

**IN THE SUPREME COURT OF SEYCHELLES**

**Civil Side: MA 257/2016**

**(arising in MC86/2016)**

**[2016] SCSC 598**

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**LINYON DEMONKRATIK SESELWA  
(REP BY MR. ROGER MANCIENNE)**

Petitioner

versus

**THE ELECTORAL COMISSION  
(REP BY ITS CHAIRMAN, MR HENDRICK GAPPY)**

Respondent

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Heard: 17 August 2016

Counsel: Mr. Derjacques for petitioner

Delivered: 17 August 2016

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**RULING**

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**D. Karunakaran, J**

[1] This is a petition for “Judicial Review” of an administrative decision of the respondent, the Electoral Commission (EC), in registering a political party in the name of “Linyon Sanzman” under the provisions of the Registration of the Political Parties (Registration and Regulation) Act. The petitioner (LDS) is an existing, recognised and registered political party, which - in the instant petition - is challenging the said decision of the EC on the grounds that it is irrational, unreasonable and above all, illegal. The Petitioner

contends that the name “Linyon Sanzman” is the same name, which had been in continuous and exclusive use until recently by a particular political alliance - a common law entity - that sprouted from the union of three registered political parties. According to the petitioner, the said name “Linyon Sanzman” had popularly been associated with, publicly known and generally recognised as that of the said union, which has now metamorphosed into a political party, which party currently remains registered in the name of “LDS”, the petitioner in this matter. It is the case of the petitioner that the impugned name “Linyon Sanzman” if used by another political party, is likely to deceive, grossly mislead or to say the least confuse the members of the public, its party members and supporters, who are potential electorates soon going to exercise their voting rights in the forthcoming election to elect the members of the National Assembly. Such deception, misleading and confusion would cause irreparable loss, hardship, prejudice and irreversible adverse consequences to the petitioner.

[2] Having thus filed the main petition for Judicial Review, the Petitioner has now come before this Court, by way of an interlocutory application for an *urgent, ex parte interim order*, in the nature of a prohibitive and/or a mandatory injunction directing the Respondent not to allocate the name “Linyon Sanzman” to the political party led by Mr. Martin Aglae nor to accept, approve or register any nomination of candidate/s nominated or submitted by “Linyon Sanzman” to contest in the forthcoming elections for the members of the National Assembly.

[3] I carefully perused the affidavits filed in support of the interlocutory application. Also I meticulously considered the arguments advanced by Mr. Derjacques, learned counsel for the Petitioner. I diligently analysed the relevant provisions of law, case law and our jurisprudence in this respect. Though relevant to the merits of the petition, the arguments presented have indeed, given rise to many an issue based on facts and points of substantive law. If this Court now embarks on an attempt to determine all those issues canvassed by the Petitioner in this interlocutory application, particularly at this stage of the proceeding, certainly, such an attempt would in effect, dispose of the main petition itself. That would be tantamount to putting the cart before the horse. This, the Court should not and cannot do. Indeed, in the thin disguise of determining the interim

injunction, the Court should not determine the very fate of the main petition before giving the respondent and other interested parties ample time and opportunity to present their respective cases in full, and on the merits of the petition before this Court.

[4] First of all, I am satisfied of the reasons given by the petitioner for an urgent hearing of the interlocutory application in this matter. Given the fact that today is the day specifically allotted for the filing of nominations, the urgency is apparent and justified. Consequently, I find it just and necessary that this matter should be heard *ex parte* and urgently for the reasons stated *infra*.

[5] Having said that, the Ruling delivered earlier in MA 258 of 2016 vide MC 87 of 2016 be read *mutatis mutandis* as part of the Ruling given herein in this matter. For similar reasons stated therein, I make the following orders:

(1) I grant leave to proceed *ex parte* in this matter in terms of Rule 5 of the Supreme Court (Supervisory Jurisdiction Over Subordinate Courts, Tribunals and Adjudicating Authorities) Rules 1995.

(2) In terms of Rule 10 of the Supreme Court (Supervisory Jurisdiction Over Subordinate Courts, Tribunals and Adjudicating Authorities) Rules, 1995, I direct the Respondent (EC) to forward the relevant record or record of proceedings in this matter to the Supreme Court Registry at the earliest. The EC to be notified accordingly.

(3) I order an interim injunction prohibiting the Election Commission from registering any political party/entity in the name of “Linyon Sanzman” and from accepting, approving or registering any nomination of candidate/s submitted by “Linyon Sanzman” to contest in the forthcoming elections for the members of the National Assembly, until further order of the Court.

(4) For the avoidance of doubt, if any nomination of candidate/s submitted by the said political party “Linyon Sanzman” has already been registered or any nomination had been accepted, approved or registered as such, I direct the Election Commission to strike off and cancel such acceptance, approval or registration in this respect, and give effect to the interim injunction ordered hereof, until further order of the Court; and

(5) I direct the Registrar of the Supreme Court to serve forthwith, a copy of this order and the petition, on the Chairman and four other members of the Electoral Commission. In the interest of justice, I further direct the Registrar of the Supreme Court to cause service of the copies of the petition and the interim order on Mr. Martin Aglae, the leader or the President or the Secretary or any fit and proper person who is representing the political party “Linyon Sanzman”.

[6] The case is to be mentioned on 21 September 2016 at 9.30 am. The parties to be notified of the date accordingly.

Signed, dated and delivered at Ile du Port on 17 August 2016

D Karunakaran  
Judge of the Supreme Court