

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MBALE

ELECTION PETITION NO 18 OF 2021

MAFABI ASHA NABULO :::::::::::::::::::: PETITIONER

VERSUS

1. WAMALA NAMBOZO FLORENCE :::::::::::::::::::: RESPONDENTS

2. THE ELECTORAL COMMISSION

BEFORE: HONOURABLE JUSTICE DAVID MATOVU

JUDGMENT

1. Mafabi Asha Nabulo (hereinafter referred to as “the Petitioner”) lodged Election Petition No 018 of 2021 in the High Court of Uganda at Mbale against Wamala Nambozo Florence and the Electoral Commission (hereinafter referred to as “1st and 2nd Respondents) respectively, seeking the following declarations:
 - a) That the petition be allowed and the election of the 1st Respondent be nullified.
 - b) Order that the 1st Respondent the candidate who was declared by the 2nd Respondent as the duly elected District Woman representative to Parliament for Sironko District vacates her seat.
 - c) The Petitioner be declared winner of the election of Woman Member of Parliament for Sironko District.
 - d) In the alternative court orders for fresh elections to be organized, conducted and held in Sironko District for the position of District Woman representative of Parliament.
 - e) Costs of this petition be paid by the Respondents.

Background facts

2. On the 14th January, 2021 the 2nd Respondent organized parliamentary elections for the position of District Woman Member of Parliament for Sironko District.
3. Seven (7) persons contested for the position of District Woman Member of Parliament for Sironko District and these were:
 - 1) Gibu Juliet Gibbs
 - 2) Kayegi Eva

- 3) Mafabi Aisha Nabulo (Petitioner)
 - 4) Nadunga Hilda
 - 5) Nnakayenze Aisha
 - 6) Wanda Femier
 - 7) Wamala Nambozo Florence (1st Respondent)
4. The Petitioner contested as National Resistance Movement party candidate and the 2nd Respondent stood as an independent candidate.
 5. At the end of the polling exercise, the 2nd Respondent declared the following results:
 1. Gibu Juliet Gibbs -503
 2. Kayegi Eva -9,912
 3. Mafabi Aisha Nabulo (Petitioner) -29,744
 4. Nadunga Hilda -530
 5. Nnakayenze Aisha -2,743
 6. Wanda Femier -17,891
 7. Wamala Nambozo Florence (1st Respondent)-31,119
 8. The 2nd Respondent published the above results in the Uganda Gazette of 17th February, 2021.
 9. The Petitioner being dissatisfied with the results declared hereinabove by the 2nd Respondents filed the instant petition.

Burden and Standard of Proof

10. The burden of proving the allegations in this petition lies on the Petitioner and he should do so on a balance of probabilities and to the satisfaction of this court. See case of **Ntende Robert versus Isabirye Iddi** EPA 74 of 2016

Legal representation

11. Mr. Kamba Hassan, Mr. Mutembuli Yusufu, Mr. Orono Emmanuel and Isaac Nabende represented the Petitioner, while Mr. Nandaah Wamukoota Charles together with Mr. Ojok Geoffrey represented the 1st Respondent and Mr. Honest Baguma represented the 2nd Respondent.

Law Applicable

12. The laws applicable to petitions relating to Parliamentary elections are the following:
 - 1) The Constitution of the Republic of Uganda

- 2) The Parliamentary Elections Act, Act No 17 of 2005
- 3) The Parliamentary Elections (Election Petitions) Rules SI 141-2.

Issues for determination

13. During the scheduling conference the parties framed Five (5) issues for determination and these are-;

- 1) Whether the 1st Respondent was qualified to be nominated and elected as Woman Member of Parliament for Sironko District or at all.
- 2) Whether the election for Sironko Woman Member of Parliament was conducted in compliance with the electoral laws.
- 3) Whether the non-compliance with the electoral laws affected the results in a substantial manner.
- 4) Whether electoral offences were committed during the campaigns and election in the Sironko District Woman Member of Parliament elections.
- 5) What remedies are available to the parties?

Petitioner's Evidence

14. The Petitioner relied on her affidavit in support of the petition and she also relied on the affidavits Mr. Gidudu Mansa Musa, Wabusela Walukhuli, Mataka Andrew, Muyinda Abbey Kakaire, Wodenga Herbert, Dembe Paul, Nabudele Sam, Gutaka Amuza Lambuli, Wambaka Wilson Mike, D/C Wangira Jamada, Magombe Abdu, Obala Hassuman, Kiganga Rogers, Wadika Rogers, Masaba Geoffrey Fred, Nafuna Lonna, Makwasi Stephen, Musoli Solomon, Muzaki Annet, Wozisi Gizamba, Vincent Alias Kamau, Manana George, Nafuna Oliver, Nangalama Abdu, Bigala Moses, Wotalunga Bernard, Siduma Samuel, Kiguma Levy, Nasaga Juliet, Namisi Rogers, Masola Francis, Gimeyi Rogers, Gonyi Daniel, Wetaka Hussein Wambaka Wilson Mike, Wanyenze Mary, Makwasi Stephen, Namulondo Maliya and Nabusewa Mary which affidavits were admitted as their examination in chief.
15. The affidavits in rejoinder of the Petitioner, Obala Hussuman, Magombe Abdu, Bashir Abdalla, Wotalunga Benard, Bigala Moses, Dembe Paul, Gutaka Amuza Lambuli, D/C Wangira Jamada, Wanyenze Mary, Gonyi David, Wodera Fred, Muyinda Kakaire and Mataka Andrew Jackson were also read and admitted as part of their evidence.
16. **Mafabi Asha Nabulo (PW1)** the Petitioner in her affidavit filed on the 19th March, 2021 stated that she is was a candidate in the district Woman representative to Parliament for

Sironko District elections held on 14th February, 2021 and she was the runner up with 29,744(Twenty-nine thousand seven hundred forty-four) votes and 1st Respondent got 31,119(Thirty-one thousand one hundred nineteen) votes which is a difference of 1,375 (One thousand three hundred seventy-five) votes between them.

17. That being aggrieved and dissatisfied with the results hereinabove and the declaration of the 1st Respondent as the winner of the election of the District Woman representative to Parliament for Sironko District, the Petitioner filed this election petition challenging the nomination and election of the 1st Respondent on the ground that she did not possess the minimum academic qualifications necessary for the position of Member of Parliament at the time of her nomination and election.
18. That Petitioner was informed by Mr. Wozosi Vincent Gizamba alias Kamau that the 1st Respondent is known as Nafuna Gorret and not as Nambozo Florence Wamala.
19. That Nambozo Florence Wamala is actually the elder sister of Nafuna Gorret.
20. That the said Nambozo Florence Wamala was at one time a girlfriend to Wozosi Vincent Gizamba alias Kamau.
21. The Petitioner also received information from Wabusela Walukhuli, Mataka Andrew, Gidudu Mansa, Muyinda Kakaire, Wodenga Herbert that Nambozo Florence Wamala was a pupil at Budadiri Girls Primary School up to P.7 and sat PLE in 1989 and joined Secondary School but dropped out in Senior two in 1991 and left for Kampala.
22. That the 1st Respondent Nafuna Gorret adopted her sister's name of Nambozo Florence Wamala for purposes of using her academic documents of PLE and "O' Level results but she has never been a student at Nabumali High School and not even Budadiri Girls Secondary School.
23. That according to the 1st Respondent's curriculum vitae on the Parliamentary website (PE4) she sat her PLE in 1989 at Matale Primary School but the name Nambozo Florence Wamala does not appear on(PE5) a list of the pupils who sat PLE at Matale Primary School in 1989.
24. That the 1st Respondent organized, sponsored, and advertised inter sub-counties football tournament(PE6) during campaign period from 17th December, 2020 to 1st January, 2021 and she gave out gifts and trophies to the winning teams.
25. That the final match was played on 1st January, 2021 between Sironko Town Council and Busalani Sub County where upon the 1st respondent gave a cow (black in colour), a trophy and medals to Sironko Town Council football team, Ug Shs 400,000/= (Four hundred

thousand shillings) to Busalani Sub County team and Ug Shs 250,000/= (Two hundred fifty thousand shillings) to Bumulisha Sub County team.

26. That Kiganga Rogers Wozosi informed the Petitioner that the 1st Respondent and her agents solicited for votes during all the football matches of the tournament using a banner with her symbol and asked people to vote for her which is contrary to electoral laws and guidelines.
27. That her campaign supervisor Mr. Wambaka Wilson informed her that the 1st Respondent's agent Gimei Ronald Cylan solicited for votes at Bumutale Catholic Church Polling Station when he made voters to line up and he gave each of them Ugx 2,000 (Two thousand) while asking them to vote the 1st Respondent. This matter was reported to Sironko Central Police Station vide CRB/24/2021 and Gimei was charged with voter bribery the charge sheet, criminal summons, photographs of the said money and the agent were admitted in evidence and marked PE11, P12, PE13, PE14 & PE15 respectively.
28. That Bigala Moses informed her that the 1st Respondent personally solicited for votes when she convened a meeting for farmers group at last Chance Restaurant in Budadari Town Council and she gave them two (2) tins of red creole onions seeds, Ug Shs 30,000 (thirty thousand shillings) and T-shirt bearing her picture and name to whoever attended. Photographs of the agents of the 1st Respondent bribing voters with onions marked PE16.
29. That her polling agents at Bumayosi, Nabugwa, Ndidima, Kahemba, Buwodero Church of Uganda, Gibayi Catholic Church, Budadiri Town Council, Masaba, Bumalimba, Busita Sub Counties, Mutufu, Gombegasawa Town Council, Kigunyonyu, Zesuli, Batandiga, Kikobero, Elgon, Buhugu, Bumasifa, Busulani, Bigitimwa, Bukyabo, Bukise, Bukyambi and Namaguli sub counties polling stations that the declaration of results forms were filed in before voting ended. Copies of the certified Declaration of results Forms were collectively admitted in evidence and marked PE17.
30. She was further informed by her polling agents at Bukyaba, Bulusha Catholic Church and Busiima Church of God polling stations that the results on declaration of results forms were falsified, swapped, altered and the number of votes counted exceeded the number of the number of voters who voted.
31. She contended that the 2nd Respondent conducted the election with a lot of bias, incompetence, compromise contrary to the electoral laws and principles governing elections.

32. The Petitioner stated during cross examination that she dragged the 1st Respondent to court for person impersonating Nambozo Florence Wamala and she was in court to find out whether 1st Respondent is Nafuna Gorret or Wamala Nambozo Florence.
33. That she did get time to verify from UNEB the “A’ Level results filed in August by the 1st Respondent.
34. That basing on information given to her by Wozisi Gizamba Vincent and the persons mentioned in paragraph 8 of her affidavit in support of the petition she confirms that the 1st Respondent is not qualified to be a Member of Parliament. She sat PLE at Budadiri Primary girls school and fled in S.2 she confirmed that the 1st Respondent did not sit for O’ Level and A’ Level.
35. She further confirmed that she did not verify from NIRA to ascertain whether Wamala Nambozo Florence really exists and never saw the academic documents which were presented by the 1st Respondent to Electoral Commission for her nomination.
36. That the results at 62 (Sixty-Two) polling stations were altered, voting was closed before time, and some of her polling agents were tricked into sign declaration of results forms before voting ended and unfortunately her agents did not complain to the presiding officers and 17 of them deposed affidavits in support of this petition.
37. She stated in re-examination that she wrote to the Electoral commission requesting for the nomination papers which the 1st Respondent used in this election but she was never given the same.
38. That the sources disclosed told her that the 1st Respondent did not go to Nabumali High School but she went to Budadiri Girls.
39. That a gentleman called Mr. Wozisi Gizamba Vincent alias Kamau went to her home in Buyobo and told her that he knows the person they call Nambozo Florence Wamala and she was his girlfriend when they were still young.
40. **Wozisi Gizamba Vincent alias Kamau (PW2)** in his affidavit filed on the 19th March, 2021 stated that the 1st Respondent and her entire family are well known to him. That he knows the 1st Respondent as Nafuna Gorret a daughter to the late Petero Wamala who was a resident of Bumasifa Sub County, Sironko District which is a neighboring sub county to his residential Sub county and Nambozo Florence Wamala is a sister to the 1st Respondent.
41. That Nambozo Florence Wamala was his girlfriend while she was still a student at Nabumali High School in S.3 in 1991 and when she completed her S.4 1992 but he did not know the school she joined for her “A’ Level.

42. That the late Petero Wamala's children were the following; - Kagusuma Margaret, Dr. Ogoile.K., Wamala Kejebo, Nambozo Florence Wamala, Late John Aggrey Wamala, Wamala William, Nafuna Gorret (2nd Respondent) and Nabukwasi Jane.
43. That Nafuna Gorret who now calls herself Nambozo Florence was a pupil at Budadiri Girls Primary School and sat PLE at this very school in 1989 and later joined Budadiri Girls Secondary School in 1990 but dropped out of school in S.2 in 1991.
44. That it was her elder sister Nambozo Florence Wamala that sat PLE in Matale Primary School in 1988 and then joined Nabumali High School in for Senior One in 1989.
45. That he last saw Nambozo Florence Wamala at the burial of her late father Petero Wamala in 2014.
46. That he informed the Petitioner that the 1st Respondent was known to him and other village mates as Nafuna Gorret and she dropped out of school in 1991 while in S.2 at Budadari Girls Secondary School and the real Nambozo Florence Wamala exists and she is the elder sister of the 1st Respondent and she is the one who studied at Nabumali High School but not the 1st Respondent.
47. She stated in cross examination that he is not related to the family of the late Petero Wamala and he knows Wamala Aggrey Wadamba as a deceased person but he does not know Nakayenze Gorreti, Kayinza Kate and Segowa Waduro.
48. That Petero Wamala had one wife but he does not know the customary heir of Petero Wamala.
49. That Nafuna Gorret is the second last born in the family of Petero Wamala.
50. When tasked to look around the court room and identify his former girlfriend he informed court that none of the ladies in courtroom has ever been his girlfriend. (The Petitioner and 1st Respondent were in court while this witness was being cross-examined)
51. **Wabusera Walukhuli (PW3)** in his affidavit filed on 19th March, 2021 stated that he was a class teacher at Nabumali High School from 1989 to 1994 teaching Commerce in S.3 and S.4 and he was appointed a caretaker Deputy Head Teacher at Nabumali High School in 1994. His posting letter dated 29th April. 1989 and appointment letter were admitted in evidence and marked PE20.
52. That he taught a girl called Nambozo Florence Wamala at Nabumali High School between 1991 and 1992 in S.W and S.4W and she was an active student in class and games and sports.

53. That he knows and has ever met the Women Member of Parliament for Sironko District but she is not the Nambozo Florence Wamala he taught and she does not recognize him or show any sign that he taught her. That he can easily identify the Nambozo he taught and he happened to interact with her in 2006 when she paid a visit to Nabumali High School although he did not go into the details of her life.
54. He stated during cross examination that he knew Watuwa Anthony Khaukha as the person who taught Nambozo Florence Wamala Geography and English at Nabumali High School and he was the house master for Apollo house, patron for music dance and drama, Patron debating club and also prep master at Nabumali High School.
55. He informed court that he taught so many students at Nabumali High School and he cannot recall all of them by name but he remembers them by face and when he came to the courtroom he was able to recognize Geoffrey Ojok counsel for the 1st Respondent, Counsel Nabende, and Counsel Mutembuli as some of his students at Nabumali High School, but he could not identify any of the ladies in the court room as his former student. (The Petitioner and 1st Respondent were in court while this witness was being cross-examined).
56. **Gidudu Mansa Musa, Mataka Andrew Jackson, Muyinda Abbey Kakaire and Wondenga Herbert** stated in their affidavits filed on 19th March, 2021 that they were students of Nabumali High School between 1989 to 1992 when they completed their “O’ Level and among the old girls they studied with was Nambozo Florence Wamala who was also very good at sports as she played net ball and she was resident of Sironko District.
57. That Nambozo Florence Wamala was big in size and medium in height and was commonly referred to as “ifa” while playing football and confirmed that the Nambozo Florence Wamala they studied with at Nabumali High School is not the 1st Respondent and adduced the following documents in support of their evidence PE18 is a letter for verification of documents of **Gidudu Mansa Musa**, PE22 for **Mataka Andrew Jackson**, PE23 letter from Mbale Police Station dated 28th April 2021 to the Headmaster of Nabumali High School, PE24 is UCE result slip **Muyinda Abbey Kakaire**, PE26 National ID of **Wodenga Herbert** and PE27 UCE result slip **Wodenga Herbert**.
58. **Wangira Jamada (PW4)** Stated that he on 14th January, 2021 with other police officers were informed by **Wambaka Wilson** of voter bribery at **Bamutale Catholic Church** polling station and when they went to this polling station they found motor vehicle Registration Number **UAS 611U** and someone distributing money in denominations of 2000 (two thousand).

59. **Dembe Paul, Nabudele Sam, Gutaka Amuza Lambuli, Wambaka Wilson Mike** in their affidavits in support of the petition stated that the registered voters of Bumutale Catholic Polling Station while on their way to the polling station they met a Toyota Premio motor vehicle Registration number UAS 611U driven by Gemei Ronald Clyan who approached them and told them to meet him at the polling station and he made people to line up at the polling station and he gave them 2000 (two thousand) each.
60. **Magombe Abdu, Obala Hassan, Kiganga Rogers Wozosi, and Wadika Rogers** in their affidavits mention a football tournament known as the “Nambozo Cup” that was allegedly organized by the 1st Respondent between 17th December, 2020 and 1st January, 2021. The football matches were played at Masaba Senior Secondary School by different the different Sub Counties in Sironko District.
61. They contend that this tournament was held during the campaign period and gifts were given out by the 1st Respondent which included a trophy, medal, cow and cash prizes.
62. **Masaba Geoffrey, Nafuna Lonna, Makwasi Stephen, Musoli Solomon, Nafuna Oliver, Nangalama Abdu Nasaga Juliet, Namisi Rogers, Masola Francis, Gimeyi Rogers, Gonyi David, Wettaka Hussein, Wanyeze Mary, Musonga Festo, Makwasi Stephen, Namulondo Maliya, Nabujewa Mary, and Wodera Fred** who were polling supervisors and or polling agents of the Petitioner in their affidavits filed on 19th, March, 2021 stated that they witnessed incidences of election malpractices that happened at the different polling stations on the election day and their evidence related to the declaration of results forms (PE17).
63. **Bigala Moses, Wotalunga Benard, Siduma Samuel and Kiguma levy** in their affidavits gave evidence in respect to the 2 (two) tins of **red creole onion seeds** and a of sum 30,000 (thirty thousand) which was given to each of the 400 (Four Hundred) people who were in attendance at Last Chance restaurant by the 1st Respondent.
64. The Petitioner relied on the following documents; -
- 1) Certified copies of the result tally sheet dated 16th January 2021 it is marked PE1.
 - 2) Voter location slip marked PE2.
 - 3) Uganda gazette dated 17th of February 2021 marked PE3.
 - 4) The profile of the 1st Respondent on the Parliamentary Website marked PE4.
 - 5) the Uganda National Examination results for 1992 marked PE5.
 - 6) The advertisements of the Nambozo tournament Cup marked PE6.
 - 7) The 1st Respondent showing the final tournament of Nambozo Cup marked PE7.

- 8) Photographs of the medals for Nambozo cup 2020/2021 marked PE8.
- 9) photographs for Nambozo Christmas Cup marked PE9
- 10) photographs showing the opening ceremony for the finals of Nambozo Christmas Cup 2020 marked PE10.
- 11) The charge sheet dated 19th March 2020 in criminal record book 24 of 2021 CPS Sironko it is *Uganda VS Gimei Ronald Clime* marked PE11.
- 12) Criminal summons for Gimei Ronald in criminal case No.61 of 2021 marked PE12.
- 13) Photographs of motor vehicle Reg. NO.UAS 611U marked PE13.
- 14) photographs of the recovered money for bribing voters by the agents of the 1st Respondent marked PE14.
- 15) Photographs of the arrested agent of the 1st Respondent bribing voters with money marked PE15.
- 16) Photographs of the agents of the 1st Respondent bribing voters with onions marked PE16.
- 17) The certified declaration of results forms attached to the petitioner's affidavit in support of the petition totaling 161 (One hundred sixty-one) in number and they are collectively marked as PE17.
- 18) The letter for verification of documents of Mr. Gidudu Mansa Musa from Nabumali High School dated 19th March 2021 it is attached to his affidavit in support of the petition my lord marked PE18.
- 19) The letter dated 28th April 2011 from CID Mbale Police Station addressed to the Headmaster Nabumali High School marked PE19.
- 20) The posting letter for Mr. Wabusela Walukuli to Nabumali High School dated 29th April 1989 it is attached to his affidavit in support of the petition marked PE20.
- 21) The appointment letter of Mr. Wabusela Walukuli as Deputy Headmaster to Nabumali High School dated 15th September 1994 and it is attached to his affidavit in support of the petition marked PE21.
- 22) The letter of verification from Nabumali High School to the Executive Secretary UNEB for Mr. Mataka Andrew Jackson a former student of the school it is attached to his affidavit in support of the petition marked PE22.
- 23) letter from CID Mbale Police Station dated 28th April 2021 to the Headmaster of Nabumali High School marked PE23.

- 24)The UCE result slip for Muyinda Abbey Kakaire attached to his affidavit in support of the petition marked PE24.
- 25)The National ID of Mr. Muyinda Abbey Kakaire attached to his affidavit in support of the petition marked PE25.
- 26)The National ID of Wodenga Herbert attached to his affidavit in support of the petition marked PE26.
- 27)The UCE result slip for Wodenga Herbert attached to his affidavit in support of the petition from Nabumali High School and it is marked PE27.
- 28)The voter identification slip of Dembi Paul attached to his affidavit in support of the petition marked PE28.
- 29)The National ID of Dembi Paul attached to his affidavit in support of the petition marked PE29.
- 30)The voter location slip of Nabudele Sam attached to his affidavit in support of the petition marked PE30.
- 31)the National ID of Gutaka Hamuza Lambuli attached to his affidavit in support and it is marked PE31.
- 32)the appointment letter of Gutaka Hamuza Lambuli marked PE32.
- 33)The National ID of Wambaka Hamuza Lambuli attached to his affidavit in support of the petition and it is marked PE33.
- 34)The appointment letter of Wambaka Hamuza Lambuli attached to his affidavit in support and it is marked PE34.
- 35)Minute from the office of the regional DPP dated 18th March 2021 attached to the affidavit of Detective Constable Wagiri Jamada marked PE35.
- 36)the recovered money as exhibits marked PE36.
- 37)Photographs of the 1st respondent giving out a cow marked as PE37.
- 38)Photographs of the football teams for Nambozo Christmas Cup 2020 marked PE38.
- 39)The voter location slip for Obala Osman attached to his affidavit in support of the petition marked PE39.
- 40)The voter location slip for Kiganga Rogers Wozosi attached to his affidavit in support of the petition marked PE40.
- 41)The voter location slip for Wadika Rogers attached to his affidavit in support of the petition marked PE41.

- 42)The appointment letter of Mr. Masaba Geoffrey Fred as a polling agent of the petitioner attached to his affidavit in support marked PE42.
- 43)The voter allocation slip for Masaba Geoffrey Fred marked PE43.
- 44)The appointment letter for Nafuna Lonna as a polling agent for the petitioner marked PE44.
- 45)The voter allocation slip for Nafuna Lonna marked PE45.
- 46)The National ID of Nafuna Lonna marked PE46.
- 47)National ID of Makwatsi Steven attached to his affidavit in support of the petition marked PE47.
- 48)National ID of Masoli Solomon attached to the affidavit in support marked PE48.
- 49)The appointment letter for Muzaki Annet Jacqueline a polling agent of the petitioner also attached to the affidavit in support of the petition marked PE49.
- 50)The voter location slip for Muzaki Annet Jacqueline marked PE50.
- 51)The National ID for Manana George attached to his affidavit in support of the petition marked PE51.
- 52)the appointment letter for Mana George attached to his affidavit in support of the petition as a polling agent of the Petitioner marked PE52.
- 53) The National ID for Nafuna Oliver attached to her affidavit in support of the petition marked PE53.
- 54)The appointment letter for Nafuna Oliver marked PE54.
- 55) The declaration of result form for Bukyambi Sub-County Headquarters Bunandudu Parish Budadiri County East marked PE55.
- 56)The voter location slip for Nangalama Abdu attached to his affidavit in support of the petition marked PE56.
- 57)The appointment letter for Nangalama Abdu marked PE57.
- 58)The photos of the voters bribed with onion seeds by the agents of the 1st Respondent marked PE58.
- 59)The National ID of Bigala Moses attached to his affidavit in support of the petition marked PE59.
- 60)The voter location slip for Bigala Moses marked PE60.
- 61)the voter location slip for Nasaga Juliet attached to her affidavit in support in support of the petition marked PE61.

- 62)The appointment letter for Nasaga Juliet as a polling agent of the Petitioner marked PE62.
- 63)The voter location slip for Namisi Rogers attached to her affidavit in support of the petition marked PE63.
- 64)The voter location slip for Masolo Francis attached to his affidavit in support of the petition marked PE64.
- 65)The voter location slip for Gimei Rogers in support of the affidavit in support marked PE65.
- 66)The appointment letter of the said Mr. Gimei Rogers as a polling agent of the petitioner and marked PE66.
- 67)The voter location slip for Gonyi David Robert attached to his affidavit in support of the petition marked PE67.
- 68)The voter location slip for Wetaka Husein attached to his affidavit in support marked PE68.
- 69)The voter location slip for Wanyenze Mary marked PE70.
- 70)appointment letter for Wanyenze Mary a polling agent of the petitioner marked PE71.
- 71)The National ID of Mucosa Festo attached to the affidavit in support of the petition marked PE72.
- 72)The voter location slip for Namulondo Maria marked PE73.
- 73)The appointment letter for Namulondo Maria as a polling agent of the petitioner marked PE74.
- 74)the appointment letter of Nabujewa Mary as a polling agent of the petitioner marked PE75.
- 75)the voter location slip for Wodero Fred attached to his affidavit in support of the petition marked PE76.
- 76)photograph of the trophy attached to the petitioner's affidavit in rejoinder and named Nambozo Sironko Christmas Cup dated 1st January 2021 sponsored by the 1st respondent and it is marked PE77.
- 77)the transcription of the CD recording from Makerere University it is also attached to the affidavit in rejoinder of Mr. Magombe Abdu and it is marked PE78.

1st Respondent's Evidence

65. The 1st Respondent relied on her affidavit in support of the answer petition and supplementary filed on 12th August, 2021 and also relied on the affidavits Mr. Womala William, Wogoire William Wamala, Watuwa Anthony Khaukha, Kakai Shirley, Issa Yunus Musiwa, Wanda Joseph, Wagogoba Edward Joseph, Rose Nabukonde alias Last Chance, Simbata Gerald, Wondoba Geoffrey, Gimei Erukana, Muduku Alex, Wandega Sam, Gibunoi Simon, Makanya Paul, Nagudi Esther, Maruti Hashim and Masaba Rogers.
66. The affidavit of Okema Shaban, and all the supplementary affidavits filed by the 1st Respondent on 19th April, 2021 and affidavits in sur rejoinder filed on 3rd May, 2021 were expunged from the court record after an objection was raised by counsel for the Petitioner.
67. **Wamala Nambozo Florence (RW1)** in her affidavit filed on 7th April, 2021 stated the she is the newly elected District Woman representative to Parliament for Sironko District having won the elections held on 14th January, 2021.
68. The elections were conducted by the 2nd Respondent and a total of 7 (Seven) candidates participated in this election which was conducted in compliance with the electoral laws, was transparent, free and fair and no incidents were reported to the polling officials.
69. That she studied at Nabumali High School and sat for” O’ level in 1992 under the name of Nambozo Florence Wamala and all the certificates she presented for her nomination are genuine, authentic and she does not have any alleged sister who claims to own the same name or academic documents.
70. The “O’ level result slip and certificate in the name of Nambozo Wamala Florence from Nabumali High School were admitted in evidence and marked as R1 and The verification letter of UCE results attached to the affidavit in support of the answer to the petition marked as RE3.
71. The 1st Respondent stated that she joined Nabumali High School in Senior 1 in 1989 and completed her Senior 4 in 1992.
72. She further denied the allegations of election illegalities, irregularities and commission of any electoral offences which included bribery, failure to furnish returns to the returning officer, entering wrong entries in the declaration of results forms, signing of declaration of results forms before counting, ballot staffing, rigging and forcing the petitioner’s agents to sign declaration of result forms, and that neither did she or her agents commit any of the acts or offences alleged in the petition.
73. That the affidavits of Gidudu Mansa Musa, Wabusela Walukhuli, Mataka Andrew Jackson, Muyinda Abbey Kakaire J, Wozisi Gizamba Vicent alias Kamau and Wondenga Herbert

were false as she studied at Nabumali High School and obtained her “O’ level certificate from this school and she denied being Nafuna Gorreti.

74. She contended that she was lawfully nominated and subsequently elected as the District Woman Member of Parliament for Sironko District because she is in possession of all the requisite academic qualifications in her name of Wamala Nambozo Florence and Nafuna Goretu is not known to her and the entire Peter Wamala Kisiiro family.
75. That the allegation by the Petitioner and Wozisi Gizamba Vincent alias Kamau in relation to her brothers and sisters are false as her parents the late Peter Wamala Kisiiro and Nambozo Yulina Wamala had 10(ten) children between them, and her father had one(1) other child from another relationship and her siblings were the following ; -Christine Sigowa Wadulo, Wogoire William Wamala, Wanyeze Hellen(deceased), Nakayenze Gorret, Wamala Fred, Womala William Wamala, Conny Nagudi, Kainza Kate, Aggrey Wadamba (deceased) and Nambozo Florence Wamala who is the last born of their mother and the current Woman Member of Parliament for Sironko District.
76. She denied having personally or through her agents organised a football tournament known as Nambozo cup within Sironko District between 17th December, 2020 to 1st January, 2021.
77. She contended that this football tournament was organised by Musiwa Yunus Issa with the aim of bringing communities together to enjoy social events during the festival seasons and the said tournament began in 2015 and only she got involved in the same in 2017 during her first term as the District Woman Member of Parliament representing Sironko District, when Musiwa Yunus Issa requested for her support in form of funds and jerseys but she never promised to give out uniforms, nets, ball and jerseys to the participating teams.
78. That she briefly attended the finals of the football tournament on 1st January,2021 and after the opening ceremony she left because of her busy schedule and she denied giving out the cow, trophy, cash on the 1st January, 2021 to the teams and never saw the transcription of the video and recording.
79. She contended that she never solicited for votes personally or through her agents or used a one Gemei Ronald Clyan at Bamutale Catholic Church polling station by making voters line up for money while asking for votes. That the said Gemei Ronald Clyan, Bigala Moses, Wotalunga Bernard, Siduma Samuel and Kiduma Levy have never been her agents.

80. That she did not convene any meeting at Last chance restaurant in Budadari Town Council to give out two (2) tins of red creole onion seeds, T-Shirts and 30,000/= (thirty thousand shillings).
81. That she was informed by her polling agents who were at the polling stations that the Petitioner's agents duly signed the declaration of results forms and certified the votes polled by each of the candidates at the said polling stations after voting and paragraph 20 and 21 of the Petitioner's affidavit is baseless.
82. She stated in her supplementary affidavit filed on 12th August, 2021 and admitted on court record with leave of court that she was at all-time qualified for nomination and election for the position of District Woman Member of Parliament for Sironko District as possessed the "Advanced" level certificate from Makerere Day and Evening Adult School and a Bachelor's Degree from Kyambogo University which she submitted to Electoral Commission at the time of her nomination. These academic documents were received in evidence and marked R20, 21, 22, 23, 24, and R25 respectively.
83. She stated while under cross examination that she had a National Identity Card NIN CF75051102FF9E.
84. That she started P.1 in 1981 and completed P.7 in 1988 and never repeated any class.
85. That she joined Kyambogo University in 2009 and the year of 2001-2002 that appeared behind her transcript is also a year of entry.
86. That she verified her academic documents for 2021 elections.
87. She confirmed that the persons mentioned in paragraph 10 of her affidavit in support of the answer to the petition are the people she sat with O' Level with Nabumali High School in 1992 but she didn't list all the classmates.
88. That Christine Gumunye, Nafula Mary and Justice Gadenya are not on the list of her classmates that sat S4 in 1992 but these were her schoolmates at Nabumali High School.
89. That she picked the certificate from Nabumali High School in 2007 at the time when she was going to join "A" level.
90. She could not remember the number of papers she did in entrepreneurship and the teachers who taught her Physics, History, Biology, Chemistry while at Nabumali High School.
91. She briefly attended the finals of the Nambozo Cup which was named after her but she did not participate in the decision to name the tournament after her.
92. That her father had 11(eleven) children he had a wife and a mistress from whom he got one (1) child.

93. That she has a sister called Nakayenze Gorret she is No.5 in the family and was born in 1959 the said Gorret did not swear any affidavit.
94. That she has never seen Gimei Ronald Clyan but looked for Gemei when she received the petition against her.
95. She stated in re-examination that she was in P1 in 1981 and she sat P.7 in 1988 and did not repeat any class.
96. That the transcript has the years 2001 – 2002 at the back.
97. That her national identity card was issued to her by NIRA.
98. That she knows the people mentioned in paragraph 10 as her classmates and schoolmates.
99. That she came to know about Gimei because he was implicated in Petition.
100. That her documents were destroyed 2004 during the strike at Nabumali High School.

1st Respondent's Documents

101. The 1st Respondent relied on the following documents; -
 - 1) The O' level result slip and certificate in the name of Nambozo Wamala Florence the 1st Respondent marked as R1.
 - 2) The result slip and the certificate you are putting them together? Mark the slip as RE1 and mark the certificate as RE2.
 - 3) The verification letter of UCE results attached to the affidavit in support of the answer to the petition marked as RE3.
 - 4) The Uganda certificate of education for Nabumali High School 1992 marked as RE4.
 - 5) Declaration of results forms on pages 24 to 75 marked collectively as RE5.
 - 6) The National ID, voter location slip, appointment letter of teachers and posting of teachers attached to the affidavit of Wamala William are marked as RE6 A, B, C, and D respectively.
 - 7) National ID to the affidavit of Wagwaire William Wamala attached marked as RE7.
 - 8) Staff ID for Nabumali High School, certificate of registration, appointment letter, posting letter of newly qualified teachers attached to the affidavit of Watuwa Anthony Khauka are marked as RE8 A, B, C and D.
 - 9) National ID, voter location slip, and vehicle profile in respect of motor vehicle reg. No.UAS 611U attached to the affidavit of Gimei Ronald marked RE9 A, B and C.
 - 10) National ID for Federation of Uganda Football Association attached to the affidavit of Issa Yunus Musiwa marked RE10.

- 11) National ID card attached to the affidavit of Wanda Joseph in support of the 1st Respondent's answer marked as RE11.
- 12) National ID, voter location slip and license issued by Budadiri Town Council to Rozila Charles Camp Site attached to the affidavit of Nabukonde Rose are marked as RE12 A, B and C respectively.
- 13) National ID and voter location slip attached to the affidavit of Simbata Gerald marked as RE13 A and B respectively.
- 14) National ID and voter location slip attached to the affidavit of Wandoba Geoffrey marked as RE14 A and B respectively.
- 15) National ID, appointment letter and declaration of results form attached to the affidavit of Gimei Erukana marked as RE15 A, B and C.
- 16) National ID, appointment letter attached to the affidavit of Wandega Sam are marked as RE16 A and B.
- 17) The voter location slip attached to the affidavit of Gibuni Simon is marked as RE17.
- 18) The declaration of result form attached to the affidavit of Makanya Paul RE18.
- 19) The National ID and declaration of result form attached to the affidavit of Nagudi Esther marked as RE19 A and B respectively.
- 20) The 1st Respondent's Bachelor's Arts Degree from Kyambogo University attached to her supplementary affidavit marked as RE20.
- 21) The 1st Respondent's Degree of Arts from Kyambogo University attached to the supplementary affidavit in support is RE21.
- 22) The 1st Respondent's academic transcript from Kyambogo University attached to her supplementary affidavit marked RE22.
- 23) The 1st Respondent's A level certificate in the name of Nambozo Wamala Florence marked as RE23.
- 24) The 1st Respondent's A level results slip in the name of Nambozo Wamala Florence attached to her supplementary affidavit marked as RE24.
- 25) A letter of certification of A level results attached to the supplementary affidavit marked as RE25.
- 26) Letter of certification of O' level results attached to the supplementary affidavit in support of the answer marked RE26.

27) Letter of certification of “A” level and “O” level results to the Chairman Electoral Commission attached to her supplementary affidavit in support of the answer marked as RE27.

2nd Respondent’s evidence

102. The 2nd Respondent relied on the affidavit of Aryaija Gracious the Returning Officer for Sironko District and all documents certified by the 2nd Respondent.

103. **Aryaija Gracious (RRW1)** stated that the election of the Woman member of Parliament for Sironko District was conducted in accordance with the electoral laws and the 1st Respondent was qualified to be nominated and elected as the Woman Member of Parliament for Sironko District.

Legal arguments

104. Whether the 1st Respondent was at all material times qualified to stand for the position of Member of Parliament. Counsel argued that the 1st Respondent lacks valid academic qualifications of ‘A’ Level or its equivalent since the academic papers she presented during nomination belong to another person as evidence from Nabumali High School class of 1992. Counsel relied on the case of **Muyanja Mbabali Vrs. Birekerawo Mathias Nsubuga, Court of Appeal Election Petition Appeal No. 36 of 2011** which is to the effect that Petitioner simply throw a reasonable doubt on the facts in dispute since they are in the knowledge of the Respondent but the evidential burden of proof shifts to the Respondent and submitted that by the Petitioner bringing witnesses like **Gidudu Mansa Musa, Wabusera Walukholi**, who denied ever seeing the 1st Respondent in their 1992 S.4 class of Nabumali High School and Wozisi Vincent Gizamba and the Petitioner herself, cast grave doubt on the 1st Respondent’s academic credentials and the burden shifted to her to prove that the academic documents she was fastening on were hers.

105. Counsel further argued that in cases where academic qualifications or certificates are challenged it was settled by the Supreme Court in the case of Abdu **Balangira Nakendo Vrs. Patrick Mwonda, Supreme Court Election Petition No. 09 of 2007** where **Katureebe JSC** as he then was held that; *“the duty to produce valid certificates to the electoral commission lies with the intending candidate for elections. Where the authenticity of those certificates is questioned, it can only be his burden to show that he has authentic certificates”* and submitted that 1st Respondent failed to attach to the UCE

and UACE Certificates for Nabumali High School and Makerere day and evening adult school.

106. Counsel further argued that the 1st Respondent stated in paragraph 9(g) of the affidavit in support that she completed her PLE at Nkoyoyo Boarding Primary School in 1988 and testified in cross examination that she started P.1 in 1981 and never repeated any class and does not and submit that when a person made a previous statement which contradict the current statement, the previous statement evidence is relevant to contradict his or her current statement and referred court to the case of **Serunjogi James Mukibi Versus Lule Mawiya Election Petition Appeal No. 15 Of 2016**, where it was held that the contradictions in the 1st respondent's explanation was not minor and could not be glossed over. That they were deliberate lies and at worse childlike lies.
107. On the issue whether the election was conducted in compliance with Electoral Laws, Counsel argued that the results of multitude of polling station were flawed and mechanically oriented, That witnesses such as Nafuna Lona, Makwasi Stephen Musoli Solomon Manana George, Nafuna Oliver, Nangalama Abu, Gimayi Rogers were either denied a chance to sign Declaration of Results forms at their respective polling or and or made to sign Declaration of Results Forms before time and submitted that much as it is a presumption that once an agent signs Declaration of results forms it is evidence that the contents / results therein are correct, the presumption can be deflated.
108. On the issue of whether the non-compliance with the electoral laws affected the results in a substantial manner counsel for the Petitioner argued that the net effect of the malpractices at the 62(Sixty-Two) polling stations is over 10058(Ten thousand fifty-eight) votes which surpasses the difference between the Petitioner and the 1st Respondent.
109. On the issue whether electoral offences were committed during the campaigns and election, counsel relied on the decisions of **Odo Tayebwa Vs. Basajjabaraba Nassar & Anor Court of Appeal Election Petition No. 013 of 2011 And Fred Badda & Anor Vs. Prof. Muyanda Mutebi Court of Appeal Election Petition Appeal No. 25 of 2006**, and invited Court to find that the 1st Respondent personally and through her agents with her consent, approval and knowledge organized the Nambozo X-Mas cup which ended on 1st January 2021, two weeks to the elections. She attended the final match and gave out gifts to the teams of Sironko Town Council, Busulani Sub-County and Bumalimba Sub-County in order to induce/influence them to vote for her on 14th January 2021 contrary to S. 68 (1) of PEA and S.61 (c) of PEA.

110. Counsel submitted that since the 1st Respondent was not qualified for election for Woman representative to Parliament for Sironko District due to lack of requisite academic documents, committed electoral offences during campaigns and election and illegal practices she committed she should be ordered to vacate the sit, and cited the cases of **Mugema Peter Versus Mudiobole Abed Nasser Election Petition Appeal No. 16 of 2016** and **Wakayima Musoke Nsereko and Electoral Commission Versus Kasule Robert Sebunya Election Petition No. 50 of 2016** and invited court to allow this petition and declare the Petitioner as the validly elected District Woman representative of Parliament for Sironko District.
111. In response Counsel for the 1st Respondent submitted that the burden of proof lies on the Petitioner to prove that there exists a person by name Nambozo Florence Wamala as the legitimate owner of the 1st Respondent's Ordinary or Advanced level certificates.
112. It is only when the Petitioner proves her allegations (prima facie case) that the evidential burden shifts to the 1st Respondent and it does not shift on mere redundant, wild, baseless and unproven allegations. Counsel cited the case of **Rehema Tiwuwu Watongola Vs Proscovia Salaamu Musumba in Election Petition Appeal No. 0027/2016**, which cited the case of **Abdul Balingira Nakendo Vs Patrick Mwendha Supreme Court Election Petition No. 9/2007** to support this argument.
113. Counsel submitted that the 1st Respondent produced in court her Ordinary and Advanced Level certificates and no other person is claiming ownership of these documents.
114. Counsel submitted that the Petitioner had failed to produce in court the other Nambozo Florence Wamala she alleged to be the owner of the "Ordinary" and "Advanced" level certificates in possession of the 1st Respondent.
115. Counsel argued that the Petitioner had failed to adduce evidence that the 1st Respondent is Nafuna Gorret or that the said Nafuna Gorret exists at all.
116. Counsel submitted that the Petitioner failed to prove the allegations in respect of noncompliance in the 62 (Sixty-Two) polling stations and that submission by the Petitioner's Counsel that the net effect of the malpractices of 62 (Sixty-Two) polling stations is over 10,058 (Ten Thousand Fifty-eight) votes which surpasses the difference between the Petitioner and the 1st Respondent is baseless.
117. That what the Petitioner relies on are simply an amalgamation of theories, conjecture and speculations designed to deny/rob the 1st Respondent of her victory and thereby subduing the will of the people of Sironko District who exercised their right properly to vote a leader

of their choice and invited court to reject that submission. Fortified with the decision of **Mujuni Vincent Kyamadidi Versus Charles Ngabirano and Electoral Commission Election Appeal No. 84 of 2016** Counsel submitted that petitioner failed to qualitatively and quantitatively prove the non-compliance as alleged. All the Declaration of results Forms are signed by her agents and do not contain any alterations. She failed to provide a single alternative Declaration of result Form for court to verify and confirm her allegations and also failed to provide proof of a single complaint she or her agent made in contest of the elections right from nomination to declaration of the 1st respondent as the winner of the said election.

118. Counsel argued that there is no proof that the 1st Respondent committed acts of bribery personally or through her agents with her knowledge, consent and or approval in organizing the alleged Nambozo Cup tournament as the evidence of Isa Yunus Musiwa is clear on this allegation.

119. Counsel for the 1st Respondent prayed that court finds this petition to have no merit at all and dismiss it with costs to the 1st Respondent with a certificate for two counsel on the ground that the Petitioner over whelmed the 1st Respondent with a lot of work, so complex in nature to comprehend and have effective representation of the 1st Respondent.

120. Counsel for the 2nd Respondent raised a preliminary point law to the effect that the petition raises matters challenging the 1st Respondent's nomination after elections but rather sat on her rights.

121. That if court is inclined not to uphold the preliminary point of law it is their case that the Petitioner's allegations are baseless as the 1st Respondent was dully nominated and elected as the Woman Member of Parliament Sironko.

122. He further argued that the affidavits of Dembe Paul, Nabudele Sam, Gutaka Amuza Lambuli, Magombe Abdu, Obala Hassuman, Kiganda Rogers Wozisi, Wandika Rogers, Masaba Godfrey Fred, Nafuna Lonna, Makwasi Stephen, Musoli Solomon, Mukazi Annet, Jackline Manana George, Nanfuna Oliver, Nangalama Abdu, Bigala Moses, Siduma Samuel, Levy Kiguma, Nasaga Juliet, Namisi Rodgers Francis, Gemei Rodgers, Gonyi David, Wettaka Hussein, Wanyeze Mary, Musonga Festo, Namulondo Maliya, Nabujewa Mary, Wodero Fred, Bashir Abdalla And Magomu Perez offend the provisions of the illiterates Protection Act and the Oath Act and hence the petition is incompetent before court since it is supported by affidavits which are incurably defective and the Petitioner's affidavit in support is full of hearsay and therefore incurably defective too.

123. In conclusion counsel submitted that the Petitioner had miserably failed to adduce any evidence to support any of the allegations contained in the petition and he prayed that this Honourable court be pleased to find so and dismiss this Petition with costs to the Respondents.

124. In rejoinder counsel for the Petitioner retaliated their earlier submissions.

Decision of Court

Whether the 1st Respondent was qualified to be nominated and elected as Woman member of Parliament for Sironko District or at all.

125. The qualifications for one to be elected as a member of Parliament are well set out in Article 80 of the Constitution of the Republic of Uganda.

126. Article 80 (1) reads as follows: -

“A person is qualified to be a member of Parliament if that person

(a) Is a Citizen of Uganda

(b) Is a registered voter, and

(c) Has completed a minimum formal education of Advanced level standard or its equivalent which shall be establishment in a manner and at a time prescribed by Parliament by Law”

127. The qualifications are also spelt out in Section 4 of the Parliamentary Elections Act which provides as follows: -

Section 4 (1)

“A person is qualified to be a member of Parliament if that person;”

(a) Is a Citizen of Uganda

(b) Is a registered voter and

(c) Has completed a minimum formal education of Advanced Level Standard or its equivalent.

128. According to Paragraph 12 of the Petition it is alleged that the 1st Respondent was not qualified to contest in the election because the academic papers she presented during her nomination belonged to another person.

129. Paragraph 9 of the Petitioner’s affidavit in support of the petition sets out the particulars of the complaint that the 1st Respondent is called Nafuna Gorret but adopted her sister’s

names of Nambozo Florence Wamala and the 1st Respondent has been using her sister's academic documents for PLE and "O" Level qualifications.

130. In paragraphs 7 and 8 her affidavit in support the Petitioner discloses her source of information as being Mr. Wozisi Vincent Gizamba alias Kamau, Mr. Wabusela Walukhuli, Mataka Andrew, Gidudu Mansa, Muyinda Kakaire and Wodenga Herbert.
131. Court perused the affidavits of Gidudu Mansa Musa, Wabusale Walukhuli (who actually testified as PW3), Mataka Andrew Jackson, Muyinda Abbey Kakaire and Wodenga Herbert they all state to have taught and or studied with Nambozo Florence Wamala between 1989 and 1992 at Nabumali High School but they go further to state that the woman member of Parliament for Sironko District (1st Respondent) is not the person they taught and or studied with at Nabumali High School.
132. Court also carefully perused the affidavit of Wozisi Gizamba Vincent alias Kamau Exhibit P21 and in Paragraph 3 of this affidavit he states that he knows the 1st Respondent and the entire family of the late Petero Wamala very well as he comes from a neighboring sub county.
133. Mr. Wozisi Gizamba Vincent alias Kamau stated that the 1st Respondent is a daughter of the late Petero Wamala of Bumasiya sub county in Sironko District and that he knew the 1st Respondent as Nafuna Gorret and her elder sister Nambozo Florence Wamala was his girlfriend while she was a student at Nabumali High School in 1991 and 1992 in S.3 and S.4.
134. Mr. Wozisi Gizamba Vincent names the children of the late Petero Wamala as the following: -
 - (a) Kagusuma Margret
 - (b) Dr. Ogoile K.
 - (c) Wamala Kyejebo
 - (d) Nambozo Florence Wamala
 - (e) Late John Aggrey Wamala
 - (f) Wamala William
 - (g) Nafuna Gorret (2nd Respondent)
 - (h) Nabukwasi Jane
135. The above witnesses are the basis for the Petitioner's claim that the 1st Respondent is Nafuna Gorret and not Nambozo Florence Wamala and therefore the 1st Respondent has

no requisite academic qualifications to stand as a Woman member of Parliament for Sironko District.

136. Court has perused the 1st Respondent's affidavit in support of the answer to the petition and of relevance to this issue is paragraph 19 where she stated that she possesses genuine "O" Level qualifications obtained from Nabumali High School and that she did not know Nafuna Gorret.

137. In Paragraph 20 of her affidavit the 1st Respondent denies the allegations by Wozisi Gizamba Vincent alias Kamau and she states that her late father Peter Wamala Kisiiro had eleven (11) children in total and ten (10) of them were from her mother called Nambozo Yulina Wamala and these were: -

- (a) Christine Sigowa Wadulo
 - (b) Wogoire William Wamala
 - (c) Wayenze Hellen (deceased)
 - (d) Nakayenze Gorret
 - (e) Wamala Fred
 - (f) Wamala William
 - (g) Wamala Conny Nagudi
 - (h) Kainza Kate
 - (i) Wamala Aggrey Wadamba (deceased)
 - (j) Nambozo Florence Wamala (last born) and (1st Respondent)
- then
- (k) Kagusuma Anna Mary (born from another mother)

138. Court has also perused the supplementary affidavit of the 1st Respondent filed on 12th August, 2021 and all annexures thereto which details the academic qualifications of Wamala Nambozo Florence as presented to the 2nd Respondent at the time of her nomination.

139. Court has read the affidavit of Wamala William an elder brother of the 1st Respondent and in Paragraph 4 he states that the 1st Respondent was born on 14th February, 1975 and then in Paragraph 5 he lists all the eleven (11) children left by the late Peter Wamala Kisiiro.

140. Wamala William denies knowledge of any family member called Nafuna Gorret.

141. This Wamala William in Paragraph 8 of his affidavit shows the 1st Respondent's academic journey that led her to Nabumali High School in 1989, and in paragraph 10 he

states that he personally took the 1st Respondent Wamala Nambozo Florence to Nabumali High School in senior one in 1989.

142. The affidavit of Wogwoire William Wamala another brother to the 1st Respondent also confirms the contents of the affidavit of Wamala William.
143. The affidavit of Watuuwa Anthony Khauka confirms that he was a teacher at Nabumali High School between 1989 and 2002 and that he taught the 1st Respondent Nambozo Florence Wamala English language and Geography at Nabumali High School.
144. According to Paragraphs 5 and 6 of Watuuwa Anthony Khauka's affidavit he confirms that the Nambozo Florence Wamala he taught at Nabumali High School is the current Woman member of Parliament for Sironko District and that while at Nabumali High School she was in Aggrey House was stubborn and an active member of the Music, dance and drama club.
145. Court also read the affidavit of Kakai Shirley Ann who was a teacher at Nabumali High School from 1989 to 2003 and used to teach Home Economics. She states that she taught the 1st Respondent Home Economics from S.1 to S.3.
146. According to Paragraph 5 of the affidavit of Kakai Shirley Ann she states that she knows Nambozo Florence Wamala who is the Woman member of Parliament of Sironko District and was a student at Nabumali High School in Aggrey House.
147. From all the above evidence court is not in doubt that Nambozo Florence Wamala was a student of Nabumali High School from 1989 to 1992, but what is left hanging is whether the said Nambozo Florence Wamala who attended Nabumali High School is the same person who is the Woman member of Parliament of Sironko District, the 1st Respondent to this petition.
148. The best evidence about the family of the late Peter Wamala Kisiiro was given by his sons William Wamala and Wogwoire William Wamala. They confirmed that the 1st Respondent called Nambozo Florence Wamala was born on the 14th February, 1975 and they explained her academic journey leading her to Nabumali High School in 1989 where William Wamala physically took her.
149. These family members deny knowledge of anyone called Nafuna Gorret in the family of the late Peter Wamala Kisiiro and they disclose all the eleven (11) children born into this family.

150. It would be unsafe for the court to rely on the evidence of Wozisi Vincent Gizamba alias Kamau to create another Nambozo Florence Wamala who is unknown to members of the family of the late Peter Wamala Kisiiro.
151. Court noted that while under cross examination this witness Wozisi was not very sure about the names of the children of the late Peter Wamala and in fact according to his affidavit he mentions only Eight (8) children and leaves out three (3).
152. It is therefore the finding of this court that the brothers of the 1st Respondent confirmed that she was Nambozo Florence Wamala who went to Nabumali High School in 1989 and also no child of the late Peter Wamala Kisiiro is known as Nafuna Gorret.
153. Court noted the contradictions in the evidence of the teachers and some of the students who were at Nabumali High School between 1989 and 1992. Such contradictions are understandable given the time they were at the school and also the politics around such petitions where witnesses tend to state whatever they find convenient to their candidate of preference.
154. The discrepancies in years the 1st Respondent attended Primary School are well explained in the affidavits of her brothers who were adults at the time.
155. This court finds that the 1st Respondent is Nambozo Florence Wamala who Submitted her academic qualifications which included an Advanced Level certificate to the 2nd Respondent and therefore qualified to be nominated and elected as a Woman member of Parliament for Sironko District.
156. The first issue is hereby answered in the affirmative.

Issue No. 2

Whether the election for Sironko Woman member of Parliament was conducted in compliance with the electoral laws.

157. Court has carefully read the contents of paragraph 8 of the Petition where the following acts are alleged to have taken place: -
- i) Filling of results forms before voting ended at polling stations in a table at Pages 6-11 of the Petition.
 - ii) Presiding officers and Returning officers deliberately making wrong entries in the declaration of results forms and the tally sheet.
 - iii) Grave inconsistencies in the tally sheet.

iv) The Petitioner's voting agents were made to sign Declaration of Results forms before voting ended.

158. Court has critically looked at the affidavits of Nafuna Lonna, Mukwasi Stephen, Musoli Solomon, Manana George, Nafuna Oliver, Nangalama Abu, Gimanyi Rogers and Musola Francis whose evidence is all around the denial to sign declaration of results forms or signing declaration of results forms before conclusion of the voting.

159. Court finds that the Petitioner had polling agents at all 391 (three hundred ninety-one) polling stations and these agents signed on the declaration of results forms in this election(PE17).

160. On the strength of the case of **Gagawala Wambuzi Versus Electoral Commission & Kenneth Lubogo** EP No. 8 of 2011 where it was held that

“when an agent signs a declaration of results form, he is confirming the truth of what is contained therein. He is confirming to the Principal that this is the correct result of what transpired at the polling station. The candidate in particular is estopped from challenging the contents of the form because he is the appointing authority of the agent.”

161. Court finds that the conduct of the Petitioner's polling agents binds the Petitioner and the results in the declaration of results forms prove that the 1st Respondent genuinely won the election of Woman member of Parliament for Sironko District.

162. The Election of the Woman member of Parliament for Sironko District was conducted in compliance with the electoral laws and the second issue is also resolved in the affirmative.

Issue No. 3

Whether the non-compliance with the electoral laws affected the results in a substantial manner.

163. Having resolved the second issue in the affirmative this issue is rendered moot.

Issue No 4

Whether electoral offences were committed during the campaigns and election in the Sironko District Women member of Parliament elections.

164. According to Paragraph 10 of the Petition it is alleged that the 1st Respondent personally organized an inter sub counties football tournament within Sironko District

between the 17th December, 2020 and 1st January, 2021 and this was contrary to Section 68 (1)(7) and (8) of the Parliamentary Elections Act.

165. The Petitioner adduced affidavit evidence of Magombe Abdu, Obala Hassuman, Kigaga Rogers Wozosi, Wadika Rogers, Magomu Perez and Bashir Abdallah which witnesses stated that the 1st Respondent was present at the final football match of the tournament on 1st January, 2021 and she donated a cow black in colour to the winning team which was Sironko Town Council football team, a sum of Ug Shs 400,000/= (four hundred thousand shillings) to the runner up which was Busulani sub county and a sum of Ug Shs 250,000/= (five hundred thousand shillings) to the 3rd placed team of Bumalimba Sub county.
166. The 1st Respondent denied the allegations and adduced affidavit evidence of Issa Yunus Musiwa, Wanda Joseph, Wagogoba Edward Joseph and Maruti Aushim. The evidence of these witnesses was to the effect that Nambozo cup has been in existence since 2015 and was named Nambozo cup by a committee which decision was not influenced by the 1st Respondent.
167. The 1st Respondent's witnesses stated that the 1st Respondent briefly attended the final on 1st January, 2021 and did not give out any prizes as alleged.
168. Court heard Issa Yunus Musiwa being cross examined by Counsel for the Petitioner and this witness owned the creation of Nambozo Cup and indeed stated that he was the one who gave out presents to the winning teams on 1st January, 2021.
169. Court provided all necessary equipment to enable the Petitioner and her advocates play the video recording presented as evidence but she somehow they failed to play this video recording and this court has not seen the same.
170. Court finds the evidence of Issa Yunus Musiwa relating to the Nambozo cup believable as the person who started this tournament way back in 2015 and also that the 1st Respondent did not give out prizes on 1st January, 2021 as alleged by the Petitioner and her witnesses.
171. Court also finds that this tournament has been in existence since 2015 and as such cannot be attributed to the 1st Respondent as a bribe to voters in elections conducted on 14th January, 2021.
172. The other aspect of bribery relates to an allegation that Gimei Ronald Cylan and since this case was referred to courts of law a verdict from this court could assist the Petitioner in this allegation.

173. This court does not find any connection between the said Gimei Ronald Cylan and the 1st Respondent.

174. Finally, the Petitioner alleged that the 1st Respondent bribed voters at best chance restaurant at Budadiri Trading Centre with two (2) tins of red onions, cash of 30,000/= (thirty thousand shillings) each and T shirts.

175. There was no credible evidence linking the 1st Respondent to any alleged bribery at Last chance restaurant.

176. Court resolves the fourth issue in the negative.

Issue No. 5

What remedies are available to the parties?

177. This court having found that the 1st Respondent is the only daughter of the late Peter Wamala Kisiiro with the names of Nambozo Florence Wamala who has Advanced level academic qualifications hereby confirms that the said Nambozo Florence Wamala was validly elected as the Woman member of Parliament for Sironko District.

178. This petition is accordingly dismissed with costs to the Respondents.

179. I decline to award a certificate for two (2) counsel as prayed for by counsel for the 1st Respondent because this was not a complex matter.

Dated at Mbale this 28th day of September, 2021.

.....

David Matovu

Judge

