

IN THE COURT OF APPEAL OF LESOTHO

HELD AT MASERU

C OF A (CIV) NO. 61/2022

In the matter between:

**MORERO LENTS'A
APPELLANT
DEMOCRATIC CONGRESS
APPELLANT**

1st

2nd

and

**THE INDEPENDENT ELECTORAL
COMMISSION
RESPONDENT**

CORAM:

MOSITO, P
DAMASEB, AJA
CHINHENGO, AJA

**DATE OF HEARING
ORDER DELIVERED**

: 4 OCTOBER 2022
: 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".

JUDGMENT

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 ceased 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 informed 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.

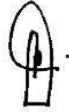
[7] I conclude therefore that Mr. Lents'a had not complied with Regulation 143(4) when he was nominated on 2 September 2022 as a candidate for the Sempe No. 66 Constituency.

[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

[9] In the result, I make the following order:

The appeal is dismissed, with costs.



**PT DAMASEB
ACTING JUSTICE OF APPEAL**

I agree:



**K E MOSITO
PRESIDENT OF THE COURT OF APPEAL**

I agree:



**M.H. CHINHENGO
ACTING JUSTICE OF APPEAL**

For the Appellants: Adv. T. Lesupi
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For the Respondent: Adv. K.W. Letuka
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