



TRINIDAD AND TOBAGO GAZETTE (EXTRAORDINARY)

VOL. 54

Port-of-Spain, Trinidad, Tuesday 29th September, 2015—Price \$1.00

No. 99

1429

MINISTRY OF THE ENVIRONMENT AND WATER RESOURCES

CONFIRMATION OF APPOINTMENT

THE FOLLOWING arrangement is notified for general information in accordance with Legal Notice No. 105 dated 24th May, 2006.

Confirmation

| Name | Rank of Officer | Date |
|----------------------------------|-----------------------|--------------------|
| Ms Joan Cleopatra Cayenne | Clerk Typist I | 1st December, 2011 |

1430

MINISTRY OF TRADE, INDUSTRY, INVESTMENT AND COMMUNICATIONS

CONFIRMATION OF APPOINTMENT

IN ACCORDANCE with the Director of Personnel Administration's Circular Memorandum P: 39/19 Vol. IV Temp.1 dated, 25th August 2006, the following arrangement is published for general information.

Confirmation

| Name | Rank of Officer | Date of Confirmation |
|--------------------------------|-----------------|----------------------|
| Ms Sherma Hitlal-Rattoo | Clerk I | 3rd October, 2012 |

1431

MINISTRY OF LOCAL GOVERNMENT

SEPARATION

THE FOLLOWING arrangements is notified for general information:

Retirement

| Name | Rank of Officer | Ministry/Department | Date | Remarks |
|-----------------------|----------------------|------------------------------|---------------------|-----------------------|
| Santie Sirjue-Bhimull | Clerk/Stenographer I | Ministry of Local Government | 13th February, 2016 | Compulsory Retirement |

ELECTION PETITIONS

Nature of Case: Administrative: Election Matters

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE
SUB-REGISTRY, SAN FERNANDO

Claim No. CV 2015-03123

IN THE MATTER OF
THE REPRESENTATION OF THE PEOPLE ACT, CHAP. 2:01

AND

IN THE MATTER OF A PARLIAMENTARY ELECTION FOR
THE CONSTITUENCY OF LA HORQUETTA/TALPARO
HELD ON THE 7TH DAY OF SEPTEMBER 2015

AND

IN THE MATTER OF THE ELECTION PROCEEDINGS RULES, 2001

BETWEEN

BONIFACIO MAHABIR

PETITIONER

AND

MAXIE CUFFIE

FIRST RESPONDENT

AND

THE RETURNING OFFICER FOR THE CONSTITUENCY
OF LA HORQUETTA/TALPARO
(DEEMED TO BE A RESPONDENT BY VIRTUE OF SEC 107(2) OF
THE REPRESENTATION OF THE PEOPLE ACT)

SECOND RESPONDENT

The Petition of **BONIFACIO MAHABIR** of LP# 464 Mundo Nuevo via Talparo, in the Republic of Trinidad and Tobago shows:

1. That the Petitioner is a person who had a right to vote in the general election held on the 7th day of September 2015 in the constituency of La Horquetta/Talparo.
2. That the election was held on 7th day of September 2015 when Jairam Seemungal and Maxie Cuffie (the First Respondent) and another independent candidate were candidates for the said election in the constituency of La Horquetta/Talparo and on the 10th day of September 2015 the Returning Officer declared that the said Maxie Cuffie received ten thousand four hundred and twenty eight (10,428) votes and the said Jairam Seemungal received seven thousand six hundred and six (7,606) votes and declared Maxie Cuffie as being duly elected.
3. This petition is presented within eight (8) days of the 11th day of September 2015, such date being the date at which the Returning Officer submitted a writ of return in accordance with Rule 108(1)(a) of the Election Rules made pursuant to the Representation of the People Act, Chap. 2:01.

ELECTION PETITIONS—CONTINUED

4. That the facts on which the petitioner relies are as follows:
- (i) In consequence of section 69 (1) of the Constitution of Trinidad and Tobago (Act 4 of 1976) a general election came to be held on 7th day of September 2015.
 - (ii) This involved and included an election of a Member of the House of Representatives for the constituency of La Horquetta/Talparo, the subject of this petition.
 - (iii) The Constitution, being the supreme law of Trinidad and Tobago, required by Section 46 that such member be elected in the manner provided by Parliament.
 - (iv) The Representation of the People Act, Chap. 2:01 is an Act, amongst other things, to regulate the holding of elections of members of the House of Representatives.
 - (v) By Section 161 (3) of the Representation of the People Act the Election Rules are deemed to have been made under Section 161, which section enables the President to make rules for carrying the purposes of the Act into effect.
 - (vi) The Election Rules by clear statutory intention, purpose and design provide a timetable and precise mechanism for the conduct of elections. The electors and citizens of Trinidad and Tobago proceed in their preparation, conduct and otherwise on the footing that the Rules will be met.
 - (vii) By Rule 27 (1) of the Election Rules, subject to Rule 27(2), the taking of the poll at each polling station shall be between six o'clock in the morning and six o'clock in the afternoon of the same day. Rule 27 (2) provides for the circumstance of those electors who, at the hour of closing, are within the polling station; such electors are entitled to vote. Rule 58 requires the Presiding Officer to record in the polling station diary the hour at which the poll was closed and the number of persons who voted at that polling station as recorded on the stub of the last ballot paper issued excluding the total number of destroyed and spoiled ballots. The Presiding Officer is required to sign the record in the polling station diary and cause the Deputy Presiding Officer, the Poll Clerk and any candidate or their agents who are present to append their signatures as well.
 - (viii) By Rule 104, the Returning Officer is required to publicly declare the result of the poll as soon as it is ascertained, and announce the candidate for whom most votes have been given to be elected as the member for the electoral district.
 - (ix) Rule 56 provides the only possibility of suspension or adjournment of the poll.
 - (x) Under Section 34 of Representation of the People Act, the President can authorise the adjournment of the poll if satisfied of certain conditions. This power could have been exercised if the Returning Officer to whom the writ of election was issued thought it necessary, since the conditions for an adjournment under Rule 56 did not apply.
 - (xi) The time and length of the poll bears on the expectation of the electors and the manner in which electors conduct themselves. Further, it affects how electors organise their time and how those interested in the course of the elections conduct themselves. Further, the identified time of the poll will be made known to the electors prior to polling day so that electors can make a choice as to whether to be available to vote or not.
 - (xii) By Rule 57 immediately after the last elector has voted after 6.00pm the presiding officer is required to announce the close of the poll.
 - (xiii) By writ of election His Excellency the President, amongst other things, commanded the Returning Officer of the Electoral District of La Horquetta/Talparo, to cause election to be made according to law of a Member to serve in the House of Representatives and to cause the name of such member when so elected to be certified to the Chief Election Officer on the seventh day next following the declaration by the Returning Officer of the result of the poll.
 - (xiv) By Section 33(4) of the Representation of the People Act the Returning Officer was obliged on receipt of the writ to endorse the date of such receipt and to hold the election in accordance with the Election Rules.

ELECTION PETITIONS—CONTINUED

- (xv) Further, by section 35 of the Representation of the People Act the proceedings at the election were required to be conducted in accordance with the Election Rules.
- (xvi) There were in the said constituency and at the polling stations within the said constituency breaches of the Election Rules; such breaches materially and substantially affected the poll. Further, such breaches render that which occurred as not being an election or poll within the Election Rules and accordingly not within the Representation of the People Act. It was therefore an election or poll that was conducted not in the manner provided by Parliament.
- (xvii) In particular Rule 27 paragraph (1) was broken; the poll was not taken between 6 o'clock in the morning and six o'clock in the afternoon of the same day. On the contrary the poll was unlawfully, and in breach of the Election Rules, extended to at least seven o'clock in the afternoon or evening. Rule 27 (2) was also broken. That rule requires that at 6 o'clock in the evening any electors within the polling stations have sufficient time to enable them to vote; the rule does not require or allow its terms to be satisfied at any other time.
- (xviii) Further, Rule 57 was breached; the presiding officer did not immediately after the last elector had voted after 6:00p.m. announce the close of the poll.
- (xix) Further the operation of other rules that depend on or relate to the required closing of the poll were adversely affected.
- (xx) There is no power whether given by the Constitution, the Representation of the People Act, the Election Rules or otherwise to alter the hours of polling.
- (xxi) By section 71(1) of the Constitution there is to be an Elections and Boundaries Commission. Section 71, beyond providing for the existence of the Commission, deals with its membership, length of office, quorum, and regulation of its own procedure and provision of staff.
- (xxii) Section 73 of the Constitution provides that the election of members of the House of Representatives is by secret ballot in accordance with the first past the post system.
- (xxiii) The Representation of the People Act is an Act to re-enact and amend the law that provides for registration of electors at elections, the regulation of the holding of such elections and for the determination of questions as to membership of Parliament.
- (xxiv) Subject to section 71 of the Constitution, in the exercise of its functions under the Constitution, the Commission has to exercise general direction and supervision of the administrative conduct of elections and enforce, on the part of Election Officers, fairness, impartiality and compliance with the Representation of the People Act.
- (xxv) The Constitution does not permit the Commission or the Returning Officers or any other Election Officer to amend, alter or otherwise vary the application of the Election Rules made by Parliament. Any such action is clearly outside the scope of the power vested in the Commission under Section 71 of the Constitution.
- (xxvi) A writ of election is issued by the President for each constituency, addressed to the Returning Officer for the constituency (also called an electoral district).
- (xxvii) There has to be a Chief Election Officer who, before entering into his duties, has to swear a particular oath requiring him to perform his duties in accordance with the provisions of the Representation of the People Act and any Rules made thereunder.
- (xxviii) The Chief Election officer is therefore bound to carry out his functions and make all decisions in accordance with the provisions of the Act and the Rules. He has no power to vary the application of the Rules.
- (xxix) On receipt of the writ the Returning Officer is required, by section 33(4), to endorse the date of receipt and proceed to hold the election in accordance with the Election Rules.
- (xxx) By section 61 an Election Officer, which expression includes both Returning Officers and the Chief Election Officer, is guilty of a corrupt practice if he permits any person to vote at a polling station at which he knows or has reasonable cause to believe that such person is not entitled to vote.

1432—Continued

ELECTION PETITIONS—CONTINUED

- (xxxix) By section 161(3) the Election Rules are deemed to have been made under section 161(1), which enables the President to make Rules to carry the Act into effect.
- (xxxii) The role and function of a Returning Officer is to apply the law without fear or favour, giving equal treatment to every candidate and voter. There is no scope for bending the rules to accommodate voters or candidates who do not comply with statutory requirements of the Act or more specifically the Election Rules. Any voting that is permitted outside the 6.00am to 6.00pm timeframe on the day of the election must be specifically provided for, as in the case of special voters or persons inside the polling station at the time of the close of the poll. Any other accommodation or adjustment to the rules is illegal.
- (xxxiii) To extend the hours of the poll is a flagrant breach of the Election Rules. Accordingly, it is clear that there were substantial breaches of the Election Rules through the illegal and ultra vires actions of the Chief Election Officer, the Returning Officer and other Election Officers.
- (xxxiv) The Returning Officer acted illegally in purporting to extend the time for the taking of the poll.
- (xxxv) In the premises there was no election in accordance with the Representation of the People Act and the Election Rules made thereunder and Maxie Cuffie was not duly elected.
- (xxxvi) Election officers, in breach of Section 61 of the Representation of the People Act permitted persons to vote within the said electoral district or constituency at a time which they knew or had reasonable cause to believe such persons were not entitled to vote, in that persons were permitted after 6:00 p.m., i.e. after the close of poll, and before 7:00 p.m. to vote; there is no entitlement in law to vote in that hour. Such permission may constitute a corrupt practice.
5. Election Officers, as defined in the Representation of the People Act, permitting persons to vote when not entitled to vote, may have committed a corrupt practice under Section 61(d) of the Representation of the People Act. This corrupt practice occurred on the 7th day of September 2015 when the Chief Election Officer purported, through the Elections and Boundaries Commission, to demand or require polling stations on Trinidad (but not Tobago) to stay open after the close of poll for receipt of votes by electors who, in accordance with the law and specifically, the Election Rules, were not entitled to vote. It also occurred on 7th day of September 2015 in the said electoral district or constituency when the Returning Officer, Election Clerks, Presiding Officers, Deputy Presiding Officers and Poll Clerks kept polling stations open after the close of poll and in breach of the law and Election Rules permitted persons to vote who were not entitled to vote, the hours of poll having passed.

The Petitioner therefore prays:

1. That it may be determined that that Mr. Maxie Cuffie was not duly elected or returned for the constituency of La Horquetta/Talparo, and that the election was void;
2. That a declaration be given that the decision of the Returning Officer to extend the hours of the polls is ultra vires, illegal, null and void and of no effect;
3. That the Honourable Court grant all necessary and consequential orders and directions and such further and/or other relief as the Court shall deem fit.

Dated this 19th day of September, 2015.

/s/BONIFACIO MAHABIR
PETITIONER

This Petition was presented by **KENT SAMLAL**, Attorney-at-Law for the Petitioner, whose address for service is **FREEDOM LAW CHAMBERS**, #3 Harris Street, San Fernando.

1432—Continued

ELECTION PETITIONS—CONTINUED

It is intended to serve a copy of this petition on:

1. Mr. Maxie Cuffie;
2. The Returning Officer for the constituency of La Horquetta/Talparo;
3. The Elections and Boundaries, Scott House 134-138 Frederick Street, Port-of-Spain.

Dated this 18th day of September, 2015.

/s/KENT SAMLAL
FREEDOM LAW CHAMBERS
NO.3 HARRIS STREET
SAN FERNANDO
ATTORNEY-AT-LAW FOR THE PETITIONER

The **COURT OFFICE** is at the High Court of Justice, Court Street, San Fernando telephone number 652-3771. The office is open between [8.00 am] and [4.00pm] Mondays to Fridays except Public Holidays and Court Holidays and Court Holidays.

Petition published pursuant to section 107 (5) of the Representation of the People Act Chap. 2:01 and Rule 7(3) of the Election Proceedings Rules.

Dated this 28th day of September, 2015.

**Jade Rodriguez
Registrar
Supreme Court**

1433

ELECTION PETITIONS—CONTINUED

Nature of Case: Administrative: Election Matters

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE HIGH COURT OF JUSTICE
SUB-REGISTRY, SAN FERNANDO**

Claim No. CV 2015-3128

**IN THE MATTER OF
THE REPRESENTATION OF THE PEOPLE ACT, CHAP. 2:01**

AND

**IN THE MATTER OF A PARLIAMENTARY ELECTION FOR
THE CONSTITUENCY OF SAN FERNANDO WEST
HELD ON THE 7TH DAY OF SEPTEMBER 2015**

AND

IN THE MATTER OF THE ELECTION PROCEEDINGS RULES, 2001

BETWEEN

SHEVANAND GOPEESINGH

PETITIONER

AND

FARIS AL-RAWI

FIRST RESPONDENT

AND

**THE RETURNING OFFICER FOR THE CONSTITUENCY
OF SAN FERNANDO WEST
(DEEMED TO BE A RESPONDENT BY VIRTUE OF SEC 107(2) OF
THE REPRESENTATION OF THE PEOPLE ACT)**

SECOND RESPONDENT

The Petition of **SHEVANAND GOPEESINGH** of #67 Seaview Parkway, Gulf View, La Romain in the Republic of Trinidad and Tobago shows:

1. That the Petitioner is a person who had a right to vote in the general election held on the 7th day of September 2015 in the constituency of San Fernando West.
2. That the election was held on 7th day of September 2015 when Raziah Ahmed Faris Al Rawi (the First Respondent) and Jowelle DeSouza were candidates for the said election in the constituency of San Fernando West and on the 10th day of September 2015 the Returning Officer declared that the said Faris Al Rawi received ten thousand one hundred and twelve (10,112) votes and the said Raziah Ahmed received six thousand eight hundred and two (6,802) votes and declared Faris Al Rawi as being duly elected.
3. This petition is presented within eight (8) days of the 15th day of September 2015, such date being the date at which the Returning Officer submitted a writ of return in accordance with Rule 108(1)(a) of the Election Rules made pursuant to the Representation of the People Act, Chap. 2:01.
4. That the facts on which the petitioner relies are as follows:

ELECTION PETITIONS—CONTINUED

- (i) In consequence of section 69 (1) of the Constitution of Trinidad and Tobago (Act 4 of 1976) a general election came to be held on 7th day of September 2015.
- (ii) This involved and included an election of a Member of the House of Representatives for the constituency of San Fernando West, the subject of this petition.
- (iii) The Constitution, being the supreme law of Trinidad and Tobago, required by Section 46 that such member be elected in the manner provided by Parliament.
- (iv) The Representation of the People Act, Chap. 2:01 is an Act, amongst other things, to regulate the holding of elections of members of the House of Representatives.
- (v) By Section 161 (3) of the Representation of the People Act the Election Rules are deemed to have been made under Section 161, which section enables the President to make rules for carrying the purposes of the Act into effect.
- (vi) The Election Rules by clear statutory intention, purpose and design, provide a timetable and precise mechanism for the conduct of elections. The electors and citizens of Trinidad and Tobago proceed in their preparation, conduct and otherwise on the footing that the Rules will be met.
- (vii) By Rule 27 (1) of the Election Rules, subject to Rule 27(2), the taking of the poll at each polling station shall be between six o'clock in the morning and six o'clock in the afternoon of the same day. Rule 27 (2) provides for the circumstance of those electors who, at the hour of closing, are within the polling station; such electors are entitled to vote. Rule 58 requires the Presiding Officer to record in the polling station diary the hour at which the poll was closed and the number of persons who voted at that polling station as recorded on the stub of the last ballot paper issued excluding the total number of destroyed and spoiled ballots. The Presiding Officer is required to sign the record in the polling station diary and cause the Deputy Presiding Officer, the Poll Clerk and any candidate or their agents who are present to append their signatures as well.
- (viii) Rule 56 provides the only possibility of suspension or adjournment of the poll in certain circumstances, but does not permit an extension of time for voting.
- (ix) Under Section 34 of Representation of the People Act, the President can authorise the adjournment of the poll if satisfied of certain conditions.
- (x) This power could have been exercised if the Returning Officer to whom the writ of election was issued thought it necessary, since the conditions for an adjournment under Rule 56 did not apply.
- (xi) The time and length of the poll bears on the expectation of the electors and the manner in which electors conduct themselves. Further, it affects how electors organise their time and how those interested in the course of the elections conduct themselves. Further, the identified time of the poll will be made known to the electors prior to polling day so that electors can make a choice as to whether to be available to vote or not.
- (xii) By Rule 57 immediately after the last elector has voted after 6.00pm the presiding officer is required to announce the close of the poll.
- (xiii) By writ of election His Excellency the President, amongst other things, commanded the Returning Officer of the Electoral District of San Fernando West to cause election of a Member to serve in the House of Representatives to be made according to law and to cause the name of such member when so elected to be certified to the Chief Election Officer on the seventh day next following the declaration by the Returning Officer of the result of the poll.
- (xiv) By Section 33(4) of the Representation of the People Act the Returning Officer was obliged on receipt of the writ to endorse the date of such receipt and to hold the election in accordance with the Election Rules.
- (xv) Further, by section 35 of the Representation of the People Act the proceedings at the election were required to be conducted in accordance with the Election Rules.
- (xvi) There were in the said constituency and at the polling stations within the said constituency breaches of the Election Rules; such breaches materially and substantially affected the poll. Further, such breaches render that which occurred as

ELECTION PETITIONS—CONTINUED

- not being an election or poll within the Election Rules and accordingly not within the Representation of the People Act. It was therefore an election or poll that was conducted not in the manner provided by Parliament.
- (xvii) In particular Rule 27 paragraph (1) was broken; the poll was not taken between six o'clock in the morning and six o'clock in the afternoon of the same day. On the contrary, the poll was unlawfully, and in breach of the Election Rules, extended to at least seven o'clock in the afternoon or evening. Rule 27 (2) was also broken. That rule requires that at 6 o'clock in the evening any electors within the polling stations have sufficient time to enable them to vote; the rule does not require or allow its terms to be satisfied at any other time.
- (xviii) Further, Rule 57 was breached; the presiding officer did not immediately after the last elector had voted after 6:00p.m. announce the close of the poll.
- (xix) Further the operation of other rules that depend on or relate to the required closing of the poll were adversely affected.
- (xx) There is no power whether given by the Constitution, the Representation of the People Act, the Election Rules or otherwise to alter the hours of polling.
- (xxi) The Representation of the People Act is an Act to re-enact and amend the law that provides for registration of electors at elections, the regulation of the holding of such elections and for the determination of questions as to membership of Parliament. The provisions of the Act and the Rules made thereunder are therefore the guiding principles by which the election must be conducted.
- (xxii) The Constitution does not permit the Returning Officer or any other Election Officer to amend, alter or otherwise vary the application of the Election Rules made by Parliament.
- (xxiii) A writ of election is issued by the President for each constituency, addressed to the Returning Officer for the constituency (also called an electoral district).
- (xxiv) There has to be a Chief Election Officer who, before entering into his duties, has to swear a particular oath requiring him to perform his duties in accordance with the provisions of the Representation of the People Act and any Rules made thereunder.
- (xxv) The Chief Election officer is therefore bound to carry out his functions and make all decisions in accordance with the provisions of the Act and the Rules. He has no power to vary the application of the Rules.
- (xxvi) By section 61 an Election Officer, which expression includes both Returning Officers and the Chief Election Officer, is guilty of a corrupt practice if he permits any person to vote at a polling station at which he knows or has reasonable cause to believe that such person is not entitled to vote.
- (xxvii) By section 161(3) the Election Rules are deemed to have been made under section 161(1), which enables the President to make Rules to carry the Act into effect.
- (xxviii) The role and function of a Returning Officer is to apply the law without fear or favour, giving equal treatment to every candidate and voter. There is no scope for bending the rules to accommodate voters or candidates who do not comply with statutory requirements of the Act or more specifically the Election Rules. Any voting that is permitted outside the 6.00am to 6.00pm timeframe on the day of the election must be specifically provided for, as in the case of special voters or persons inside the polling station at the time of the close of the poll. Any other accommodation or adjustment to the rules is illegal.
- (xxix) To extend the hours of the poll is a flagrant breach of the Election Rules. Accordingly, it is clear that there were substantial breaches of the Election Rules through the illegal and ultra vires actions of the Returning Officer and other Election Officers.
- (xxx) The Returning Officer acted illegally in purporting to extend the time for the taking of the poll.
- (xxxi) In the premises, there was no election in accordance with the Representation of the People Act and the Election Rules made thereunder and Faris Al Rawi was not duly elected.

ELECTION PETITIONS—CONTINUED

(xxxii) Election officers including the Returning Officer in the constituency of San Fernando West, in breach of Section 61 of the Representation of the People Act, permitted persons to vote within the said electoral district or constituency at a time which they knew or had reasonable cause to believe such persons were not entitled to vote, in that persons were permitted after 6:00 p.m., i.e. after the close of poll, and before 7:00 p.m. to vote; there is no entitlement in law to vote in that hour. Such permission may constitute a corrupt practice.

5. Election Officers, as defined in the Representation of the People Act, permitting persons to vote when not entitled to vote, may have committed a corrupt practice under Section 61(d) of the Representation of the People Act. This corrupt practice occurred on the 7th day of September 2015 when the Chief Election Officer purported, through the Elections and Boundaries Commission, to demand or require polling stations on Trinidad (but not Tobago) to stay open after the close of poll for receipt of votes by electors who, in accordance with the law and specifically, the Election Rules, were not entitled to vote. It also occurred on 7th day of September 2015 in the said electoral district or constituency when the Returning Officer, Election Clerks, Presiding Officers, Deputy Presiding Officers and Poll Clerks kept polling stations open after the close of poll and in breach of the law and Election Rules permitted persons to vote who were not entitled to vote, the hours of poll having passed.
6. The Returning Officer and other election officers have therefore acted in breach of:
 - a. The Election Rules;
 - b. The writ of election issued by His Excellency the President; and
 - c. The Oath taken by all Election Officers.

The Petitioner therefore prays:

1. That it may be determined that that Mr. Faris Al Rawi was not duly elected or returned for the constituency of San Fernando, and that the election was void;
2. That a declaration be given that the decision of the Returning Officer to extend the hours of the polls is ultra vires, illegal, null and void and of no effect;
3. That the Honourable Court grant all necessary and consequential orders and directions and such further and/or other relief as the Court shall deem fit.

Dated this 21st day of September, 2015.

/s/ SHEVANAND GOPEESINGH
PETITIONER

This Petition was presented by **KENT SAMLAL**, Attorney-at-Law for the Petitioner, whose address for service is **FREEDOM LAW CHAMBERS**, #3 Harris Street, San Fernando.

It is intended to serve a copy of this petition on:

1. Mr. Faris Al Rawi;
2. The Returning Officer for the constituency of San Fernando West;
3. The Elections and Boundaries, Scott House 134-138 Frederick Street, Port-of-Spain.

Dated this 21st day of September, 2015.

/s/KENT SAMLAL
FREEDOM LAW CHAMBERS
NO.3 HARRIS STREET
SAN FERNANDO
ATTORNEY-AT-LAW FOR THE PETITIONER

1433—Continued

ELECTION PETITIONS—CONTINUED

The **COURT OFFICE** is at the High Court of Justice, Court Street, San Fernando telephone number 652-3771. The office is open between [8.00 am] and [4.00pm] Mondays to Fridays except Public Holidays and Court Holidays and Court Holidays.

Petition published pursuant to section 107 (5) of the Representation of the People Act Chap. 2:01 and Rule 7(3) of the Election Proceedings Rules.

Dated this 28th day of September, 2015.

Jade Rodriguez
Registrar
Supreme Court

ELECTION PETITIONS—CONTINUED

Nature of Case: Administrative: Election Matters

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE
SUB-REGISTRY, SAN FERNANDO

Claim No. CV 2015-03107

IN THE MATTER OF
THE REPRESENTATION OF THE PEOPLE ACT, CHAP. 2:01

AND

IN THE MATTER OF A PARLIAMENTARY ELECTION FOR
THE CONSTITUENCY OF ST. JOSEPH
HELD ON THE 7TH DAY OF SEPTEMBER 2015

AND

IN THE MATTER OF
THE ELECTION PROCEEDINGS RULES, 2001

BETWEEN
VASANT VIVEKANAND BHARATH

PETITIONER

AND
TERRENCE DEYALSINGH

FIRST RESPONDENT

AND
THE RETURNING OFFICER FOR THE CONSTITUENCY OF ST. JOSEPH
(DEEMED TO BE A RESPONDENT BY VIRTUE OF SEC 107(2) OF THE
REPRESENTATION OF THE PEOPLE ACT)

SECOND RESPONDENT

The Petition of **VASANT VIVEKANAND BHARATH** of No. 2 Hodge Trace, St. Augustine in the Republic of Trinidad and Tobago shows:

1. That the Petitioner is a person who was validly nominated as a candidate at the general election held on the 7th day of September 2015 in the constituency of St. Joseph.
2. That the election was held on 7th day of September 2015 when Vasant Vivekanand Bharath (the Petitioner) Terrence Deyalsingh (the First Respondent) and Errol Fabien were candidates for the said election in the constituency of St. Joseph and on the 10th day of September 2015 the Returning Officer declared that the said Terrence Deyalsingh received ten thousand five hundred and thirty six (10,536) votes and the said Vasant Vivekanand Bharath received eight thousand nine hundred and three (8,903) votes and declared Terrence Deyalsingh as being duly elected.
3. This petition is presented within eight (8) days of the 15th day of September 2015, such date being the date at which the Returning Officer submitted a writ of return in accordance with Rule 108(1)(a) of the Election Rules made pursuant to the Representation of the People Act, Chap. 2:01.
4. That the facts on which the petitioner relies are as follows:
 - (i) In consequence of section 69 (1) of the Constitution of Trinidad and Tobago (Act 4 of 1976) a general election came to be held on 7th day of September 2015.

ELECTION PETITIONS—CONTINUED

- (ii) This involved and included an election of a Member of the House of Representatives for the constituency of St. Joseph, the subject of this petition.
- (iii) The Constitution, being the supreme law of Trinidad and Tobago, required by Section 46 that such member be elected in the manner provided by Parliament.
- (iv) The Representation of the People Act, Chap. 2:01 is an Act, amongst other things, to regulate the holding of elections of members of the House of Representatives.
- (v) By Section 161 (3) of the Representation of the People Act the Election Rules are deemed to have been made under Section 161, which section enables the President to make rules for carrying the purposes of the Act into effect.
- (vi) The Election Rules by clear statutory intention, purpose and design, provide a timetable and precise mechanism for the conduct of elections. The electors and citizens of Trinidad and Tobago proceed in their preparation, conduct and otherwise on the footing that the Rules will be met.
- (vii) By Rule 27 (1) of the Election Rules, subject to Rule 27(2), the taking of the poll at each polling station shall be between six o'clock in the morning and six o'clock in the afternoon of the same day. Rule 27 (2) provides for the circumstance of those electors who, at the hour of closing, are within the polling station; such electors are entitled to vote. Rule 58 requires the Presiding Officer to record in the polling station diary the hour at which the poll was closed and the number of persons who voted at that polling station as recorded on the stub of the last ballot paper issued excluding the total number of destroyed and spoiled ballots. The Presiding Officer is required to sign the record in the polling station diary and cause the Deputy Presiding Officer, the Poll Clerk and any candidate or their agents who are present to append their signatures as well.
- (viii) Rule 56 provides the only possibility of suspension or adjournment of the poll in certain circumstances, but does not permit an extension of time for voting.
- (ix) Under Section 34 of Representation of the People Act, the President can authorise the adjournment of the poll if satisfied of certain conditions.
- (x) This power could have been exercised if the Returning Officer to whom the writ of election was issued thought it necessary, since the conditions for an adjournment under Rule 56 did not apply.
- (xi) The time and length of the poll bears on the expectation of the electors and the manner in which electors conduct themselves. Further, it affects how electors organise their time and how those interested in the course of the elections conduct themselves. Further, the identified time of the poll will be made known to the electors prior to polling day so that electors can make a choice as to whether to be available to vote or not.
- (xii) By Rule 57 immediately after the last elector has voted after 6.00pm the presiding officer is required to announce the close of the poll.
- (xiii) By writ of election His Excellency the President, amongst other things, commanded the Returning Officer of the Electoral District of St. Joseph, to cause election of a Member to serve in the House of Representatives to be made according to law and to cause the name of such member when so elected to be certified to the Chief Election Officer on the seventh day next following the declaration by the Returning Officer of the result of the poll.
- (xiv) By Section 33(4) of the Representation of the People Act the Returning Officer was obliged on receipt of the writ to endorse the date of such receipt and to hold the election in accordance with the Election Rules.
- (xv) Further, by section 35 of the Representation of the People Act the proceedings at the election were required to be conducted in accordance with the Election Rules.
- (xvi) There were in the said constituency and at the polling stations within the said constituency breaches of the Election Rules; such breaches materially and substantially affected the poll. Further, such breaches render that which occurred as not being an election or poll within the Election Rules and accordingly not within

ELECTION PETITIONS—CONTINUED

- the Representation of the People Act. It was therefore an election or poll that was conducted not in the manner provided by Parliament.
- (xvii) In particular Rule 27 paragraph (1) was broken; the poll was not taken between six o'clock in the morning and six o'clock in the afternoon of the same day. On the contrary, the poll was unlawfully, and in breach of the Election Rules, extended to at least seven o'clock in the afternoon or evening. Rule 27 (2) was also broken. That rule requires that at 6 o'clock in the evening any electors within the polling stations have sufficient time to enable them to vote; the rule does not require or allow its terms to be satisfied at any other time.
- (xviii) Further, Rule 57 was breached; the presiding officer did not immediately after the last elector had voted after 6:00p.m. announce the close of the poll.
- (xix) Further the operation of other rules that depend on or relate to the required closing of the poll were adversely affected.
- (xx) There is no power whether given by the Constitution, the Representation of the People Act, the Election Rules or otherwise to alter the hours of polling.
- (xxi) The Representation of the People Act is an Act to re-enact and amend the law that provides for registration of electors at elections, the regulation of the holding of such elections and for the determination of questions as to membership of Parliament. The provisions of the Act and the Rules made thereunder are therefore the guiding principles by which the election must be conducted.
- (xxii) The Constitution does not permit the Returning Officer or any other Election Officer to amend, alter or otherwise vary the application of the Election Rules made by Parliament.
- (xxiii) A writ of election is issued by the President for each constituency, addressed to the Returning Officer for the constituency (also called an electoral district).
- (xxiv) There has to be a Chief Election Officer who, before entering into his duties, has to swear a particular oath requiring him to perform his duties in accordance with the provisions of the Representation of the People Act and any Rules made thereunder.
- (xxv) The Chief Election officer is therefore bound to carry out his functions and make all decisions in accordance with the provisions of the Act and the Rules. He has no power to vary the application of the Rules.
- (xxvi) By section 61 an Election Officer, which expression includes both Returning Officers and the Chief Election Officer, is guilty of a corrupt practice if he permits any person to vote at a polling station at which he knows or has reasonable cause to believe that such person is not entitled to vote.
- (xxvii) By section 161(3) the Election Rules are deemed to have been made under section 161(1), which enables the President to make Rules to carry the Act into effect.
- (xxviii) The role and function of a Returning Officer is to apply the law without fear or favour, giving equal treatment to every candidate and voter. There is no scope for bending the rules to accommodate voters or candidates who do not comply with statutory requirements of the Act or more specifically the Election Rules. Any voting that is permitted outside the 6.00am to 6.00pm timeframe on the day of the election must be specifically provided for, as in the case of special voters or persons inside the polling station at the time of the close of the poll. Any other accommodation or adjustment to the rules is illegal.
- (xxix) To extend the hours of the poll is a flagrant breach of the Election Rules. Accordingly, it is clear that there were substantial breaches of the Election Rules through the illegal and ultra vires actions of the Returning Officer and other Election Officers.
- (xxx) The Returning Officer acted illegally in purporting to extend the time for the taking of the poll.
- (xxxi) In the premises, there was no election in accordance with the Representation of the People Act and the Election Rules made thereunder and Terrence Deyalsingh was not duly elected.

ELECTION PETITIONS—CONTINUED

(xxxii) Election officers including the Returning Officer in the constituency of St. Joseph, in breach of Section 61 of the Representation of the People Act, permitted persons to vote within the said electoral district or constituency at a time which they knew or had reasonable cause to believe such persons were not entitled to vote, in that persons were permitted after 6:00 p.m., i.e. after the close of poll, and before 7:00 p.m. to vote; there is no entitlement in law to vote in that hour. Such permission may constitute a corrupt practice.

5. Election Officers, as defined in the Representation of the People Act, permitting persons to vote when not entitled to vote, may have committed a corrupt practice under Section 61(d) of the Representation of the People Act. This corrupt practice occurred on the 7th day of September 2015 when the Chief Election Officer purported, through the Elections and Boundaries Commission, to demand or require polling stations on Trinidad (but not Tobago) to stay open after the close of poll for receipt of votes by electors who, in accordance with the law and specifically, the Election Rules, were not entitled to vote. It also occurred on 7th day of September 2015 in the said electoral district or constituency when the Returning Officer, Election Clerks, Presiding Officers, Deputy Presiding Officers and Poll Clerks kept polling stations open after the close of poll and in breach of the law and Election Rules permitted persons to vote who were not entitled to vote, the hours of poll having passed.
6. The Returning Officer and other election officers have therefore acted in breach of:
 - a. The Election Rules;
 - b. The writ of election issued by His Excellency the President; and
 - c. The Oath taken by all Election Officers.

The Petitioner therefore prays:

1. That it may be determined that that Mr. Terrence Deyalsingh was not duly elected or returned for the constituency of St. Joseph, and that the election was void;
2. That a declaration be given that the decision of the Returning Officer to extend the hours of the polls is ultra vires, illegal, null and void and of no effect;
3. That the Honourable Court grant all necessary and consequential orders and directions and such further and/or other relief as the Court shall deem fit.

Dated this 22nd day of September, 2015.

/s/VASANT VIVEKANAND BHARATH
PETITIONER

This Petition was presented by **KENT SAMLAL**, Attorney-at-Law for the Petitioner, whose address for service is **FREEDOM LAW CHAMBERS**, #3 Harris Street, San Fernando.

It is intended to serve a copy of this petition on:

1. Mr. Terrence Deyalsingh;
2. The Returning Officer for the constituency of St. Joseph;
3. The Elections and Boundaries, Scott House 134-138 Frederick Street, Port-of-Spain.

Dated this 22nd day of September, 2015.

/s/KENT SAMLAL
FREEDOM LAW CHAMBERS
NO.3 HARRIS STREET
SAN FERNANDO
ATTORNEY-AT-LAW FOR THE PETITIONER

ELECTION PETITIONS—CONTINUED

The **COURT OFFICE** is at the High Court of Justice, Court Street, San Fernando telephone number 652-3771. The office is open between [8.00 am] and [4.00pm] Mondays to Fridays except Public Holidays and Court Holidays and Court Holidays.

Petition published pursuant to section 107 (5) of the Representation of the People Act Chap. 2:01 and Rule 7(3) of the Election Proceedings Rules.

Dated this 28th day of September, 2015.

**Jade Rodriguez
Registrar
Supreme Court**

ELECTION PETITIONS—CONTINUED

Nature of Case: Administrative: Election Matters

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. CV 2015-03129

IN THE MATTER OF
THE REPRESENTATION OF THE PEOPLE ACT, CHAP. 2:01

AND

IN THE MATTER OF A PARLIAMENTARY ELECTION FOR
THE CONSTITUENCY OF TOCO/SANGRE GRANDE
HELD ON THE 7TH DAY OF SEPTEMBER 2015
AND
IN THE MATTER OF THE ELECTION PROCEEDINGS RULES, 2001

BETWEEN

BRENT KEVON SANCHO

PETITIONER

AND

GLEND A JENNINGS-SMITH

FIRST RESPONDENT

AND

THE RETURNING OFFICER FOR THE CONSTITUENCY
OF TOCO/SANGRE GRANDE
(DEEMED TO BE A RESPONDENT BY VIRTUE OF SEC 107(2) OF
THE REPRESENTATION OF THE PEOPLE ACT)

SECOND RESPONDENT

The Petition of BRENT KEVON SANCHO of No. 8C Cotton Hill Road, Maraval, in the Republic of Trinidad and Tobago shows:

1. That the Petitioner is a person who was validly nominated as a candidate at the general election held on the 7th day of September 2015 in the constituency of Toco/Sangre Grande.
2. That the election was held on 7th day of September 2015 when Brent Kevon Sancho (the Petitioner) Glenda Jennings-Smith (the First Respondent) and Dayne Francois were candidates for the said election in the constituency of Toco/Sangre Grande and on the 15th day of September 2015 the Returning Officer declared that the said Glenda Jennings-Smith received twelve thousand and five (12,005) votes and the said Brent Kevon Sancho received eight thousand one hundred and one (8,101) votes and declared Glenda Jennings-Smith as being duly elected.
3. This petition is presented within eight (8) days of the 15th day of September 2015, such date being the date at which the Returning Officer submitted a writ of return in accordance with Rule 108(1)(a) of the Election Rules made pursuant to the Representation of the People Act, Chap. 2:01.
4. That the facts on which the petitioner relies are as follows:
 - (i) In consequence of section 69 (1) of the Constitution of Trinidad and Tobago (Act 4 of 1976) a general election came to be held on 7th day of September 2015.

ELECTION PETITIONS—CONTINUED

- (ii) This involved and included an election of a Member of the House of Representatives for the constituency of Toco/Sangre Grande, the subject of this petition.
- (iii) The Constitution, being the supreme law of Trinidad and Tobago, required by Section 46 that such member be elected in the manner provided by Parliament.
- (iv) The Representation of the People Act, Chap. 2:01 is an Act, amongst other things, to regulate the holding of elections of members of the House of Representatives.
- (v) By Section 161 (3) of the Representation of the People Act the Election Rules are deemed to have been made under Section 161, which section enables the President to make rules for carrying the purposes of the Act into effect.
- (vi) The Election Rules by clear statutory intention, purpose and design, provide a timetable and precise mechanism for the conduct of elections. The electors and citizens of Trinidad and Tobago proceed in their preparation, conduct and otherwise on the footing that the Rules will be met.
- (vii) By Rule 27 (1) of the Election Rules, subject to Rule 27(2), the taking of the poll at each polling station shall be between six o'clock in the morning and six o'clock in the afternoon of the same day. Rule 27 (2) provides for the circumstance of those electors who, at the hour of closing, are within the polling station; such electors are entitled to vote. Rule 58 requires the Presiding Officer to record in the polling station diary the hour at which the poll was closed and the number of persons who voted at that polling station as recorded on the stub of the last ballot paper issued excluding the total number of destroyed and spoiled ballots. The Presiding Officer is required to sign the record in the polling station diary and cause the Deputy Presiding Officer, the Poll Clerk and any candidate or their agents who are present to append their signatures as well.
- (viii) Rule 56 provides the only possibility of suspension or adjournment of the poll in certain circumstances, but does not permit an extension of time for voting.
- (ix) Under Section 34 of Representation of the People Act, the President can authorise the adjournment of the poll if satisfied of certain conditions.
- (x) This power could have been exercised if the Returning Officer to whom the writ of election was issued thought it necessary, since the conditions for an adjournment under Rule 56 did not apply.
- (xi) The time and length of the poll bears on the expectation of the electors and the manner in which electors conduct themselves. Further, it affects how electors organise their time and how those interested in the course of the elections conduct themselves. Further, the identified time of the poll will be made known to the electors prior to polling day so that electors can make a choice as to whether to be available to vote or not.
- (xii) By Rule 57 immediately after the last elector has voted after 6.00pm the presiding officer is required to announce the close of the poll.
- (xiii) By writ of election His Excellency the President, amongst other things, commanded the Returning Officer of the Electoral District of Toco/Sangre Grande, to cause election of a Member to serve in the House of Representatives to be made according to law and to cause the name of such member when so elected to be certified to the Chief Election Officer on the seventh day next following the declaration by the Returning Officer of the result of the poll.
- (xiv) By Section 33(4) of the Representation of the People Act the Returning Officer was obliged on receipt of the writ to endorse the date of such receipt and to hold the election in accordance with the Election Rules.
- (xv) Further, by section 35 of the Representation of the People Act the proceedings at the election were required to be conducted in accordance with the Election Rules.
- (xvi) There were in the said constituency and at the polling stations within the said constituency breaches of the Election Rules; such breaches materially and substantially affected the poll. Further, such breaches render that which occurred as not being an election or poll within the Election Rules and accordingly not within

ELECTION PETITIONS—CONTINUED

- the Representation of the People Act. It was therefore an election or poll that was conducted not in the manner provided by Parliament.
- (xvii) In particular Rule 27 paragraph (1) was broken; the poll was not taken between six o'clock in the morning and six o'clock in the afternoon of the same day. On the contrary, the poll was unlawfully, and in breach of the Election Rules, extended to at least seven o'clock in the afternoon or evening. Rule 27 (2) was also broken. That rule requires that at 6 o'clock in the evening any electors within the polling stations have sufficient time to enable them to vote; the rule does not require or allow its terms to be satisfied at any other time.
- (xviii) Further, Rule 57 was breached; the presiding officer did not immediately after the last elector had voted after 6:00p.m. announce the close of the poll.
- (xix) Further the operation of other rules that depend on or relate to the required closing of the poll were adversely affected.
- (xx) There is no power whether given by the Constitution, the Representation of the People Act, the Election Rules or otherwise to alter the hours of polling.
- (xxi) The Representation of the People Act is an Act to re-enact and amend the law that provides for registration of electors at elections, the regulation of the holding of such elections and for the determination of questions as to membership of Parliament. The provisions of the Act and the Rules made thereunder are therefore the guiding principles by which the election must be conducted.
- (xxii) The Constitution does not permit the Returning Officer or any other Election Officer to amend, alter or otherwise vary the application of the Election Rules made by Parliament.
- (xxiii) A writ of election is issued by the President for each constituency, addressed to the Returning Officer for the constituency (also called an electoral district).
- (xxiv) There has to be a Chief Election Officer who, before entering into his duties, has to swear a particular oath requiring him to perform his duties in accordance with the provisions of the Representation of the People Act and any Rules made thereunder.
- (xxv) The Chief Election officer is therefore bound to carry out his functions and make all decisions in accordance with the provisions of the Act and the Rules. He has no power to vary the application of the Rules.
- (xxvi) By section 61 an Election Officer, which expression includes both Returning Officers and the Chief Election Officer, is guilty of a corrupt practice if he permits any person to vote at a polling station at which he knows or has reasonable cause to believe that such person is not entitled to vote.
- (xxvii) By section 161(3) the Election Rules are deemed to have been made under section 161(1), which enables the President to make Rules to carry the Act into effect.
- (xxviii) The role and function of a Returning Officer is to apply the law without fear or favour, giving equal treatment to every candidate and voter. There is no scope for bending the rules to accommodate voters or candidates who do not comply with statutory requirements of the Act or more specifically the Election Rules. Any voting that is permitted outside the 6.00am to 6.00pm timeframe on the day of the election must be specifically provided for, as in the case of special voters or persons inside the polling station at the time of the close of the poll. Any other accommodation or adjustment to the rules is illegal.
- (xxix) To extend the hours of the poll is a flagrant breach of the Election Rules. Accordingly, it is clear that there were substantial breaches of the Election Rules through the illegal and ultra vires actions of the Returning Officer and other Election Officers.
- (xxx) The Returning Officer acted illegally in purporting to extend the time for the taking of the poll.
- (xxxi) In the premises, there was no election in accordance with the Representation of the People Act and the Election Rules made thereunder and Glenda Jennings-Smith was not duly elected.

ELECTION PETITIONS—CONTINUED

(xxxii) Election officers including the Returning Officer in the constituency of Toco/Sangre Grande, in breach of Section 61 of the Representation of the People Act, permitted persons to vote within the said electoral district or constituency at a time which they knew or had reasonable cause to believe such persons were not entitled to vote, in that persons were permitted after 6:00 p.m., i.e. after the close of poll, and before 7:00 p.m. to vote; there is no entitlement in law to vote in that hour. Such permission may constitute a corrupt practice.

5. Election Officers, as defined in the Representation of the People Act, permitting persons to vote when not entitled to vote, may have committed a corrupt practice under Section 61(d) of the Representation of the People Act. This corrupt practice occurred on the 7th day of September 2015 when the Chief Election Officer purported, through the Elections and Boundaries Commission, to demand or require polling stations on Trinidad (but not Tobago) to stay open after the close of poll for receipt of votes by electors who, in accordance with the law and specifically, the Election Rules, were not entitled to vote. It also occurred on 7th day of September 2015 in the said electoral district or constituency when the Returning Officer, Election Clerks, Presiding Officers, Deputy Presiding Officers and Poll Clerks kept polling stations open after the close of poll and in breach of the law and Election Rules permitted persons to vote who were not entitled to vote, the hours of poll having passed.
6. The Returning Officer and other election officers have therefore acted in breach of:
 - a. The Election Rules;
 - b. The writ of election issued by His Excellency the President; and
 - c. The Oath taken by all Election Officers.

The Petitioner therefore prays:

1. That it may be determined that that Mrs. Glenda Jennings-Smith was not duly elected or returned for the constituency of Toco/Sangre Grande, and that the election was void;
2. That a declaration be given that the decision of the Returning Officer to extend the hours of the polls is ultra vires, illegal, null and void and of no effect;
3. That the Honourable Court grant all necessary and consequential orders and directions and such further and/or other relief as the Court shall deem fit.

Dated this 21st day of September, 2015.

/s/BRENT KEVON SANCHO
PETITIONER

This Petition was presented by **KENT SAMLAL**, Attorney-at-Law for the Petitioner, whose address for service is **FREEDOM LAW CHAMBERS**, #3 Harris Street, San Fernando.

It is intended to serve a copy of this petition on:

1. Mrs. Glenda Jennings-Smith;
2. The Returning Officer for the constituency of Toco/Sangre Grande;
3. The Elections and Boundaries, Scott House 134-138 Frederick Street, Port-of-Spain.

Dated this 21st day of September, 2015.

/s/KENT SAMLAL
FREEDOM LAW CHAMBERS
NO.3 HARRIS STREET
SAN FERNANDO
ATTORNEY-AT-LAW FOR THE PETITIONER

1435—Continued

ELECTION PETITIONS—CONTINUED

The **COURT OFFICE** is at the High Court of Justice, Court Street, San Fernando telephone number 652-3771. The office is open between [8.00 am] and [4.00pm] Mondays to Fridays except Public Holidays and Court Holidays and Court Holidays.

Petition published pursuant to section 107 (5) of the Representation of the People Act Chap. 2:01 and Rule 7(3) of the Election Proceedings Rules.

Dated this 28th day of September, 2015.

**Jade Rodriguez
Registrar
Supreme Court**

ELECTION PETITIONS—CONTINUED

Nature of Case: Administrative: Election Matters

REPUBLIC OF TRINIDAD AND TOBAGO

**IN THE HIGH COURT OF JUSTICE
SUB-REGISTRY, SAN FERNANDO**

Claim No. CV 2015-03126

**IN THE MATTER OF
THE REPRESENTATION OF THE PEOPLE ACT, CHAP. 2:01**

AND

**IN THE MATTER OF A PARLIAMENTARY ELECTION FOR
THE CONSTITUENCY OF TUNAPUNA
HELD ON THE 7TH DAY OF SEPTEMBER 2015**

AND

IN THE MATTER OF THE ELECTION PROCEEDINGS RULES, 2001

BETWEEN

WAYNE ANTHONY MUNRO

PETITIONER

AND

ESMOND FORDE

FIRST RESPONDENT

AND

**THE RETURNING OFFICER FOR THE CONSTITUENCY
OF TUNAPUNA
(DEEMED TO BE A RESPONDENT BY VIRTUE OF SEC 107(2) OF
THE REPRESENTATION OF THE PEOPLE ACT)**

SECOND RESPONDENT

The Petition of **WAYNE ANTHONY MUNRO** of 44 Fairley Street, Tunapuna in the Republic of Trinidad and Tobago shows:

1. That the Petitioner is a person who was validly nominated as a candidate at the general election held on the 7th day of September 2015 in the constituency of Tunapuna.
2. That the election was held on 7th day of September 2015 when Wayne Anthony Munro and Esmond Forde (the First Respondent) were candidates for the said election in the constituency of Tunapuna and on the 10th day of September 2015 the Returning Officer declared that the said Esmond Forde received eleven thousand one hundred and twenty eight (11,228) votes and the said Wayne Anthony Munro received seven thousand six hundred and thirteen (7,613) votes and declared Esmond Forde as being duly elected.
3. This petition is presented within eight (8) days of the 15th day of September 2015, such date being the date at which the Returning Officer submitted a writ of return in accordance with Rule 108(1)(a) of the Election Rules made pursuant to the Representation of the People Act, Chap. 2:01.
4. That the facts on which the petitioner relies are as follows:
 - (i) In consequence of section 69 (1) of the Constitution of Trinidad and Tobago (Act 4 of 1976) a general election came to be held on 7th day of September 2015.

ELECTION PETITIONS—CONTINUED

- (ii) This involved and included an election of a Member of the House of Representatives for the constituency of Tunapuna, the subject of this petition.
- (iii) The Constitution, being the supreme law of Trinidad and Tobago, required by Section 46 that such member be elected in the manner provided by Parliament.
- (iv) The Representation of the People Act, Chap. 2:01 is an Act, amongst other things, to regulate the holding of elections of members of the House of Representatives.
- (v) By Section 161 (3) of the Representation of the People Act the Election Rules are deemed to have been made under Section 161, which section enables the President to make rules for carrying the purposes of the Act into effect.
- (vi) The Election Rules by clear statutory intention, purpose and design, provide a timetable and precise mechanism for the conduct of elections. The electors and citizens of Trinidad and Tobago proceed in their preparation, conduct and otherwise on the footing that the Rules will be met.
- (vii) By Rule 27 (1) of the Election Rules, subject to Rule 27(2), the taking of the poll at each polling station shall be between six o'clock in the morning and six o'clock in the afternoon of the same day. Rule 27 (2) provides for the circumstance of those electors who, at the hour of closing, are within the polling station; such electors are entitled to vote. Rule 58 requires the Presiding Officer to record in the polling station diary the hour at which the poll was closed and the number of persons who voted at that polling station as recorded on the stub of the last ballot paper issued excluding the total number of destroyed and spoiled ballots. The Presiding Officer is required to sign the record in the polling station diary and cause the Deputy Presiding Officer, the Poll Clerk and any candidate or their agents who are present to append their signatures as well.
- (viii) Rule 56 provides the only possibility of suspension or adjournment of the poll in certain circumstances, but does not permit an extension of time for voting.
- (ix) Under Section 34 of Representation of the People Act, the President can authorise the adjournment of the poll if satisfied of certain conditions.
- (x) This power could have been exercised if the Returning Officer to whom the writ of election was issued thought it necessary, since the conditions for an adjournment under Rule 56 did not apply.
- (xi) The time and length of the poll bears on the expectation of the electors and the manner in which electors conduct themselves. Further, it affects how electors organise their time and how those interested in the course of the elections conduct themselves. Further, the identified time of the poll will be made known to the electors prior to polling day so that electors can make a choice as to whether to be available to vote or not.
- (xii) By Rule 57 immediately after the last elector has voted after 6.00pm the presiding officer is required to announce the close of the poll.
- (xiii) By writ of election His Excellency the President, amongst other things, commanded the Returning Officer of the Electoral District of Tunapuna to cause election of a Member to serve in the House of Representatives to be made according to law and to cause the name of such member when so elected to be certified to the Chief Election Officer on the seventh day next following the declaration by the Returning Officer of the result of the poll.
- (xiv) By Section 33(4) of the Representation of the People Act the Returning Officer was obliged on receipt of the writ to endorse the date of such receipt and to hold the election in accordance with the Election Rules.
- (xv) Further, by section 35 of the Representation of the People Act the proceedings at the election were required to be conducted in accordance with the Election Rules.
- (xvi) There were in the said constituency and at the polling stations within the said constituency breaches of the Election Rules; such breaches materially and substantially affected the poll. Further, such breaches render that which occurred as not being an election or poll within the Election Rules and accordingly not within

ELECTION PETITIONS—CONTINUED

- the Representation of the People Act. It was therefore an election or poll that was conducted not in the manner provided by Parliament.
- (xvii) In particular Rule 27 paragraph (1) was broken; the poll was not taken between six o'clock in the morning and six o'clock in the afternoon of the same day. On the contrary, the poll was unlawfully, and in breach of the Election Rules, extended to at least seven o'clock in the afternoon or evening. Rule 27 (2) was also broken. That rule requires that at 6 o'clock in the evening any electors within the polling stations have sufficient time to enable them to vote; the rule does not require or allow its terms to be satisfied at any other time.
- (xviii) Further, Rule 57 was breached; the presiding officer did not immediately after the last elector had voted after 6:00p.m. announce the close of the poll.
- (xix) Further the operation of other rules that depend on or relate to the required closing of the poll were adversely affected.
- (xx) There is no power whether given by the Constitution, the Representation of the People Act, the Election Rules or otherwise to alter the hours of polling.
- (xxi) The Representation of the People Act is an Act to re-enact and amend the law that provides for registration of electors at elections, the regulation of the holding of such elections and for the determination of questions as to membership of Parliament. The provisions of the Act and the Rules made thereunder are therefore the guiding principles by which the election must be conducted.
- (xxii) The Constitution does not permit the Returning Officer or any other Election Officer to amend, alter or otherwise vary the application of the Election Rules made by Parliament.
- (xxiii) A writ of election is issued by the President for each constituency, addressed to the Returning Officer for the constituency (also called an electoral district).
- (xxiv) There has to be a Chief Election Officer who, before entering into his duties, has to swear a particular oath requiring him to perform his duties in accordance with the provisions of the Representation of the People Act and any Rules made thereunder.
- (xxv) The Chief Election officer is therefore bound to carry out his functions and make all decisions in accordance with the provisions of the Act and the Rules. He has no power to vary the application of the Rules.
- (xxvi) By section 61 an Election Officer, which expression includes both Returning Officers and the Chief Election Officer, is guilty of a corrupt practice if he permits any person to vote at a polling station at which he knows or has reasonable cause to believe that such person is not entitled to vote.
- (xxvii) By section 161(3) the Election Rules are deemed to have been made under section 161(1), which enables the President to make Rules to carry the Act into effect.
- (xxviii) The role and function of a Returning Officer is to apply the law without fear or favour, giving equal treatment to every candidate and voter. There is no scope for bending the rules to accommodate voters or candidates who do not comply with statutory requirements of the Act or more specifically the Election Rules. Any voting that is permitted outside the 6.00am to 6.00pm timeframe on the day of the election must be specifically provided for, as in the case of special voters or persons inside the polling station at the time of the close of the poll. Any other accommodation or adjustment to the rules is illegal.
- (xxix) To extend the hours of the poll is a flagrant breach of the Election Rules. Accordingly, it is clear that there were substantial breaches of the Election Rules through the illegal and ultra vires actions of the Returning Officer and other Election Officers.
- (xxx) The Returning Officer acted illegally in purporting to extend the time for the taking of the poll.
- (xxxii) In the premises, there was no election in accordance with the Representation of the People Act and the Election Rules made thereunder and Esmond Forde was not duly elected.

1436—Continued

ELECTION PETITIONS—CONTINUED

- (xxxii) Election officers including the Returning Officer in the constituency of Tunapuna in breach of Section 61 of the Representation of the People Act, permitted persons to vote within the said electoral district or constituency at a time which they knew or had reasonable cause to believe such persons were not entitled to vote, in that persons were permitted after 6:00 p.m., i.e. after the close of poll, and before 7:00 p.m. to vote; there is no entitlement in law to vote in that hour. Such permission may constitute a corrupt practice.
5. Election Officers, as defined in the Representation of the People Act, permitting persons to vote when not entitled to vote, may have committed a corrupt practice under Section 61(d) of the Representation of the People Act. This corrupt practice occurred on the 7th day of September 2015 when the Chief Election Officer purported, through the Elections and Boundaries Commission, to demand or require polling stations on Trinidad (but not Tobago) to stay open after the close of poll for receipt of votes by electors who, in accordance with the law and specifically, the Election Rules, were not entitled to vote. It also occurred on 7th day of September 2015 in the said electoral district or constituency when the Returning Officer, Election Clerks, Presiding Officers, Deputy Presiding Officers and Poll Clerks kept polling stations open after the close of poll and in breach of the law and Election Rules permitted persons to vote who were not entitled to vote, the hours of poll having passed.
6. The Returning Officer and other election officers have therefore acted in breach of:
- a. The Election Rules;
 - b. The writ of election issued by His Excellency the President; and
 - c. The Oath taken by all Election Officers.

The Petitioner therefore prays:

1. That it may be determined that that Esmond Forde was not duly elected or returned for the constituency of Tunapuna and that the election was void;
2. That a declaration be given that the decision of the Returning Officer to extend the hours of the polls is ultra vires, illegal, null and void and of no effect;
3. That the Honourable Court grant all necessary and consequential orders and directions and such further and/or other relief as the Court shall deem fit.

Dated this 21st day of September, 2015.

/s/WAYNE ANTHONY MUNRO
PETITIONER

This Petition was presented by **KENT SAMLAL**, Attorney-at-Law for the Petitioner, whose address for service is **FREEDOM LAW CHAMBERS, #3 Harris Street, San Fernando**.

It is intended to serve a copy of this petition on:

1. Esmond Forde;
2. The Returning Officer for the constituency of Tunapuna;
3. The Elections and Boundaries, Scott House 134-138 Frederick Street, Port-of-Spain.

Dated this 21st day of September, 2015.

/s/KENT SAMLAL
FREEDOM LAW CHAMBERS
NO.3 HARRIS STREET
SAN FERNANDO
ATTORNEY-AT-LAW FOR THE PETITIONER

1436—Continued

ELECTION PETITIONS—CONTINUED

The **COURT OFFICE** is at the High Court of Justice, Court Street, San Fernando telephone number 652-3771. The office is open between [8.00 am] and [4.00pm] Mondays to Fridays except Public Holidays and Court Holidays and Court Holidays.

Petition published pursuant to section 107 (5) of the Representation of the People Act Chap. 2:01 and Rule 7(3) of the Election Proceedings Rules.

Dated this 28th day of September, 2015.

Jade Rodriguez
Registrar
Supreme Court

ELECTION PETITIONS—CONTINUED

Nature of Case: Administrative: Election Matters

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE
SUB-REGISTRY, SAN FERNANDO

Claim No. CV 2015-03133

IN THE MATTER OF THE REPRESENTATION OF THE PEOPLE ACT, CHAP. 2:01
AND

IN THE MATTER OF A PARLIAMENTARY ELECTION FOR
THE CONSTITUENCY OF MORUGA/TABLELAND
HELD ON THE 7TH DAY OF SEPTEMBER 2015

AND

IN THE MATTER OF THE ELECTION PROCEEDINGS RULES, 2001

BETWEEN

CLIFTON DE COTEAU

PETITIONER

AND

DR. LOVELL FRANCIS

FIRST RESPONDENT

AND

THE RETURNING OFFICER FOR THE CONSTITUENCY
OF MORUGA/TABLELAND
(DEEMED TO BE A RESPONDENT BY VIRTUE OF SEC 107(2) OF
THE REPRESENTATION OF THE PEOPLE ACT)

SECOND RESPONDENT

The Petition of **CLIFTON DE COTEAU** of #23 Gajadhar Lands, Princes Town in the Republic of Trinidad and Tobago shows:

1. That the Petitioner is a person who was validly nominated as a candidate at the general election held on the 7th day of September 2015 in the constituency of Moruga/ Tableland
2. That the election was held on 7th day of September 2015 when Clifton De Coteau and Dr. Lovell Francis (the First Respondent) were candidates for the said election in the constituency of Moruga/ Tableland and on the 10th day of September 2015 the Returning Officer declared that the said Dr. Lovell Francis received ten thousand eight hundred and eight (10,808) votes and the said Clifton De Coteua received ten thousand two hundred and eight (10,208) votes and declared Dr. Lovell Francis as being duly elected.
3. This petition is presented within eight (8) days of the 16th day of September 2015, such date being the date at which the Returning Officer submitted a writ of return in accordance with Rule 108(1)(a) of the Election Rules made pursuant to the Representation of the People Act, Chap. 2:01.
4. That the facts on which the petitioner relies are as follows:
 - (i) In consequence of section 69 (1) of the Constitution of Trinidad and Tobago (Act 4 of 1976) a general election came to be held on 7th day of September 2015.

ELECTION PETITIONS—CONTINUED

- (ii) This involved and included an election of a Member of the House of Representatives for the constituency of Moruga/Tableland, the subject of this petition.
- (iii) The Constitution, being the supreme law of Trinidad and Tobago, required by Section 46 that such member be elected in the manner provided by Parliament.
- (iv) The Representation of the People Act, Chap. 2:01 is an Act, amongst other things, to regulate the holding of elections of members of the House of Representatives.
- (v) By Section 161 (3) of the Representation of the People Act the Election Rules are deemed to have been made under Section 161, which section enables the President to make rules for carrying the purposes of the Act into effect.
- (vi) The Election Rules by clear statutory intention, purpose and design, provide a timetable and precise mechanism for the conduct of elections. The electors and citizens of Trinidad and Tobago proceed in their preparation, conduct and otherwise on the footing that the Rules will be met.
- (vii) By Rule 27 (1) of the Election Rules, subject to Rule 27(2), the taking of the poll at each polling station shall be between six o'clock in the morning and six o'clock in the afternoon of the same day. Rule 27 (2) provides for the circumstance of those electors who, at the hour of closing, are within the polling station; such electors are entitled to vote. Rule 58 requires the Presiding Officer to record in the polling station diary the hour at which the poll was closed and the number of persons who voted at that polling station as recorded on the stub of the last ballot paper issued excluding the total number of destroyed and spoiled ballots. The Presiding Officer is required to sign the record in the polling station diary and cause the Deputy Presiding Officer, the Poll Clerk and any candidate or their agents who are present to append their signatures as well.
- (viii) Rule 56 provides the only possibility of suspension or adjournment of the poll in certain circumstances, but does not permit an extension of time for voting.
- (ix) Under Section 34 of Representation of the People Act, the President can authorise the adjournment of the poll if satisfied of certain conditions.
- (x) This power could have been exercised if the Returning Officer to whom the writ of election was issued thought it necessary, since the conditions for an adjournment under Rule 56 did not apply.
- (xi) The time and length of the poll bears on the expectation of the electors and the manner in which electors conduct themselves. Further, it affects how electors organise their time and how those interested in the course of the elections conduct themselves. Further, the identified time of the poll will be made known to the electors prior to polling day so that electors can make a choice as to whether to be available to vote or not.
- (xii) By Rule 57 immediately after the last elector has voted after 6.00pm the presiding officer is required to announce the close of the poll.
- (xiii) By writ of election His Excellency the President, amongst other things, commanded the Returning Officer of the Electoral District of Moruga/Tableland to cause election of a Member to serve in the House of Representatives to be made according to law and to cause the name of such member when so elected to be certified to the Chief Election Officer on the seventh day next following the declaration by the Returning Officer of the result of the poll.
- (xiv) By Section 33(4) of the Representation of the People Act the Returning Officer was obliged on receipt of the writ to endorse the date of such receipt and to hold the election in accordance with the Election Rules.
- (xv) Further, by section 35 of the Representation of the People Act the proceedings at the election were required to be conducted in accordance with the Election Rules.
- (xvi) There were in the said constituency and at the polling stations within the said constituency breaches of the Election Rules; such breaches materially and substantially affected the poll. Further, such breaches render that which occurred as not being an election or poll within the Election Rules and accordingly not within

ELECTION PETITIONS—CONTINUED

- the Representation of the People Act. It was therefore an election or poll that was conducted not in the manner provided by Parliament.
- (xvii) In particular Rule 27 paragraph (1) was broken; the poll was not taken between six o'clock in the morning and six o'clock in the afternoon of the same day. On the contrary, the poll was unlawfully, and in breach of the Election Rules, extended to at least seven o'clock in the afternoon or evening. Rule 27 (2) was also broken. That rule requires that at 6 o'clock in the evening any electors within the polling stations have sufficient time to enable them to vote; the rule does not require or allow its terms to be satisfied at any other time.
- (xviii) Further, Rule 57 was breached; the presiding officer did not immediately after the last elector had voted after 6:00p.m. announce the close of the poll.
- (xix) Further the operation of other rules that depend on or relate to the required closing of the poll were adversely affected.
- (xx) There is no power whether given by the Constitution, the Representation of the People Act, the Election Rules or otherwise to alter the hours of polling.
- (xxi) The Representation of the People Act is an Act to re-enact and amend the law that provides for registration of electors at elections, the regulation of the holding of such elections and for the determination of questions as to membership of Parliament. The provisions of the Act and the Rules made thereunder are therefore the guiding principles by which the election must be conducted.
- (xxii) The Constitution does not permit the Returning Officer or any other Election Officer to amend, alter or otherwise vary the application of the Election Rules made by Parliament.
- (xxiii) A writ of election is issued by the President for each constituency, addressed to the Returning Officer for the constituency (also called an electoral district).
- (xxiv) There has to be a Chief Election Officer who, before entering into his duties, has to swear a particular oath requiring him to perform his duties in accordance with the provisions of the Representation of the People Act and any Rules made thereunder.
- (xxv) The Chief Election officer is therefore bound to carry out his functions and make all decisions in accordance with the provisions of the Act and the Rules. He has no power to vary the application of the Rules.
- (xxvi) By section 61 an Election Officer, which expression includes both Returning Officers and the Chief Election Officer, is guilty of a corrupt practice if he permits any person to vote at a polling station at which he knows or has reasonable cause to believe that such person is not entitled to vote.
- (xxvii) By section 161(3) the Election Rules are deemed to have been made under section 161(1), which enables the President to make Rules to carry the Act into effect.
- (xxviii) The role and function of a Returning Officer is to apply the law without fear or favour, giving equal treatment to every candidate and voter. There is no scope for bending the rules to accommodate voters or candidates who do not comply with statutory requirements of the Act or more specifically the Election Rules. Any voting that is permitted outside the 6.00am to 6.00pm timeframe on the day of the election must be specifically provided for, as in the case of special voters or persons inside the polling station at the time of the close of the poll. Any other accommodation or adjustment to the rules is illegal.
- (xxix) To extend the hours of the poll is a flagrant breach of the Election Rules. Accordingly, it is clear that there were substantial breaches of the Election Rules through the illegal and ultra vires actions of the Returning Officer and other Election Officers.
- (xxx) The Returning Officer acted illegally in purporting to extend the time for the taking of the poll.

ELECTION PETITIONS—CONTINUED

(xxxix) In the premises, there was no election in accordance with the Representation of the People Act and the Election Rules made thereunder and Dr. Lovell Francis was not duly elected.

(xxxixii) Election officers including the Returning Officer in the constituency of Moruga/Tableland in breach of Section 61 of the Representation of the People Act, permitted persons to vote within the said electoral district or constituency at a time which they knew or had reasonable cause to believe such persons were not entitled to vote, in that persons were permitted after 6:00 p.m., i.e. after the close of poll, and before 7:00 p.m. to vote; there is no entitlement in law to vote in that hour. Such permission may constitute a corrupt practice.

5. Election Officers, as defined in the Representation of the People Act, permitting persons to vote when not entitled to vote, may have committed a corrupt practice under Section 61(d) of the Representation of the People Act. This corrupt practice occurred on the 7th day of September 2015 when the Chief Election Officer purported, through the Elections and Boundaries Commission, to demand or require polling stations on Trinidad (but not Tobago) to stay open after the close of poll for receipt of votes by electors who, in accordance with the law and specifically, the Election Rules, were not entitled to vote. It also occurred on 7th day of September 2015 in the said electoral district or constituency when the Returning Officer, Election Clerks, Presiding Officers, Deputy Presiding Officers and Poll Clerks kept polling stations open after the close of poll and in breach of the law and Election Rules permitted persons to vote who were not entitled to vote, the hours of poll having passed.
6. The Returning Officer and other election officers have therefore acted in breach of:
 - a. The Election Rules;
 - b. The writ of election issued by His Excellency the President; and
 - c. The Oath taken by all Election Officers.

The Petitioner therefore prays:

1. That it may be determined that that Dr. Lovell Francis was not duly elected or returned for the constituency of Moruga/Tableland and that the election was void;
2. That a declaration be given that the decision of the Returning Officer to extend the hours of the polls is ultra vires, illegal, null and void and of no effect;
3. That the Honourable Court grant all necessary and consequential orders and directions and such further and/or other relief as the Court shall deem fit.

Dated this 21st day of September, 2015.

/s/CLIFTON DE COTEAU
PETITIONER

This Petition was presented by **KENT SAMLAL**, Attorney-at-Law for the Petitioner, whose address for service is **FREEDOM LAW CHAMBERS**, #3 Harris Street, San Fernando.

It is intended to serve a copy of this petition on:

1. Dr. Lovell Francis;
2. The Returning Officer for the constituency of Moruga/Tableland;
3. The Elections and Boundaries, Scott House 134-138 Frederick Street, Port-of-Spain.

Dated this 21st day of September, 2015.

/s/KENT SAMLAL
FREEDOM LAW CHAMBERS
NO.3 HARRIS STREET
SAN FERNANDO
ATTORNEY-AT-LAW FOR THE PETITIONER

1437—Continued

ELECTION PETITIONS—CONTINUED

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Petition published pursuant to section 107 (5) of the Representation of the People Act Chap. 2:01 and Rule 7(3) of the Election Proceedings Rules.

Dated this 28th day of September, 2015.

**Jade Rodriguez
Registrar
Supreme Court**