**IN THE COURT OF APPEAL OF LESOTHO**

**HELD AT MASERU**

**C OF A (CIV) NO. 61/2022**

In the matter between:

**MORERO LENTS’A 1st APPELLANT**

**DEMOCRATIC CONGRESS 2nd APPELLANT**

and

**THE INDEPENDENT ELECTORAL**

**COMMISSION RESPONDENT**

**CORAM:** MOSITO, P

 DAMASEB, AJA

CHINHENGO, AJA

**DATE OF HEARING** : 4 OCTOBER 2022

**ORDER DELIVERED** : 11 NOVEMBER 2022

***Summary***

*A public officer must prove that he or she had resigned at least one month before date of nomination in order to comply with Regulation 143(3) of the Public Service Regulations 143(3) of 2008. Those regulations do not sanction a purported ‘’resignation with immediate effect’’*.

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**JUDGMENT**

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**PT Damaseb AJA**:

1. This is another case where a public officer (1st appellant) was disqualified by the Independent Electoral Commission (IEC) from standing for election as a member of Parliament.
2. The 1st appellant (Mr. Lents’a) was a public officer in the employ of the Lesotho Correctional Service. In advance of the national elections that took place on 7 October 2022, he won a primary election within the 2nd appellant to be nominated as its candidate for the Sempe Constituency No. 66.
3. On 1 September 2022, Mr Lents’a submitted a letter of resignation to his employer, ‘’effective 1 September 2022’’. According to him, the letter was received on the same date by the principal secretary of Correctional Service. The underlying premise was that he had seized to be a public officer on that date.
4. On 2nd September 2022, Mr. Lents’a was nominated as a candidate for the Sempe Constituency No. 66 and on 6 September 2022 he was informant by the IEC that because his candidature (as a serving public officer) was objected to, the IEC rejected his nomination. It is that decision of the IEC that he challenged in the High Court (Khabo J).
5. The grounds of complaint by Mr. Lents’a are on all fours as those advanced by Mr. Mothae in C of A (Civ) No. 60 of 2022. In fact, because of the similarity in the two cases, they were disposed of by Khabo J in a single judgment.
6. I already held in the *Mothae* matter and need not repeat here, that Regulation 143(3) of the Public Service Regulations 2008 does not sanction immediate resignation. For the same reasons I gave in *Mothae*, I reject the similar argument by Mr. Lents’a in the present matter.
7. I conclude therefore that Mr. Lents’a had not complied with Regulation 143(4) when he was nominated on 2 September 2022 as a candidate for the Sempe No. 66 Constituency.
8. The IEC therefore did not act unlawfully by rejecting his candidature, and the High Court was correct in dismissing his application seeking to review the IEC’s decision.

**Order**

1. In the result, I make the following order:

The appeal is dismissed, with costs.



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**PT DAMASEB**

**ACTING JUSTICE OF APPEAL**

 I agree:



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**K E MOSITO**

**PRESIDENT OF THE COURT OF APPEAL**

I agree:



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**M.H. CHINHENGO**

**ACTING JUSTICE OF APPEAL**

**For the Appellants:** Adv. T. Lesupi

T Maieane & CO, Instructed Thoahlane Legal Chambers

**For the Respondent:** Adv. K.W. Letuka

Instructed by Maflt Legal Service Attorneys, Instructing K & K Chambers