

**IN THE SUPREME COURT  
OF THE REPUBLIC OF VANUATU**  
(Civil Jurisdiction)

**Election Petition**  
**Case No. 25/248 SC/ELTP**

**BETWEEN: VANESSA MOLISA**  
Petitioner

**AND: THE PRINCIPAL ELECTORAL OFFICER**  
First Respondent

**AND: IAN TOAKALANA WILSON**  
Second Respondent

**Before: Hon. Chief Justice Vincent Lunabek**

**In Attendance: Mr Nigel G. Morrison for the Petitioner  
Ms Jelinda T. Tari for the First Respondent  
Ms Stephanie Mahuk for the Second Respondent**

---

**STRIKING OUT ORDER**

---

1. This is an Election Petition. It was filed on 20 February 2025. A deposit fee of VT200,000 was paid by the Petitioner. The Petition was listed for a First Hearing on Tuesday 4 March 2025 at 2:30PM o'clock in accordance with Rule 2.6 of the Election Petitions Rules (EPR) of Order No. 29 of 2003.
2. Rule 2.6 of the EPR provides:

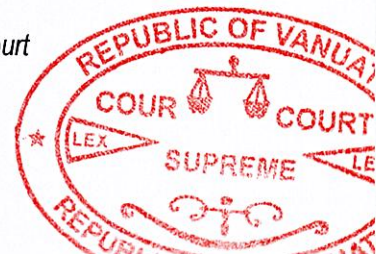
***"First Hearing***

2.6 (1) *The first hearing is to be in open court.*

(2) *At the first hearing,*

- (a) *the petitioner must satisfy the Court that there is a foundation for the petition;*  
*and*
- (b) *the court must make orders about:*
  - (i) *who is to be party to the proceeding; and*
  - (ii) *service of the petition; and*
- (c) *the Court must fix a date for the first Conference in the proceeding and write this date on the petition.*

(3) *If the Court is not satisfied that there is a foundation for the petition, the Court must strike out the petition.*





[NOTE: S.58(2) of the Representation Act deals with who is to be served and to be allowed to be heard].

3. At the First Hearing, I was informed by Counsel that the Representation of the People Act has been repealed by Section 132 of the Electoral Act No. 16 of 2023 and the Electoral Act (EA) is the new Legislation (Act) dealing with the Election Petitions. Section 133(4) of the (EA) says as follows:

*"(4) Any Rules for Election Petitions made under the Representation of the People Act [CAP. 146] that were in force immediately before the commencement of this Act, continue with necessary modifications, on and after that commencement, until they are repealed or revoked."*

4. It is noted that under the Representation of the People Act, Section 58(2) deals with who is to be served and to be allowed to be heard. Section 91(2) is its equivalent section under the Electoral Act No. 16 of 2023. Section 91 says:

**"91. Election petition to be in writing and copies to be served on affected persons**

- (1) *An election petition must be in writing and specify the ground or grounds upon which an election is disputed.*
- (2) *The Supreme Court must cause a copy of each election petition to be served on any person whose election may be affected by the petition and allow such person a reasonable time in which to make any submissions in writing on such petition and an opportunity to be heard on the hearing of the petition".*

5. At the First Hearing of this Petition, Ms Mahuk submitted on behalf of the Second Respondent that this Petition was presented outside the statutory time limit provided under the provisions of the Electoral Act and so, it must be struck out. Section 90 is that relevant section. It states:

**"90 Time for presentation of petitions**

- (1) *Subject to subsection (2), an election petition must be presented within 21 days after the publication in the Gazette of the final results of the election to which the petition relates.*
- (2) *If a petition alleges a specific payment of money or other reward after an election by or on the account of a person whose election is disputed, the petition may be presented within 21 days after the alleged payment.*
- (3) *The time limit referred to in subsections (1) and (2) must not be extended".*

Section 90(2) of the Act is not relevant or applicable in the circumstance of this case. Sub-sections (1) and (3) of Section 90 are the relevant subsections here.





6. In the present case, the final results of the election to which the petition relates, were published in the Gazette on 29 January 2025.
7. This Election Petition was filed on 20 February 2025.
8. The final day for the presentation of this Petition was 19 February 2025. It was presented 1 day outside the statutory time limit. The statutory time limit under Section 90(3) of the Act is mandatory. The time limit cannot be extended.
9. Mr Nigel Morrison conceded to Ms Mahuk's submissions.
10. For these reasons, the Petition must be struck out.
11. The Court makes the following ORDERS:
  - (a) The Petition is struck out;
  - (b) An Order is made for the Registrar of the Supreme Court to remit/refund the deposit fees paid by the Petitioner back to the Petitioner within 30 days from the date of this order.

**DATED at Port Vila, this 4<sup>th</sup> day of March 2025.**

**BY THE COURT**

**Hon. Chief Justice Vincent Lunabek**

