his personal particulars information in INEC Form EC9 (formerly Form**

***CF001) or any document submitted by a candidate to the independent National Electoral Commission is a pre-election issue.....”***

I equally answer the question in the same way as did all Counsel. The pleaded facts in paragraphs 14 – 19 of the petition presented to the Lower Tribunal are pre-election matters. The term “pre-election matters” connotes any matter or action that pre-dates the holding of an election. See the case of **AKAMGBO-OKADIGBO VS. CHIDI (NO 1) (2015) 10 NWLR (PT. 1466) 171**. Pre-election matter is any matter which occurs preparatory to the conduct of an election and which does not constitute any complaint against actual conduct of the election. Pre-election matters are issues or complaints that arose prior to the holding of an election. These include issues of disqualification, nomination, substitution and sponsorship of a candidate for an election. See also Section 285 (14) of the 1999 Constitution on meaning of pre-election matter.

It is therefore our firm view which is in full agreement with the position of the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents and indeed the 1<sup>st</sup> and 4<sup>th</sup> Respondents too that facts of the alleged falsification of statements in the affidavit of personal particulars of 2<sup>nd</sup> and 3<sup>rd</sup> Respondents in INEC Form EC9 which were admitted in evidence as Exhibit P1 and coupled with the alleged forged documents as submitted to INEC before the actual date of election is in the realm of pre-election matter.

The next question that prompt up instantly at this juncture is where or at what venue should such a pre-election issue be litigated? Is it at normal Courts or at an Election Tribunal?

The answer is found in **Section 285(9) and (14)** of the 1999 Constitution (as amended); Section 31(5) of the Electoral Act 2010 (as amended) which is the statutory law under which the election under scrutiny was conducted. And some decided case laws.

Section 285 (9) of the 1999 Constitution (as amended) provides:

***" Notwithstanding anything to the contrary in this Constitution, every pre-election matter shall be filed not later than 14 days from the date of the occurrence of the event, decision or action complained of in the suit."***

**Section 31 (5) of the Electoral Act 2010 (as amended)** now repealed provides:

***"Any person who has reasonable grounds to believe that any information given by a candidate in the affidavit or any document submitted by that candidate is false may file a suit at the Federal High Court, High Court of a State or FCT against such person seeking a declaration that the information contained in the affidavit is false"***

This same provision is retained in **Section 29 (5) of the New Electoral Act, 2022**. It reads;

***"Any aspirant who participated in the primaries of his political party who has reasonable grounds to believe that any information given by his political party's candidate in the affidavit or any document submitted by that candidate in relation to his constitutional requirement to contest the election is false, may file a suit at the Federal High Court, against the candidate seeking a declaration that the information contained in the affidavit is false."***

I note with some measure of relish or sense of relief that Section 29(5) of 2022 Electoral Act have removed FCT and other States High Court from category of courts that can entertain pre-election matters.

Therefore, deploying the literal Rule of interpretation, it is beyond equivocation that any pre-election matter must be filed only at the Federal High Court. Note also, that such pre-election matters must be filed within 14 days of occurrence of event or issue complained of.

The above quoted provisions admit of no other interpretation if violence is not to be done to the intention of the legislature.

The Apex Court of the land in **GARBA VS. APC (2022) 2 NWLR (PT. 1708) 345** held;

***"By virtue of Section 285(9) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), .....every pre-election matter shall be filed not later than 14 days from the date of the occurrence of the event, decision, or action complained of in the suit....."***

See also **ZAILANI VS. GUMALI (2020) 2 NWLR (PT. 1709) 452.**

We agree with the contention of the Appellants' Counsel that pre-election matters, as pointed out earlier, can be litigated both at the High Courts and the Election Tribunal depending on which one the complainants deem fanable and convenient. But that is in the past. It is no longer the law. Before the enactment of Section 285 (9) and (14) of the Constitution through the 2017 Fourth Alteration Act, No. 21 by the National Assembly, the issue of qualification of a candidate to contest an election under the repealed 2010 Electoral Act is both a pre-election and a post election matter which both High Courts and Election Tribunal were clothed with extant jurisdiction to hear and determine. You can refer to the cases of **DANGANA & ANOR VS. USMAN & ORS (2012) ALL FWLR (PT. 627) 612; PDP VS. DANIEL SARO & ORS, SC/357/2011.** However, the position as long changed

since the advent of Section 285(9) and (14) of the 1999 Constitution (as amended).

The Appellants placed heavy reliance on the cases of **DIDE & ANOR VS. SELEKETIMIBI (2009) LPELR - 4038; and DANGANA VS. USMAN (Supra)**. Those cases and many others cited by Appellants' Counsel are no longer good authorities because they were decided prior to Section 285 (9) and (14) being mid-wived and given birth to. Section 285 (9) as can be seen in **GARBA VS. APC (Supra)** even introduced time lines of 14 days for filing pre-election cases especially on issues of qualification that usually surfaced after the publication of personal particulars of candidates by INEC as statutorily requires under Section 31 of the Electoral Act, 2010 (as amended).

In conclusion and by way of emphasis, by the provision of Section 285 (9) and (14) of the Constitution, S. 29(5) of Electoral Act 2022 and in consonance with a long line of decided authorities such as **ABUBAKAR VS. INEC (2020) 12 NWLR (PT. 1737) 37; AGBOOLA VS. INEC (2019) LPELR - 48743;** etc, all pre-election disputes shall be filed in the appropriate Federal High Courts and NOT Election Petition Tribunal; and must be so filed NOT later than 14 days from the date of occurrence of the event, decision or action complained of. In this petition now under our purview, the INEC Form that embodied the 2nd and 3rd Respondents' personal particulars were submitted to INEC on 27th May, 2021. It was published on June 5th 2021. Election was subsequently held on 12th February, 2022. Note that

Electoral Act 2022 was signed into law by President Muhammadu Buhari on 25th February, 2022.

Surprisingly, the petition alleging non-qualification was then later filed on 4th March, 2022. This is very long after election was held and too long after the INEC Form EC9 was published. Unpardonably too late since the expiration of the 14 days prescribed by the relevant law. That was clearly in contravention of the provisions of Section 29(5) of Electoral Act 2022. The Lower Tribunal was therefore rightly guided when it held that the complaint is statute barred. The petition in our view was rightly dismissed. This appeal must suffer the same fate.

But before I so pronounce and for the sake of completeness, I ask the question; was the petition even proved? Was forgery, a criminal offence made out before the Lower Tribunal? In one sentence, it was not proved.

Forgery means fraudulently making or altering anything, especially a document; counterfeit, deceit; to make falsely for purposes of fraud - **NNACHI VS. IBOM (2004) 16 NWLR (PT. 900) 614.**

It is long settled in this country that where there are allegations of crime in an election petition, such allegations are required to be proved beyond reasonable doubt in accordance with Section 138 (1) and (2) of Evidence Act - **AYOGU VS. NNAMANI (2006) 8 NWLR (PT. 981) 166.**

On the whole, this appeal is lacking in substance and devoid of all merits. It is hereby dismissed.

In clear terms, the election of the 2nd and 3rd Respondents as Chairman and Vice-Chairman Bwari Area Council respectively; the return made by the 4th Respondent; and the judgment of the Lower Tribunal are all hereby affirmed.

**HON. JUSTICE SULEIMAN BELGORE  
CHAIRMAN**

**HON. JUSTICE YUSUF HALILU  
MEMBER**

**HON. JUSTICE JUDE O. ONWUEGBUZIE  
MEMBER**