

CIV\APN\287\98

IN THE HIGH COURT OF LESOTHO

In the Application of :

PHALE ERNEST MOKOENA

Petitioner

VS

KELEBONE MAOPE

Respondent

Held at Maseru

Coram :

**Lehohla J
Mofolo J
Ramodibedi J**

J U D G M E N T

Lehohla J.

Even though the petitioner was served through his attorneys of record **Messrs**

B. Sooknanan & Associates with notice of set down for the hearing today of the above matter, neither he nor his attorneys made any appearance.

The above petition stands to fail on any of the three grounds raised by the respondent's counsel to wit,

(1) That it has prescribed in that even though the last day for its lodgement was on 29th June, 1998 the Petitioner nevertheless lodged it a day later i.e. 30th June, 1998; thus in breach of Section 102(a of the National Assembly Election Order of 1992 (as amended) which is to the effect that an election petition shall be presented to the High Court within 30 days after the election period concerned.

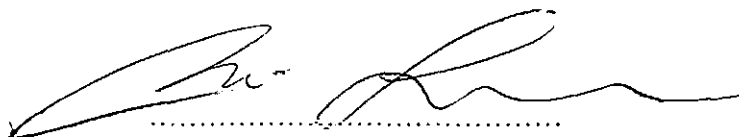
(2) That the Petitioner has not paid security for costs and his petition shall be deemed to have been withdrawn. This failure puts the Petitioner in conflict with *CIV\APN\348\98 Tsatsanyane & 9 Ors vs Sekamane & 10 Ors* (unreported).

(3) The Petitioner has not joined the Independent Electoral Commission and other interested parties to these proceedings. This omission places the Petitioner in breach of CIV\APN\259\98 *Tsie Benjamin Pekeche vs Motsoahae Thabane* (unreported) read this morning i.e. 17-12-98.

The Court as enjoined by Section 107(1)(a) of the National Assembly Election Order 1992 makes the following consequential Order :

It is hereby declared that the 1st Respondent Kelebene Maope has been validly elected as a member of the National Assembly for Seqonoka No.27 Constituency.

Costs are awarded to the respondent.



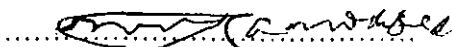
M.L. LEHOHLA
Judge of the High Court

I agree:



G.N. MOFOLO
Judge of the High Court

I agree :



M.M. RAMODIBEDI
Judge of the High Court

For Petitioner : No Appearance
For Respondent : Mr Nathane

Dated this the 17th day of December, 1998

IN THE HIGH COURT OF LESOTHO

In the matter between:

BASUTOLAND CONGRESS PARTY

APPLICANT

and

LESOTHO CONGRESS FOR DEMOCRACY
REGISTRAR GENERAL
ATTORNEY GENERAL

1ST RESPONDENT
2ND RESPONDENT
3RD RESPONDENT

JUDGMENT

Delivered by the Honourable Mr. Justice W.C.M. Maqutu
on the 25th day of February, 1998.

On the 22nd December, 1997, applicant the Basutoland Congress Party brought an application *ex parte* against first respondent, the Lesotho Congress For Democracy, the Registrar General and the Attorney General asking for an interdict in the following terms:

2. That the first respondent be interdicted and restrained from resorting to and/or using the horizontal Black, Green and Red colours, whatever the sequence, as its colours.

/.....

3. That the resorting and/or use by first respondent of horizontal Black, Green and Red colours, in whatever sequence, be declared illegal as amounting to passing off and or get up.
4. That the second respondent be directed to cancel and deregister such articles from the constitution of first respondent particular Article 1(b) thereof.
5. That the first respondent be ordered to pay the costs of this application and the other respondents to pay such costs in the event of opposing this application.
6. That the applicant be granted further or alternate relief.

This application eventually came before me for a final hearing on the 9th February, 1998.

This application has essentially two main prayers which are:-

- (1) That first respondent be restrained from using horizontal black, green and red colours as its colours whatever the sequence.

/.....