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# An Appraisal of the Challenges in Election Petitions in Nigeria

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**Abstract**
This article delves into the intricate legal landscape surrounding election petitions in Nigeria, a nation grappling with the complexities of its democratic processes. Election petitions are a critical mechanism for addressing alleged electoral irregularities and ensuring the integrity of the electoral system. However, they have encountered a multitude of challenges that undermine their effectiveness and efficiency, casting a shadow over the democratic ideals of the country. The article begins by exploring the legal framework governing election petitions, focusing on relevant statutes, regulations, and judicial precedents. Particular attention is given to the Electoral Act, which serves as the primary legal framework governing election petitions. This article then dissects the major challenges faced by stakeholders in the election petition process. These challenges encompass issues related to the burden of proof, jurisdictional conflicts, procedural delays, the impartiality of election tribunals, and the role of the judiciary in adjudicating election disputes. Furthermore, it discusses the impact of these challenges on the overall credibility of electoral outcomes and the public's trust in the democratic system. To address these challenges, the article suggests various legal and institutional reforms, including a cursory glance at the recent amendments to electoral laws, improvements in the training and capacity of election tribunals, and measures to enhance transparency and accountability in the electoral process. The article also draws insights from international best practices and comparative analyses of election petition systems in other jurisdictions. In conclusion, this article underscores the critical importance of a functional and fair election petition system in upholding the principles of democracy in Nigeria. By identifying and addressing the challenges that currently impede the effectiveness of election petitions, this study aims to contribute to the ongoing discourse on electoral reform in Nigeria and foster a more robust and reliable democratic process.
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## 1. Introduction

Access to justice is universally regarded as one of the basic principles of the rule of law and the hallmarks of a healthy and thriving democracy. Democracy presupposes a representative system of government whereby elective offices are established and the government is formed through a free, fair, and credible election where majority of the electorate elect their representatives. However, considering that Nigeria's democracy is still fledgling, elections conducted by the electoral umpire are not always conducted in full compliance with the electoral rules which are sometimes complex. In other situations, elections are marred by a number of other irregularities and fraud, ranging from vote buying, ballot hijack, forgery, improper collation, and other forms of electoral misconduct which compromise the integrity of the election. When this situation arises, as they often do, there is generally dissatisfaction by the electorate with the process and more particularly the candidates for the elections and their political parties who may either have a legitimate ground for challenging the outcome of the election such as when there are irregularities in its conduct, or for other reasons, such as when they are outrigged or outsmarted by the other political party.

Irrespective of the reason for the challenge, the fact remains that free, fair, and credible elections remain elusive in our electoral jurisprudence and where the integrity of an election is called into question, the responsibility of determining the merits or otherwise of that challenge rests squarely with the judiciary through the mechanism of an election petition. The judiciary through election tribunals are thus entrusted with the enormous responsibility of delivering electoral justice. In some cases, the judiciary has performed remarkably well, while in some others, its performance has been below expectation. When the latter is the case, there has been massive public outcry leading to castigation of the judiciary for failing to deliver electoral justice.

## 2. Legal Framework for Election Petitions

This section examines the framework for an election petition and examines the laws relating to election petitions, the establishment of election tribunals, as well as their composition, qualification, and quorum.
The principal laws regulating election petitions in Nigeria are as follows:

a) the 1999 Constitution (as amended),
b) the Electoral Act 2022 (as amended),

 

c) the First Schedule to the Electoral Act 2022,
c) the Election Judicial Proceedings Practice Directions, 2022,
d) the Supreme Court Pre-Election and Election Appeals Practice Direction, 2022,
e) the Federal High Court (Civil Procedure) Rules, 2019,
f) the Local Government Elections Tribunals Law of Rivers State and the Local Government Election Tribunal Laws of the various States.

## 3. Establishment and Composition of Election Tribunals

The Constitution establishes the various election tribunals in the country, and these election tribunals are grouped according to the election to be questioned. Section 239 of the Constitution confers original jurisdiction on the Court of Appeal to hear and determine any question as to whether any person had been validly elected to the office of President or Vice-President. On the other hand, Section 285(1) of the 1999 Constitution establishes for each State of the Federation and the Federal Capital Territory, the National and State Houses of Assembly Election Tribunal and confers on it the original jurisdiction to hear and determine any question as to whether any person has been validly elected as a member of the National Assembly or the House of Assembly of a State. Section 285(2) of the 1999 Constitution establishes for each State of the Federation, the Governorship Election Tribunal and confers on it the original jurisdiction to hear and determine any petition questioning whether a person has been validly elected as the Governor or Deputy Governor of a State.

In addition to the various election tribunals established by the constitution, Section 131(1) of the Electoral Act establishes the Area Council Election Tribunal which has the jurisdiction to the exclusion of any other court or tribunal to hear and determine questions relating to whether any person has been validly elected to the Office of Chairman, Vice Chairman or Councillor of an Area Council of the Federal Capital Territory. Additionally, Section 132(1) establishes an Area Council Election Appeal Tribunal which has the exclusive jurisdiction to hear and determine appeals arising from the decision of the Area Council Election Petition Tribunal. The various States of the Federation have similar laws to Sections 131 and 132 of the Electoral Act which provides for the establishment of the Local Government Election Tribunals and Local Government Election Appeal Tribunal, such as that of Rivers State identified earlier. The types of election tribunals in Nigeria can thus be summarised includes the following:

a) The Court of Appeal sitting as a Presidential Election Tribunal,
b) The Governorship Election Tribunal,
c) The National and State Houses of Assembly Election Tribunal
d) The Area Council Election Tribunal of the FCT
e) The Area Council Election Appeal Tribunal of the FCT
f) The Local Government Election Tribunals of Rivers State and that of the various States of the Federation and
g) The Local Government Appeal Election Tribunals of Rivers State and that of the various States of the Federation.

Section 239 of the Constitution provides for the composition of the Presidential Election Tribunal to be the justices of the Court of Appeal while Section 285(3) provides that the composition of the National and State Houses of Assembly Election Tribunal and the Governorship Election Tribunal shall be as set out in the Sixth Schedule to the 1999 Constitution. Parts A and B of the said Sixth Schedule provides that a Governorship Election Tribunal shall consist of a Chairman and two other members. The Chairman is to be a Judge of a High Court and the two other members are to be appointed from among Judges of a High Court, Kadis of a Sharia Court of Appeal, Judges of a Customary Court of Appeal, or other members of the judiciary not below the rank of a Chief Magistrate**.** Section 131(3) of the Electoral Act provides for the composition of the Area Council Election Tribunal to be comprised of a Chairman who shall be a Chief Magistrate and two other members of the Magistracy or a Legal Practitioner of at least not less than 10years post call experience, while Section 132(3) of the Electoral Act provides for the composition of the Area Council Election Appeal Tribunal is the same as that of the National and State Houses of Assembly Election Tribunals and the Governorship Election Tribunals.

## 4. Quorum of Election Tribunals

Section 285(4) of the 1999 Constitution (as amended) provides that the quorum for either a Governorship Election Tribunal or National and State Houses of Assembly Election Tribunal shall be the Chairman and one other member. It is important to emphasise that any defect in the composition of an election tribunal is fatal and renders the proceedings a nullity. In **M.P.P.P. vs. INEC**[1] where the Chairman of a Governorship Election Tribunal had sat alone, heard, and granted an application for the striking out of an election petition, the Apex Court declared the proceedings of the Chairman to be a complete nullity. This was notwithstanding the

[1] (No.2) (2015) 18 NWLR (Pt. 1491) 251

 

provisions of Paragraph 27(1) of the First Schedule to the Electoral Act, 2010 (as amended) which empowered the Chairman of an election tribunal or the Presiding Justice of the court to dispose of interlocutory matters. This provision of the First Schedule was held to be inconsistent with the provisions of the Constitution and to that extent, declared null and void.

In **Adeleke v. Oyetola**[1] one member of the Oyo State Governorship Election Tribunal, Obiorah, J. did not sit during the proceedings of 6th February 2019 where witnesses testified but resumed sitting on a subsequent date and wrote and signed the judgment of the tribunal delivered on 22nd March 2019. The Supreme Court held that the failure of Obiorah, J. to sit on the 6th of February 2019 rendered the proceedings of that day worthless and the entire judgment a nullity. For the Court of Appeal sitting as the Presidential Election Tribunal, the quorum is at least three justices of the Court of Appeal as provided for in Section 239(2) of the Constitution. Section 132(6) of the Electoral Act provides that the quorum of the Area Council Election Appeal Tribunal when hearing any appeal from decisions of the Area Council Election Tribunal shall be all three members of the Appeal Tribunal.

## 5. The Election Petition

This section discusses the fundamentals of an election petition and election proceedings with a view to shedding light on some of the issues that a judicial officer is likely to be confronted with in dispensing electoral justice. By Section 130(1) of the Electoral Act, no election and return at an election under this Act shall be questioned in any manner other than by a petition complaining of an undue election or undue return (in this Act referred to as an "election petition") presented to the competent tribunal or court in accordance with the provisions of the Constitution or of this Act, and in which the person elected or returned is joined as a party. In **Akpamgbo-Okadigbo v. Chidi** (No.2)[2] where the 1st to 5th respondents had filed an originating motion at the Federal High Court to question the appellant's election, the Supreme Court held the Federal High Court not being an Election Petition Tribunal constituted by the Constitution, it lacked the jurisdiction to entertain and determine the suit.

### 5.1. Nature of Election Petitions

One of the foremost principles of election petitions is that they are generally regarded as sui generis and the Supreme Court in **Orubu v. N.E.C**.[3] at p. 347 paras. F-G, wherein Uwais, JSC (as he then was), observed that:

*"An election petition is not the same as the ordinary civil proceedings, it is a special proceedings because of the peculiar nature of elections, which, by reason of their importance to the well-being of a democratic society, are regarded with an aura that places them over and above the normal day to day transactions between individuals which gives rise to ordinary or general claims in court. As a matter of deliberate policy to enhance urgency, election petitions are expected to be devoid of the procedural clogs that cause delay in the disposition of the substantive dispute."*

The implication is that election petitions, being a specie of civil proceedings, numerous principles have emerged from the sui generis nature of an election petition. As such it is now a principle in our electoral jurisprudence that time is of the essence in electoral proceedings as held in **Marwa & Ors v. Nyako & Ors**[4] (2012) 6 NWLR (Pt. 1296) 199 that the time fixed by the Constitution is like the rock of Gibraltar or Mount Zion which cannot be moved; that the time cannot be extended or expanded or elongated or in any way enlarged; that if what is to be done is not done within the time so fixed, it lapses as the court is thereby robbed of the jurisdiction to continue to entertain the matter.

### 5.2. Parties to an Election Petition

Section 133(1) of the Electoral Act provides that the parties to an election petition shall be a candidate to an election or a political party that participated in an election and this provision was interpreted in **Tarzoor v. Ioraer**[5] to mean the candidate alone or the candidate in conjunction with his political party. Section 133(2) of the Electoral Act provides for the person whose election is complained of as a Respondent which will typically include the INEC, the candidate that emerged victorious and his political party. Section 133(3) of the Electoral Act 2022 like the 2010 Electoral Act obviates the need of joining all electoral officers against whom a complaint is made as parties and rendering the erstwhile position in **Buhari v. Yusuf**[6] inapplicable. The parties are thus:

### 5.3. Time for Filing Election Petition

Section 285(5) of the 1999 Constitution (as amended) provides that an election petition shall be filed within 21 days after the date of the declaration of the election and by virtue of an election petition being sui generis, any

[1] (2020) 6 NWLR (Pt. 1721) 440
[2] (2015) 10 NWLR (Pt. 1466) 124
[3] (1988) 5NWLR (Pt. 94) 323
[4] (2012) 6 NWLR (Pt. 1296) 199
[5] (2016) 3 NWLR (Pt. 1500) 463
[6] 2003) 14 NWLR (Pt. 841) 446

 

defect or failure of a petitioner to file an election petition within the stipulated time renders the election petition incompetent. The Supreme Court interpreted this provision in its recent decision of **Maku v. Sule**[1] and held that an election petition cannot be filed on the date of the declaration as in computing the time to file, the day of declaration is excluded. Please See **Wambai v. Donatus.**[2]

### 5.4. Contents of an Election Petition

Paragraph 4(1) of the First Schedule to the Electoral Act 2022 which is the Practice Direction/Rules regulating Election Tribunal Proceedings stipulates what should be contained in a petition and they include the following:

*a) specify the parties interested in the election petition;*
*b) specify the right of the petitioner to present the election petition;*
*c) state the holding of the election, the scores of the candidates and the person returned as the winner of the election; and*
*d) state clearly the facts of the election petition and the ground or grounds on which the petition is based, and the relief sought by the petitioner.*

The law is now trite that any failure to state the above may vitiate the petition and render the same incompetent. Paragraph 4(1) further provides that an election petition shall be accompanied by the following -

*a) a list of the witnesses that the petitioner intends to call in proof of the petition;*
*b) written statements on oath of the witnesses; and*
*c) copies or list of every document to be relied on at the hearing of the petition*.

### 5.5. Grounds of Challenging an Election

By Section 134 (1) of the Electoral Act 2022, an election may be questioned on any of the following grounds—

*(a) a person whose election is questioned was, at the time of the election, not qualified to contest the election;*
*(b) the election was invalid by reason of corrupt practices or non-compliance with the provisions of this Act; or*
*(c) the respondent was not duly elected by majority of lawful votes cast at the election.*

It will be observed that under the Electoral Act 2010, the fourth ground upon which an election can be challenged was on the ground that *"The petitioner or its candidate was validly nominated but was unlawfully excluded from the election*" *exclusion of a person duly nominated*". However with the Electoral Act 2022, the exclusion of a person duly nominated is no longer a ground for challenging the outcome of an election. The grounds of an election petition are sacrosanct and the Supreme Court in **Salis vs. INEC**[3] recently gave guidance on pleading the grounds of an election petition thus:

*By the provision of section 138(1) of the Electoral Act 2010 (as amended), a petitioner is required to question an election on any of the Grounds in the sub-section. He is expected to copy the Grounds in the section of the Act word for word. A petitioner can also use his own language to convey the exact meaning and purport of the sub-section. In the alternative situation, a petitioner cannot go outside the ambit of sub-section. In other words, the petitioner cannot add to or subtract from the provisions of section 138(1) of the Act. In order to be on the safer side, the ideal thing to do is to copy the appropriate ground or Grounds as in the sub-section. A petitioner who decides to use his own language has the freedom to do so, but he should realize that he is taking a big gamble, if not a big risk. This is because, Grounds of petition in an election petition are jurisdictional and where they are not cognizable by the appropriate provisions of the Electoral Act, they are liable to be struck out*

### 5.6. Pre-Petition Inspection

Circumstances may arise where it becomes imperative for a person desirous of questioning the outcome of an election to have access to documents used in the conduct of the election to enable the person to build his case and also frontload them as accompanying documents to a petition. In such situations, Section 146(1) of the Electoral Act empowers persons to apply to a court or the tribunal for the inspection of the polling documents used in the conduct of an election if the court is satisfied for the purpose of instituting and maintaining or defending an election petition.

### 5.7. Service of Election Petition Process

Upon filing of an election petition and the payment of the associated fees and depositing of the security for costs, the Petitioner is under a duty to effect service of the Petition and all pleaded documents on the Respondent by

[1] (2022) 3 NWLR (Pt. 1817) 231
[2] (2014) 4 NWLR (Pt. 1427) 223
[3] (2022) 10 NWLR (Pt. 1839) 467

 

personal means pursuant to Paragraph 8(1)(a) of the First Schedule. However, where reasonable efforts have been made to effect personal service of the Petition on the Respondent and it is impossible, the Petition may be served by substituted service pursuant to Paragraph 8(2) of the First Schedule. The practice of a Respondent, particularly the candidate returned elected evading service, thereby putting the Petitioner through the hassle of applying for substituted service of the Petition has caused significant delays in the determination of Election Petitions and Appeals. In some cases, well over 60days of the 180 days the law mandates for the determination of a petition is dissipated on the preliminary issues such as service.

### 5.8. Pleadings, Time to File Amendments and Post-Petition Inspection

The Pleadings in an Election Petition are provided for in the First Schedule of the Electoral Act and by Paragraph 4, the contents of an election petition are stipulated with the necessary particulars. A Respondent served with a Petition is allowed by the Practice Directions to file a memorandum of appearance within 7 days or such other time as the Secretary of the Tribunal may allow. By Paragraph 12(1) of the First Schedule, the Respondent is to file his Reply to the Petition within 14days of service of the Petition on him, alleging facts he admits or denies. In turn, a Petitioner has 5days after the Respondent's Reply is served on him, to file a Petitioner's Reply, addressing any new issues of facts raised.

While Paragraph 14(1) of the First Schedule to the Electoral Act provides for the amendment of an election petition, Paragraph 14(2) of the First Schedule which Paragraph 1 is made subject to, provides that an amendment is not allowable to effect any substantial alteration of the ground of the petition or prayers or introduce new facts as to the Parties, the holding of an Election or the scores of the candidates etc. In practice, amendments are rarely applied for, rather counsel exert more diligence to obviate the necessity of making an application for amendment. Some counsel take advantage of the opportunity to file a Petitioners Reply, additional witness statements and frontload any additional documents they may wish to rely on.

Pursuant to Section 146 of the Electoral Act and Paragraph 18(7)(e) of the Second Schedule to the Electoral Act, parties to a petition are also empowered to apply for and the tribunal is empowered to make orders in respect of the scheduling of discovery and inspection of documents used in an election. This is typically done during the pre-hearing session of the petition.

## 6. Pre-Hearing in Election Petitions

As obtainable in the various Rules of Court, Paragraph 18 of the First Schedule to the Electoral Act incorporates Pre-Hearing Sessions into Election Petitions and it is designed to facilitate the just, expeditious and economical disposal of petitions in view of their urgency. Paragraph 18 provides thus:

> *18. (1) Within seven days after the filing and service of the petitioner's reply on the respondent or seven days after the filing and service of the respondent's reply, whichever is the case, the petitioner shall apply for the issuance of pre-hearing notice as in Form TF 007.*
>
> *(2) Upon application by a petitioner under sub-paragraph (1), the Tribunal or Court shall issue to the parties or their legal practitioners (if any) a prehearing conference notice as in Form TF 007 accompanied by a pre-hearing information sheet as in Form TF 008 for—*
>
> *(a) the disposal of all matters which can be dealt with on interlocutory application;*
>
> *(b) giving such directions as to the future course of the petition as appear best adapted to secure its just, expeditious and economical disposal in view of the urgency of election petitions;*
>
> *(c) giving directions on order of witnesses to be called and such documents to be tendered by each party to prove their cases having in view the need for the expeditious disposal of the petition ; and*
>
> *(d) fixing clear dates for hearing of the petition.*

One of the interlocutory applications which can also take place during the pre-hearing conference is a vote/ballot recount pursuant to the inherent powers under Section 6 of the 1999 Constitution due to the absence of any specific provision in the Electoral Act empowering the courts to do as upheld in Eke vs. Ekang[1] where the Court of Appeal likened a judicial ballot recount to a visit to locus in quo. Generally, interlocutory applications, directions and the future course of the petition, the order in which witnesses are to be called, documents to be tendered and the fixing of clear dates for hearing are all matters within the Pre-Hearing Session. To expedite the hearing of a Petition, the Tribunal may direct parties to streamline the number of witnesses to give evidence, allot time for cross-examination of witnesses, control and schedule discoveries and essentially narrow the field of dispute.

The law places the duty on the Petitioner to apply for the issuance of Pre-Hearing Notices within 7days after the filing and service of the Respondents Reply or the Petitioners Reply, as the case may be. Where the Petitioner fails to bring the application as stipulated, the Respondent is entitled to bring an application to have

[1] EKE vs. EKANG (1999) 5 NWLR (Pt. 602) 261

 

the Petition dismissed and where the Respondent fails to do so, the Tribunal is at liberty to dismiss the Petition as being abandoned and such a dismissal is deemed final.

*(3) The respondent may bring the application in accordance with subparagraph (1) where the petitioner fails to do so, or by motion which shall be served on the petitioner and returnable in three clear days, apply for an order to dismiss the petition.*

*(4) Where the petitioner and the respondent fails to bring an application under this paragraph, the Tribunal or Court shall dismiss the petition as abandoned petition and no application for extension of time to take that step shall be filed or entertained. (5) Dismissal of a petition under subparagraphs (3) and (4) is final, and the Tribunal or Court shall be functus officio.*

In **Ezenwo v. Festus**[1] where the Rivers State Governorship Election Tribunal had dismissed the petition against the appellant and the 4th respondent on the ground that the petition of the 1st and 2nd respondents had been abandoned, as neither the petitioners nor the respondents thereto filed any valid application for pre-hearing session as mandatorily required by paragraph 18(1) of the First Schedule to the Electoral Act. The Apex Court upheld the dismissal of the petition as being abandoned. In **Okereke v. Yar'adua**[2] the Supreme Court further held that no application for extension of time to take that step i.e., apply for pre-hearing session, shall be filed, or entertained and although it may sound very harsh. It must be borne in mind that the provisions apply to election petitions in which time is of the essence. In **Omisore v. Aregbesola**[3] an application for convocation for pre-hearing filed outside the stipulated time was held to be incompetent.

Equally, where a party or his legal practitioner fails to participate in a Pre-Hearing Conference, obey a scheduling order, or he is substantially unprepared to participate or fails to participate in good faith, the Tribunal is entitled to dismiss the Petition if the Petitioner is in default or enter judgment in the Petitioner's favour if the Respondent is in default. However, such a judgment can be set aside upon an application made within 7days with an order as to costs of a sum not less than N20,000.00. The Courts have interpreted the period of 7days to be non-extendable as was held in **ANPP vs. R.E.C. AKWAIBOM STATE.**[4]

To adequately highlight the importance of pre-hearing session as a veritable case management tool in achieving speedy electoral justice, the broad spectrum of matters to be considered during the pre-hearing conference include the following as provided in Paragraph 18 of the First Schedule to the Electoral Act thus;

*(7) At the pre-hearing session, the Tribunal or Court shall consider and take appropriate action in respect of the following as may be necessary or desirable—*

*a) amendments and further and better particulars ;*
*(b) the admissions of facts, documents and other evidence by consent of the parties ;*
*(c) formulation and settlement of issues for trial ;*
*(d) hearing and determination of objections on point of law ;*
*(e) control and scheduling of discovery inspection and production of documents ;*
*(f ) narrowing the field of dispute between certain types of witnesses especially the Commission's staff and witnesses that officiated at the election, by their participation at pre-hearing session or in any other manner ;*
*(g) giving orders or directions for hearing of cross-petitions or any particular issue in the petition or for consolidation with other petitions ;*
*(h) determining the form and substance of the pre-hearing order ; and*
*(i) such other matters as may facilitate the just and speedy disposal of the petition bearing in mind the urgency of election petitions.*

*(8) At the pre-hearing session, the Tribunal or Court shall ensure that hearing is not delayed by the number of witnesses and objections to documents to be tendered and shall pursuant to subparagraphs 7 (b), and (e)—*

*(a) allow parties to admit or exclude documents by consent ; and*
*(b) direct parties to streamline the number of witnesses to those whose testimonies are relevant and indispensable.*

It will be observed that the election tribunal is given wide powers to manage the proceedings and progress of an election petition. It can thus be argued that the ability or powers of the judex to render speedy electoral justice is to a large extent dependent on how the tribunal efficiently coordinates its pre-hearing session, as well as its effective implementation of the Pre-Hearing Report. The Pre-Hearing Report generated at the end of the Pre-Hearing encapsulates and dictates the future course of the trial proceedings and is an effective case management tool where it is effectively deployed.

[1] (No. 2) (2020) 16 NWLR (Pt. 1750) 353
[2] (2008) 12 NWLR (Pt. 1100) 95
[3] (2015) 15 NWLR (Pt. 1482) 205
[4] (2008) 8 NWLR (Pt. 1090) 453 at 522-523.

 

## 7. Proof of an Election Petition

Paragraph 41 of the First Schedule to the Electoral Act provides that the proof of any fact required to be proved at the hearing of a petition shall be proved by written depositions and the oral examination of witnesses in open court. Paragraph 41(2) of the First Schedule provides that documentary evidence the parties consented to at the pre-hearing session or other exhibits are to be tendered from the Bar or by the party where he is not represented by a legal practitioner. The documents sought to be tendered must meet the frontloading requirements set out in the First Schedule and these are usually filed alongside the pleadings of the parties. By Paragraph 41(5) and (6) of the Electoral Act, the Tribunal or Court is equally empowered to call evidence suo motu by directing that evidence of a particular fact be given at the hearing of a Petition.

In proving a petition, the number of witnesses which parties may call could be curtailed under the provisions of Paragraph 41(7) of the First Schedule to the Electoral Act which empowers the Court to limit the number of witnesses the parties may wish to call at the hearing by order or direction at or before the hearing of a Petition. That notwithstanding, Paragraph 41 (10) of the First Schedule to the Electoral Act provides allots time for the parties to prove their case thus:

*The petitioner, in proving his case shall have, in the case of*

*(a) Councillor, Chairman and State House of Assembly, two weeks ;*
*(b) House of Representatives, three weeks ;*
*(c) Senate, five weeks ;*
*(d) Governor, six weeks ; and*
*(e) President, seven weeks to do so and each respondent shall have not more than 10 days to present his defence.*

### 7.1. The Burden of Proof

By Section 149 of the Electoral Act, results declared by the INEC enjoys a presumption of regularity and by application of Sections 131, 132 and 133 of the Evidence Act 2011, the declaration in favour of a respondent enjoys the presumption of regularity and therefore the burden of dislodging the presumption usually rests with a petitioner, particularly where the petition alleges that the election was invalid by reason of non-compliance[1]. Petitioners in an election petition generally has the burden of proving the existence of the facts he alleged in the petition as was held in Buhari v. Obasanjo[2].

### 7.2. Standard of Proof

The Standard of proof of in election petition usually depends on the allegations contained in the Petition. The Courts have held that where an allegation of commission of a crime is made in a petition, the standard of proof is beyond reasonable doubt irrespective of the fact that election petitions are *sui generis*. In **EMMANUEL v. UMANA & ORS**[3] the Supreme Court held thus:

*"Although election petitions are species of civil cases that are sui generis, where allegations of crime form the fulcrum of the claim in them, the requisite standard is that of proof beyond reasonable doubt. I, most respectfully, exhume Sowemimo, JSC (as he then was, later CJN) to address this issue. In Nwobodo v Onoh (1983) LPELR - 8049 (SC) 6-7, F-A, His Lordship held that:"...all the allegations complained of are crimes, and although, under Electoral Act 1982, election petition is a peculiar type of civil proceedings the proof of a crime, requisite or burden of proof where alleged, is that provided under Section 137(1) of the Evidence Act, that is proof beyond reasonable doubt. The onus of proof is therefore on the petitioner and this has not been discharged. Having so decided I hold at this stage that the petitioner has not proved all his relevant complaints beyond all reasonable doubt against any of the respondents."*

This principle raises issues because there is difficulty in knowing when crime is not the fulcrum of a petition especially where non-compliance with the Electoral Act is also involved. The Supreme Court in **Emmanuel v. Umana** further held that where the petitioner in an election petition alleges non-compliance with the Electoral Act, the law places on the Petitioner a burden to prove the non-compliance polling unit by polling unit and ward by ward. This is in line with the position of the Supreme Court in **Ngige v. INEC**[4] and **Uche v. Elechi**[5] which prescribed that the manner in which the non-compliance is to be proved is by calling evidence in respect of each polling unit, ward, or collation centre wherein the non-compliance is alleged to have taken place, while the

[1] Andrews v. INEC Per EKO JSC at 39 Paras C-F; See Audu v. INEC & Ors. (No.2) (2010) 13 NWLR (Pt.1212)456 at 519; Wali v. Bafarawa (2004) 16 NWLR (Pt.898) 1; Oke v.Mimiko (No.2) (2014) 1 NWLR (Pt.1388) 332.
[2] (2005) 2 NWLR (Pt. 910) 241
[3] (2016) LPELR-40037(SC) Per Nweze JSC at pages 17-18 Paras B-A
[4] Ngige vs. INEC (2015) 1 NWLR (Pt. 1440) 281 311-312 Paras H-A
[5] Ucha V Elechi (2012) 13 NWLR (Pt. 1317) 330

 

standard of proof in such circumstance is on the balance of probabilities. In **Uche V Elechi**[1] the Apex Court Per Rhodes-Vivour at Page 359 paras F-G held thus:

*The results declared by INEC are prima facie correct and the onus is on the petitioner to prove the contrary. Where a petitioner complains of non-compliance with provisions of the Electoral Act,2010 (as amended), he has a duty to prove it polling unit by polling unit, ward by ward and the standard required is proof on the balance of probabilities and not on minimal proof. He must show figures that the adverse party was credited with as a result of the non-compliance. Forms EC8A, election materials not stamped/ signed by Presiding Officers. He must establish that non-compliance was substantial, that it affected the election result. It is only then that the respondents are to lead evidence in rebuttal. See Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) p.1; Awolowo v. Shagari (1979) 6-9 SCp. 51; Akinfosile v. Ijose (1960) SCNLR p. 447*

The reality is that the period within which the Parties are to prove their respective cases in line with the standard of proof is limited to between two and seven weeks for the Petitioner depending on the election being questioned and not more than 10days for the Respondent to present its defence by the provisions of Paragraph 41(10) and 16(3) of the First Schedule of the Electoral Act. This time is indeed very limited to prove non-compliance polling unit to polling unit as required by law and as seen in the case of **MBINA vs. INEC** & ORS[2] where the Appellant had in his petition alleged non-compliance (i.e., disenfranchisement). The Court of Appeal had this to say:

*"With regard to the allegation of disenfranchisement, where it is made, the need arises for the party making such allegation to call at least a witness each from the polling units in the affected areas to testify in support of that claim, anything short of that will simply not do; see KAKIH V. PDP (2014) 15 NWLR part 1430 Page 374. The petitioners in this case called only 30 witnesses to cover up for 30 wards and 292 units; clearly inadequate; and even at that none of the witnesses gave clear evidence of disenfranchisement and its attendant consequence, when indeed each voter is expected to give evidence of registration, and inability to vote, tender as exhibit his voters card and voters register, as well as evidence that if not for the disenfranchisement their candidate would have won the election." see NGIGE V. INEC (2015) 1 NWLR part 1440 page 281……*

In the above Petition, the Petitioner had only 8 days to prove his Petition and even at that, the 8 days allocated to the Petitioner were not the full working hours of the Court but just 2 hours per day. In essence, the Petitioner had 16 hours to call witnesses in 30 wards of 292 units. In addition to this limited time, it is not sufficient for a petitioner to allege and prove the allegation of on-compliance, the petitioner must go further to prove the non-compliance substantially affected the outcome of the election as provided in Section 135 of the Electoral Act 2022 which provides thus:

*An election shall not be liable to be invalidated by reason of non-compliance with the provisions of this Act if it appears to the Election Tribunal or Court that the election was conducted substantially in accordance with the principles of this Act and that the non-compliance did not affect substantially the result of the election.*

In **Ojukwu v. Yaradua**[3] in interpreting Sections 145(1) and 146(1) of the Electoral Act 2006 which is the same as Section 134(1) and 135(1) of the Electoral Act, the Supreme Court Per Tobi JSC at 113, Para B-E held thus:

> *For the purpose of meeting the requirements of the combined provisions of sections 145(1) and 146(1) of the Electoral Act therefore, a petitioner who challenges the election of a respondent on the ground of non-compliance with the provisions of the Electoral Act must plead not just the fact of the alleged non-compliance, but must go a step further to plead that the non-compliance substantially affected the result of the election.*
>
> *This in my view accords with common sense. It is inconceivable to suggest that the bare assertion of non-compliance in an election petition without more is sufficient pleading to sustain the petition. If that were so then practically every election petition would succeed, in that, there is, in practical terms, no election without one form of non-compliance or the other. That obviously cannot be the purpose of the provisions of section 145(1)(b) and 146(1) of the Electoral Act. I am firmly of the view that for the purpose of sustaining a petition on the allegation of non-compliance with the provisions of the Electoral Act there must be the assertion in the petition that the non-compliance substantially affected the result.*

It must be observed that the requirement of proving non-compliance from polling unit by unit appears to have been watered down by the novel provision of Section 137 of the Electoral Act 2022 which now provides:

> *"It shall not be necessary for a party who alleges non-compliance with the provisions of this Act for the conduct of elections to call oral evidence if originals or certified true copies manifestly disclose the non-compliance alleged".*

This novel provision raises questions on whether the extant position in our electoral jurisprudence that a

[1] (2012) 13 NWLR (Pt. 1317) 330
[2] 2017) LPELR-43248(CA) Per Mustapha, J.C.A. (Pp. 36-37, Paras. A-B)
[3] (2009) 12 NWLR (Pt. 1154) 50

 

petitioner as held in Ngige v. INEC alleging non-compliance is required to prove that disenfranchisement from polling unit to polling unit by calling eligible voters who did not vote on election day is still valid. This novel provision appears to be an avenue for a petitioner to rely on documentary evidence to establish non-compliance. This provision could work in a petitioner's favour in situations where a presiding officer complies with Section 73(2) of the Act and records for instance that no ballot papers were supplied to his polling unit for the election. In this circumstance, a petitioner can obtain a certified true copy of that form from the INEC and rely on it to establish the disenfranchisement thus obviating the need to call oral evidence in support.

The only challenge likely to confront a petitioner seeking to rely on this novel provision is the established principle of law in our electoral jurisprudence that renders dormant, documents tendered in bulk by a petitioner without leading oral evidence on them by calling witnesses to speak to those documents.[1] In **Andrew v. INEC**,[2] the Supreme Court held that while tendering of documents in bulk in election petition is to ensure speedy trial and hearing of election petitions within the time limited by statute, it does not exclude or stop proper evidence to prop such dormant documents.[3] The Supreme Court in Andrew v. INEC was further quick to hold that even though the appellants tendered documents from the bar and called a few witnesses to identify and confirm the said documents, they failed to call the makers. The Court Per Kekere Ekun JSC held thus:

*Apart from identifying the documents; none of the appellants' witnesses demonstrated the documents before them. Such identification cannot by any stretch be taken to mean that the documents were properly linked to the aspects of the case of the appellants. There is a world of difference between mere identification of a document and demonstration qua linking same to the appellants' case. None of the appellants' witnesses specifically related the exhibits to the specific complaints in their depositions. The blanket identification by the witnesses cannot meet the requirement of the law in this regard. PWs34, 37, 38, 40, 43, 44, 45, 47 and 49 amongst others admitted they were not the makers of those documents which they identified. It is settled law that a person who did not make a document is not in a position to give evidence on it because the veracity and credibility of that document cannot be tested through a person who has no nexus with the document. Only a maker of a document can tender and be cross-examined on same. Any exhibits tendered from the Bar without calling the maker thereof will not attract any probative value…*[4]

The loud question that must continue to resonate is, ***"what happened to the age-old position of the law that a document speaks for itself. Can such a document speaking for itself be said to be dormant or dumped?"*** This approach in Andrew v INEC has also been recently followed by the Supreme Court in Makinde v Adekola[5] and begs the question whether the Supreme Court will in view of the purport of Section 137 adopt a different approach to the question on the probative value of such documents. A wider interpretation will be to hold that by this novel provision, documents can be tendered and probative value attached without calling the witnesses, but a narrower and more restrictive view will be that the provision only empowers a petitioner to tender documents from the bar and being an issue of probative value, principles of evidence are the paramount consideration.

In respect of a petition alleging overvoting, the position of the law had always been that to prove overvoting, the voters register must be tendered but by the new provisions of Section 51(2) and 47(2) of the Electoral Act 2022, tendering of voter's register is no longer necessary to prove over voting. This was equally the position adopted by the Oyo State Governorship Election Tribunal in EPT/ OS/GOV/01/2011: **Oyetola vs. INEC** as contained in its unreported Judgment delivered on the 27th of January 2023 Per Kume J., at page 23. Section 64(4) of the Electoral Act. Section 51(2) of the Electoral Act now provides thus:

> *51.(1) No voter shall vote for more than one candidate or record more than one vote in favour of any candidate at any one election. (2) Where the number of votes cast at an election in any polling unit exceeds the number of accredited voters in that polling unit, the Presiding officer shall cancel the result of the election in that polling unit.*

In the said case, the provisions of the electoral act incorporating technology into our electoral jurisprudence such as the BVAS and its data and reports were also utilised by the tribunal in reaching its decision.

## 8. Address and Judgment

At the close of the Respondent's case, the parties are required to prepare and file final addresses within the time limited by Paragraph 46(10) to (13) of the First Schedule to the Electoral Act which provides for a period of 10days, 7days and 5days for the parties to file. By Section 285(6) of the 1999 Constitution (as amended) an election tribunal is required to deliver its judgment in writing within 180days from the date of the filing of an

[1] See ACN v Nyako (2015) 18 NWLR (Pt. 1491) 352 at 394 Paras G-H; A.C.N. v. Lamido (2012) 8 NWLR (Pt. 1303) 560 at 584 - 585, per Mohammed, JSC,
[2] Andrew v INEC 2018 9 NWLR (Pt. 1625) 507
[3] Ibid Per Okoro JSC at 559 Paras G- H
[4] Ibid Per Kekere-Ekun JSC at 577-578 Paras H-C
[5] Makinde v Adekola (2022) 9 NWLR (Pt. 1834) 13, Per Eko JSC at Page 45-46 Paras H-C

 

election petition. In **ANPP v. Goni**[1], the Supreme Court held that where an election tribunal fails to comply with this provision, jurisdiction to continue to entertain the petition lapses or becomes spent and cannot be extended by any court order howsoever well intentioned. It was further held in the said case that the timeline is not limited to trials alone but also applies to de novo trials ordered by appellate courts. See also **PDP v. CPC**[2] and **Ugba v. Suswam**[3].

After the final addresses are adopted the Court will deliver its judgment. Depending on the reliefs sought by the Petitioner, the Court may either nullify the Election and order a fresh election or declare as elected the candidate with the highest lawful votes pursuant to Section 140 of the Electoral Act. The Court will in so doing also have regard to the provisions of Section 139 of the Electoral Act which prohibits the Tribunal or Court from nullifying an election where there is substantial compliance with the Electoral Act or where the non-compliance did not affect substantially the result of the election. In keeping with our adversarial system of administration of justice, the Court or Tribunal is not at liberty to grant reliefs not sought by the parties in the Petition.

## 9. Challenges in the Delivery of Electoral Justice

### 9.1. Time Constraints: Human Factor

Time constraint here can be classified into two categories, the first being the constraint occasioned by deliberate acts of mischief and the second category being statutory time constraint. The biggest culprits of the time constraint of the first category are legal practitioners who exploit the limited time allowed for the determination of election petitions by employing various conducts and technicalities designed to defeat or frustrate the hearing of the Petitions. Making deliberate efforts to frustrate inspection of document sorting of and recount of ballot, sorting of documentary evidence and raising unnecessary objections fall within this category. Some Respondents also take undue advantages of the provisions of the First Schedule requiring the petition to be served personally on the respondent by evading service even when his political party served with the Petition has filed a response. Even when a Petitioner brings an application for substituted service of the Petition, there is no guarantee the Tribunal or Court will speedily determine the application because members of the Tribunal or Court are drawn from various parts of the Country and difficulties may arise as to assembling and constituting a quorum to hear the application. In some Petitions, the first 90 days or more are dissipated in resolving preliminary issues on service and settlement of Pleadings. In the end, this severely limits the time available for the Tribunal to hear and determine election petitions as substantial time would have been lost in resolving these preliminary issues.

### 9.2. Time Constraint: Statute

The limited time provided by the Constitution in which the Courts and Tribunals are to hear and determine Election Petitions remains the greatest clog in achieving electoral justice. Undoubtedly, the timeline stipulated by the Constitution was impelled by the need to eliminate the long periods it hitherto took for Election Petitions to be determined. In some cases, the judgments delivered by the Tribunals and Courts were of little or no value because sometimes the tenure of the victorious Petitioner had already lapsed or was close to lapsing. Earlier in this discourse, we had identified the 21 days limited by the Constitution for election petitions to be filed as well as the fact that in Election Petitions, amendment of Pleadings is only permissible in very limited circumstances.

The effect of the above provision is that it places the tribunal of an election petition under the onerous and unenviable task of having to review all the documents of an election, review all the pleadings, the evidence of witnesses, the avalanche of documents, the lengthy written addresses all within a very short time. This humongous task is worsened by the fact that the Election Petition may involve perusing documents from a large geographical area. Another adverse effect of the strict limit of election petition is the 180days within which an Election Petition is to be determined and the number of days allocated to parties to prove their Petition. The insufficiency of the time allocated to the parties is highlighted in the case of MBINA vs. INEC herein above referred to, which clearly shows the difficulty a Petitioner encounters in proving his Petition. The fact is that the Court is empowered by the First Schedule to the Electoral Act to abridge even the limited time, which parties are allowed to prove their case. In MBINA v. INEC, the time allotted the Petitioner was abridged from the 14 days allowed under the statute to 8days and even the 8days allocated to the Petitioner was further reduced to a total of 16 hours. The Petitioner alleged disenfranchisement in various units of the Eleme/Tai/Oyigbo Federal Constituency and called 30 witnesses within the time allowed for him to prove his case. The Court of Appeal in dismissing his Appeal concluded that the Petitioner was under a duty to call voters from each of those units in which he alleged disenfranchisement and the 30 witnesses called was insufficient. This time constraint will remain with us for some time to come as the provisions of paragraph 41 (10) of the First Schedule has received

[1] (2012) 7 NWLR (Pt. 1298) 147
[2] (2011) 17 NWLR (Pt. 1277) 485
[3] (2014) 4 NWLR (Pt. 1427) 264

 

judicial approval from the apex court in the case of A.C.N. v. LAMIDO.[1]

### 9.3. Technicalities

Technicalities abound so much in the conduct of election petitions. This is noticeable in both the prosecution and defence of the election petitions. In the case of **OMISORE v. AREGBESOLA**[2], the Supreme Court, per Nweze J.S.C. outlined some of these difficulties when he held as follows;

"*Now, it is no longer in doubt that this court, and indeed, all courts, have made a clean sweep of "the picture of the law and its technical rules triumphant," Aliu Bello and Ors v. Attorney-General, Oyo State (1986) 5 NWLR (Pt. 45) 828, 886. Let me explain. By its current mood, it is safe to assert that this court has firmly and irreversibly, spurned the old practice where the temple of justice was converted into a forensic abattoir where legal practitioners, employing such tools of their trade like "the whirling of technicalities," daily butchered substantive issues in courts in their "fencing game in which parties engage(d) themselves in an exercise of outsmarting each other," Afolabi v. Adekunle (1983) 2 SCNLR 141, 150. Those days are gone: gone for good! This current approach, and a robust and wholesome one at that, is to permit litigants, more particularly, parties in election-related matters to ventilate their grievances without any hindrances by technical arguments that have the tendency of clogging the wheel of electoral justice in the election tribunals and courts entertaining appeals from them: Egolum v. Obasanjo (1999) 7 NWLR (Pt. 611) 355; Nwobado v. Onoh (1984)1 SCNLR1*."

The Court reiterated the duty of the court to do substantial justice to all the parties before it. His Lordship held at page 1713 - 1714, paragraphs D, G-G to the effect that:

"*As already shown above, it is a cardinal duty of the courts to ensure, at all times, that substantial justice is accorded to all parties to the disputes before them, Adewumi v. Attorney-General, Ekiti State (2002) FWLR (Pt. 92) 1835, (2002) 2 NWLR (Pt. 751) 474, 507; Afolabi v. Adekunle (1983) 2 SCNLR 141; Shokunbi v. Mosaku (1969) 1 NMLR 54; Vulcan Gases Ltd v. Gesellschaft F. Industries at 653 The Objection is overruled on this score… Objections relating to the grounds of appeal*

*The objectors … invited the court to strike out those grounds and the issues woven around them. The answer to the objectors' invitation is predictable. The current mood of this court to technicalities has been depicted above. Consistent with this libertarian trend, the position of the law is that it is not every failure to attend to grounds of appeal with fastidious details prescribed by the rules of court that would render such a ground incompetent. This is, particularly so, where sufficient particulars can be gleaned from the grounds of appeal in question and the adversary and the court are left in no doubt as to the particulars on which the grounds are founded: Ukpong and Anor v. Commissioner for Finance and Economic Development, Akwa Ibom State and Anor. (2006) LPELR-3349, (2007) All FWLR (Pt. 350) 1246 citing Hambe v. Hueze (2001) FWLR (Pt. 42) 1, (@001)4 NWLR (Pt.703) 372, (2001)5 NSCQR 343, 352.*

*Even then, courts are now encouraged to make the best they can out of a bad or inelegant ground of appeal in the interest of justice: Dakolo and Ors. V. Dakolo and Ors. (2011) All FWLR (Pt. 592) 1610, (2011) LPELR-915. Hence, bad or defective particulars in a ground of appeal would not, necessarily, render the ground itself incompetent, Prince (Dr.) B. A. Onafowokan v. Wema bank Plc (2011) All FWLR (Pt. 585) 201, (2011) 45 NSCQR 181; Best (Nig) Ltd v. Blackwood Hodge (Nig.) Ltd (2011) All FWLR (Pt. 573) 1955, (2011) 45 NSCQR 849; Abe v. University of Ilorin (2013)All FWLR (Pt. 697) 682, (2013) LPELR. Put differently, since the essence of particulars is to project the reason for the ground complained of, the inelegance of the said particulars would not invalidate the grounds from which they flow: N.N.B. Plc v. Imonikhe (2002) FWLR (Pt. 118) 1406, (2002) 5 NWLR (Pt. 760) 294, 310; D. Stephens Ind. Ltd. And Anor v. B.C.C.I (Nig.) Ltd. (1999) 11 NWLR (Pt. 625) 29, 3101.*

*This position: a position shaped by the contemporary shift from technicalities to substantial justice, is clearly, evidenced in such cases like: Aderounmu v. Olowu (2000) 4 NWLR (Pt. 652) 253; Hambe v., Hueze; Abe v. University of Ilorin (@013) All FWLR (Pt. 697) 682, (2013) LPELR-20643. Indeed, this court, recently, stamped its infallible authority on this current posture, Abe v. University of Ilorin (2013) All FWLR (Pt. 697) 682, (2013) LPELR-20643, citing Prince (Dr. B. A. Onafowokan and Ors. V. Wema Bank Plc and Ors: (2011) All FWLR (Pt. 585) 201,(2011) 45 NSCQR 181 SC; Best (Nig) Ltd v. Blackwood Hodge (Nig) Ltd and Ors. (2011) All FWLR (Pt. 573) 1955, (2011) 45 NSCQR 849.*

*This court has no justification for departing from this wholesome contemporary attitude.*"

Re-assuring as this may sound to those who would rather be served justice than infused with choking technicalities, it is hoped that the Supreme Court and all election tribunals will appreciate that the field of technicalities is much wider than the couching of the grounds of a petition or the grounds of appeal. Other issues such as demonstration of documentary evidence (a late entrant into our jurisprudence) insistence on calling of witnesses from all the polling units stations in a constituency even in the face of documentary evidence already

[1] (2012) 8 NWLR [Pt. 1303] 560 at 593.
[2] (2015) All FWLR (pt. 813) 1673 at 1712 paras. A – D

 

before the court such as voters Register, Original or Certified Result Sheets, insistence on production of ballot boxes and its content in certain situations ought also to qualify as technicalities which should be shunned in the libertarian trend of the Supreme Court.

### 9.4. Technical Expertise and Evolving Electoral Laws

The rules and principles guiding the conduct of election petitions litigations is comprised of a combination of numerous complex rules which the judex has to master. The reality is that in appointing members of election tribunals, it is doubtful if the skills and technical knowledge of the subject matter is factored in making these appointments. Some judges appointed into election tribunals have never been involved in any form of election litigation during their practice years and therefore except such a judge commits himself to deep learning, such a judge is bound to struggle with this complex area of the law. Unfortunately, most judges appointed to election tribunals are so busy dispensing justice in their already overcrowded court dockets that there is hardly any available time to be devoted to the study of our electoral laws and principles. This situation is further worsened by our rapidly changing electoral laws, such as the novel provisions of our current electoral act which has altered the hitherto extant principles of law in our electoral jurisprudence.

### 9.5. Heavy Dockets of Election Petition Tribunals

An examination of the election tribunals constituted in previous election cycles will readily show that these election tribunal panels are constituted to hear and determine more than one election petition arising in a particular locality. For instance, one panel of the National and State Houses of Assembly Election Tribunal may be empowered to hear and determine election petitions relating to the three Senatorial Districts in Rivers State, the thirteen Federal Constituencies in Rivers State and the thirty-two State Constituencies in Rivers State depending on the number of petitions filed by aggrieved parties. It is thus not uncommon to find a single election petition tribunal dealing with up to fifteen different election petitions filed by different parties and predicated on different grounds and all relating to different elections as was the case in the election petition tribunal that delivered judgment in the case of **Mbina v. INEC** referred to earlier in this paper. This is the stark reality facing judges on election petition tribunal duty and it must be emphasised that to handle this volume of cases in such a short period of time and with the vast geographical areas involved in some of these petitions, being a judge in an election tribunal is certainly no walk in the park. It requires painstaking and diligent work.

## 10. Conclusion and Recommendations

In this article, we have embarked on a journey through the various aspects of an election petition, even though hastily, with a view to shedding light on some of the issues and challenges likely to confront a judge appointed as a member or chairman of an election tribunal. This journey has revealed that an election petition is unarguably one of the most, if not the most vast and technical areas of law. It therefore behoves on any judicial officer who undertakes his judicial duty seriously, and who is desirous of dispensing electoral justice to devote himself to first seeking and obtaining an in-depth knowledge of the principles of election petition proceedings. This is because, it is only when a judge is very conversant with the processes and principles that are applicable in election petitions that they can effectively manage and dispense electoral justice. The judge must be consistently conscious of the strict timelines which cannot be extended and must set out at an early stage of proceedings to start writing his rulings and judgments and update them as the proceedings progress.

Effectively utilising the extensive Pre-Hearing provisions cannot be over emphasised and neither can it be downplayed in the manner in which pre-hearings are conducted in the regular civil trials in the High Courts and other courts. Such an approach will not only be fatal but also expose the ignorance of the judge and this must be averted at all costs.