

ELIKEM 25-09-2024  
11:00  
HIGH COURT  
ACCRA  
**THE SUPERIOR COURT OF JUDICATURE  
IN THE HIGH COURT OF JUSTICE  
(GENERAL JURISDICTION)  
ACCRA- A.D 2024**

**SUIT NO:** EJ/1069/2024

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW IN THE  
NATURE OF CERTIORARI, PROHIBITION AND MANDAMUS**

**THE REPUBLIC**

VRS

**ELECTORAL COMMISSION OF GHANA**  
Ridge, Accra

**RESPONDENT**

**EX-PARTE: KOFI ASAMOAH-SIAW**  
Progressive Peoples Party Head Office  
Capital Mall Building, J. A. Kufuor Ave.  
Kokomlemle, Accra (GPS Address: GA-0987295)

**APPLICANT**

---

**MOTION ON NOTICE:**

**APPLICATION FOR JUDICIAL REVIEW IN THE NATURE OF CERTIORARI,  
PROHIBITION AND MANDAMUS  
ARTICLES 141, 45(c), (d), 51, 55 (1) (2) (3), 62(a) (b) & (c), 63(1) (a)(b)(c) & (d),  
33 (1) (2), 17 (1) (2) (3), 23 & 296 of the 1992 CONSTITUTION,  
REGULATIONS 1, 7(1), (2)(a)(b)(c)(d), (3) (a) (b), (4), 9(1)(2) (a)(b) (3)(a)(b)(4)  
OF THE PUBLIC ELECTION REGULATIONS 2020, C.I. 127, SECTION 16 OF  
THE COURTS ACT 1993 (ACT 459) AS AMENDED,  
ORDER 55 OF C.I. 47**

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**TAKE NOTICE** that Counsel for and on behalf of the Applicant herein will move this Honourable Court on an application praying for an Order to quash a letter dated 20<sup>th</sup> September, 2024 under the authorship of the Chairperson/Returning Officer of the Respondent disqualifying the Applicant from contesting as a Presidential Candidate in the 2024 Presidential Election and for a further Order(s) directed at the Respondent to accept

the nomination forms of the Applicant subject to any amendment as required by law and clear him as qualified to participate in the 2024 Presidential Election as a Presidential Candidate upon grounds contained in the accompanying affidavit and for such further Order(s) as this Court may deem meet.

~~COURT TO BE MOVED~~ on *mon* the *30<sup>th</sup>* day of September, 2024, 9 O'clock in the forenoon or so soon thereafter as Counsel for the Applicant may be heard.

DATED AT ACCRA, THIS 24<sup>TH</sup> DAY OF SEPTEMBER, 2024



**PRINCE ELLFORNYIKPOR ESQ.**  
SOLICITORS FOR THE APPLICANT  
SOLVERE CONSULT, NO:17 KANFLA CLOSE,  
ASYLUM DOWN, ACCRA  
SOLICITOR'S NUMBER: eGAR 01349/24  
CHAMBERS LICENCE NO: ePP 09155/24

THE REGISTRAR  
HIGH COURT (GENERAL JURISDICTION)  
ACCRA

AND TO THE ABOVE-NAMED ELECTORAL COMMISSION OF GHANA,  
RIDGE, ACCRA.

**THE SUPERIOR COURT OF JUDICATURE**  
**IN THE HIGH COURT OF JUSTICE**  
**(GENERAL JURISDICTION)**  
**ACCRA- A.D 2024**

Filed on	25-09-2024
at	11:00
HIGH COURT ACCRA	

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**IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW IN THE  
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**THE REPUBLIC**

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**ELECTORAL COMMISSION OF GHANA**  
Ridge, Accra

**RESPONDENT**

**EX-PARTE: KOFI ASAMOAH-SIAW**  
Progressive Peoples Party Head Office  
Capital Mall Building, J. A. Kufuor Ave.  
Kokomlemle, Accra (GPS Address: GA-0987295)

**APPLICANT**

---

**AFFIDAVIT OF NANA OFORI OWUSU IN SUPPORT OF AN APPLICATION  
FOR JUDICIAL REVIEW**

---

I, **NANA OFORI OWUSU** of No. 3, 16 Aliu Mahama St., GA-5608209, South Odorkor, Accra make oath and say as follows:

1. That I am the National Chairman of the Progressive People's Party (PPP), a political party registered under the laws of Ghana and on whose ticket the Applicant seeks to contest as a Presidential Candidate in the 2024 Presidential Election and the Deponent thereto.
2. That I have the authority and consent of the Applicant to depose to this affidavit for and on his behalf.
3. That the contents of this affidavit are matters within my personal knowledge, information and belief by virtue of my position as the National Chairman of the Progressive People's Party (PPP).

4. That the Applicant is the Presidential Candidate nominee of the Progressive People's Party (PPP) and that this is the fourth time the party has sponsored a candidate to run for the office of the President of the Republic of Ghana (2012, 2016, 2020 and 2024)
5. That at the hearing of this application, Counsel shall seek leave of this Honourable Court to refer to all processes filed as if the same were set out in extenso and sworn to on oath.
6. That the Respondent is a creature of the 1992 Constitution and charged with the mandate to, among others, conduct and supervise all public elections in Ghana.
7. That as part of the preparations by the Respondent for the conduct of the impending Presidential and Parliamentary Elections on December 7, 2024, the Respondent served a public notice that it would be accepting nominations from Presidential Candidates from 9<sup>th</sup> September, 2024 to 13<sup>th</sup> September, 2024.
8. That on 13<sup>th</sup> September, 2024, the Applicant submitted his nomination forms to contest for the office of the President of Ghana on the ticket of the Progressive People's Party (PPP).
9. That at the time of filing, the Applicant paid an amount of One Hundred Thousand Ghana Cedis (GH¢ 100,000.00) as filing fees.
10. **That after thorough examination of the nomination forms, the Respondent in a letter dated 13<sup>th</sup> September, 2024 identified specific corrections that needed to be made on pages 1, 2, 3, 8, 9, 24, 27, 29, 32, 46, 67, 68, 86, 124, 126 and 136 of the 143 page nomination forms submitted in original quadruplicate and to resubmit same on 15<sup>th</sup> September, 2024. *Attached herewith and marked as Exhibit PK 1 is a copy of Respondent's letter dated 13<sup>th</sup> September, 2024.***
11. **That the identified errors were accordingly corrected and nomination forms resubmitted to the Respondent through National Secretary of the party (PPP) on 15<sup>th</sup> September, 2024. *Attached herewith and marked as Exhibit PK 2 is a copy of cover letter sent to the Respondent and dated 14<sup>th</sup> September, 2024.***
12. **That upon resubmission and receipt of Applicant's forms through the National Secretary of the party, Respondent informed him orally that the party would hear from them.**

13. That on 20<sup>th</sup> September, 2024, after the expiration of five (5) clear days following the submission of the corrected nomination forms, and without further recourse or notice to the Applicant or the party (PPP), we heard on social media that the Respondent had cleared some nominees and declared them qualified to participate in the 2024 Presidential Election.
14. That the party also became aware the same day, 20<sup>th</sup> September, 2024 that the Respondent through WhatsApp messages had informed other candidates whose nominations according to it were accepted of scheduled balloting exercise for the Presidential Candidates at 4.00pm same day without any such notice to the Applicant or the party (PPP).
15. That upon becoming aware of this decision and arrangement by the Respondent, the party followed up with the office of the Respondent on same day, 20<sup>th</sup> September, 2024 through a letter under the authorship of the National Secretary of the Party (PPP), and delivered around 10:24 am, to inquire on why no such notice had been received by the Party in respect of the scheduled balloting exercise for the Presidential Candidates. *Attached herewith and marked as Exhibits PK 3 is a copy of the letter dated 20<sup>th</sup> September, 2024.*
16. That it was upon this inquiry that the Respondent sent a WhatsApp message to the National Chairman and General Secretary of the party around 1:16 pm providing explanations that there were errors in applicant's nomination forms without indicating what those errors were. *Attached herewith and marked as Exhibits PK 4 is a copy of the WhatsApp message from the Respondent.*
17. That later the same day after delivering the WhatsApp message, the Respondent again delivered to the party a hard copy of the letter titled "FILING OF NOMINATIONS- DISQUALIFICATION FROM 2024 PRESIDENTIAL ELECTION" under the authorship of Jean Mensa (Mrs.), the Chairperson/Returning Officer of the Respondent. *Attached herewith and marked as Exhibit PK 5 is a copy of the said letter dated 20<sup>th</sup> September, 2024.*
18. That in the said letter, the Respondent stated as follows "*...you unfortunately failed to qualify to contest as a Presidential Candidate in the 2024 Presidential Election. The Team identified several errors and omissions in your Forms even though you were provided with an opportunity to correct same.*"

19. That the above, without more was the basis of the Respondent's decision to disqualify the applicant from participating as a Presidential Candidate in the 2024 Presidential Election.
20. That it is interesting that even though the Respondent cites errors in applicant's nomination form, not a single error was identified or pinpointed by the Respondent to adequately inform the Applicant and the party of the nature of the error to enable them effect possible and necessary corrections.
21. That it is inconceivable that the same Respondent who earlier identified specific errors in Applicant's nomination forms and enabled the Applicant correct same this time round could not pinpoint which further errors there were, so the Applicant could be given opportunity to effect necessary amendment or alteration in accordance with the law.
22. I am advised by Counsel and verily believe same to be true that the manner in which the Respondent unilaterally sought to apply Regulation 9(2)(b) of C.I. 127 without notice to the Applicant or the party to afford them the opportunity to make amendments or any alterations necessary, if any, offend the very law on which the Respondent seeks to ground its decision against the Applicant.
23. That I am advised by Counsel and verily believe same to be true that Regulation 9 of C.I. 127 provides as follows:

*“Whenever the nomination paper and the statutory declaration of a candidate are delivered and the deposit is paid in accordance with these Regulations, the candidate shall be considered to stand nominated, unless proof is given to the satisfaction of the returning officer of the candidate's death, withdrawal or disqualification*

*(2) The returning officer shall inform a candidate that the candidate's nomination is invalid where:*

*(a) The particulars of the candidate or the person subscribing to the nomination paper are not as required by law; or*

*(b) The nomination paper is not subscribed to as required by law; and shall give the candidate any opportunity to make amendments or alteration necessary, within the stipulated nomination period.*

***(3) Where a candidate fails to comply with sub regulation (2), the returning officer shall consider the nomination paper of the candidate as invalid and shall***

***(a) Endorse and sign on the nomination paper the reasons for that decision; and***

***(b) Inform the Commission.***

***(4) The Commission shall take a decision on the matter within seven days.***

- 24. That after submitting Applicant's nomination forms on 13<sup>th</sup> September, 2024 within the stipulated time frame, the Respondent thoroughly examined and identified specific errors which were accordingly corrected and the forms resubmitted within the stipulated nomination period.**
- 25. That the Respondent in its decision to disqualify the Applicant from taking part in the 2024 Presidential Election did not indicate that he failed to rectify the specified errors identified by the Respondent in its letter dated 13<sup>th</sup> September, 2024.**
- 26. That there was no other point in time within the five clear days after the duly corrected forms were submitted that the Respondent informed Applicant or the party (PPP) of any other anomaly or error with Applicant's nomination form.**
- 27. That though the Respondent indicated at the time of filing the corrected nomination forms that we would hear from them, we never heard anything from them until the publication of applicant's purported disqualification in the media.**
- 28. That I am advised by Counsel that the Respondent being a public body and exercising its powers under the Constitution ought to have acted fairly, reasonably and complied with the requirements imposed on them by law.**
- 29. That I am advised by Counsel and verily believe same to be true that the Respondent's failure to give the Applicant and the party notice of the alleged irregularity and to particularize same to offer the Applicant fair opportunity to amend same *violates Regulation 9 (2) (b) of C.I. 127 and also Applicant's right to fair hearing.***

- 30. That I am advised by Counsel and verily believe same to be true that the conduct of the Respondent is unreasonable, arbitrary, capricious and same violates Articles 23 and 296 of the 1992 Constitution.**
- 31. That I am advised by Counsel and verily believe same to be true that the failure of the Respondent to identify or particularize the specific errors with Applicant's nomination forms renders its decision arbitrary and unreasonable and same ought to be set aside.**
- 32. That I am advised by Counsel and verily believe same to be true that the denial by the Respondent of Applicant's legal right to fair hearing renders its decision unlawful and same ought to be set aside by this Court by way of judicial review.**
- 33. That I am advised by Counsel and verily believe same to be true that a breach of the audi alteram partem rule constitutes a serious fundamental error of law and this Court has the jurisdiction under article 141 of the 1992 Constitution and Section 16 of the Courts Act, 1993 (Act 459) to quash same.**
- 34. That I am advised by Counsel and verily believe same to be true that the arbitrary nature of its decision as well as the conduct of the Respondent in not adhering to the audi alteram partem principle renders its decision dated 20<sup>th</sup> September, 2024 null, void and of no legal effect.**
- 35. That if the Respondent had complied with its own law and identified any specific errors as it alleges, it would have been acting within Regulation 9(2) (b) of C.I. 127 as same would have given Applicant the opportunity to make the necessary corrections as required by law.**
- 36. That the failure of the duty of the Respondent to point any further error if any, beyond the identified corrections effected on the forms within the stipulated time for filing the nomination ought not operate to adversely affect Applicant's participation in the General Election as a citizen of Ghana.**
- 37. That indeed if the Applicant or the party's attention were to have been drawn to any other anomaly by the Respondent within the five days, same would have been corrected within a matter of minutes.**
- 38. That it is ironical that the same Respondent who as a matter of public record made mistakes in the computation of the results in the 2020 Presidential Elections and was**



afforded opportunities to correct its errors on different occasions in three different result declarations would deny the Applicant the opportunity to know and correct any error with his nomination forms.

39. That it is not the intention of the law to simply disqualify a nominee without affording the said nominee ample opportunity to make amendment or alterations, if any.

40. That in the circumstances, the Applicant prays the Honourable Court as follows:

- a. A declaration that the decision of the Respondent to reject the nomination form and disqualify the Applicant on grounds of errors and omissions in the forms without identifying or particularizing a single error is arbitrary and unreasonable and same constitutes a serious fundamental error of law and same violates Article 23 and 296 of the 1992 constitution and renders the letter dated 20<sup>th</sup> September, 2024 null, void and of no legal effect.*
- b. A declaration that the decision of the Respondent to reject the nomination form and disqualify the Applicant without adhering to the audi alterem partem rule constitutes a serious fundamental error of law and same renders the letter dated 20<sup>th</sup> September, 2024 null, void and of no legal effect.*
- c. A Declaration that the failure of the Respondent to communicate an alleged irregularity on the nomination forms of the Applicant and offering him the opportunity to amend or alter same in accordance with Regulation 9 (2) (b) of C.I 127 before its public announcement to disqualify the Applicant, violates the Applicant's right to fair hearing under the said Regulation.*
- d. An Order of prohibition to prevent the Respondent from proceeding to conduct the 2024 Presidential Elections without the Applicant until the matters in this dispute are disposed off by this Honourable Court.*
- e. An Order of court directed at the Respondent to accept the nomination forms subject to the necessary amendment or alteration if any as provided for by law and clear the Applicant as qualified to participate in the 2024 Presidential Election as a Presidential Candidate.*
- f. Any other Order(s) as the Honorable Court may deem fit.*

WHEREFORE I swear to this affidavit in support.

SWORN at Accra this 24<sup>th</sup> }  
day of September, 2024 }

  
.....  
DEPONENT

BEFORE ME

  
COMMISSIONER FOR OATHS.  


AND TO THE ABOVE-NAMED ELECTORAL COMMISSION OF GHANA,  
RIDGE, ACCRA

**THE SUPERIOR COURT OF JUDICATURE**  
**IN THE HIGH COURT OF JUSTICE**  
**(GENERAL JURISDICTION)**  
**ACCRA- A.D 2024**

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**RESPONDENT**

**EX-PARTE: KOFI ASAMOAH-SIAW**  
Progressive Peoples Party Head Office  
Capital Mall Building, J. A. Kufuor Ave.  
Kokomlemle, Accra (GPS Address: GA-0987295)

**APPLICANT**

**CERTIFICATE OF EXHIBITS**  
**ORDER 20 RULE 14 of C.I. 47**

**JUSTINA CLOTTEY**

I .....  
Commissioner for Oaths of Accra, do hereby  
certify that the under listed has been exhibited to the affidavit sworn before me.

1. *Exhibit PK 1 - copy of Respondent's letter dated 13<sup>th</sup> September, 2024.*
2. *Exhibit PK 2 - copy of cover letter sent to the Respondent and dated 14<sup>th</sup> September, 2024.*
3. *Exhibits PK 3 - copy of letter dated 20<sup>th</sup> September, 2024.*
4. *Exhibits PK 4 - copy of WhatsApp message from the Respondent*
5. *Exhibit PK 5 - copy of letter dated 20<sup>th</sup> September, 2024.*

**BEFORE ME**

**COMMISSIONER FOR OATHS**



"PK-1"



13<sup>TH</sup> SEPTEMBER, 2024

**KOFI ASAMOAH SIAW  
PROGRESSIVE PEOPLE'S PARTY (PPP)  
ACCRA**

**PRESIDENTIAL NOMINATION VETTING COMMITTEE'S REPORT**

I bring you greetings from the Presidential Nomination Committee and trust that this letter finds you well.

The Nomination Committee has detected the underlisted anomalies with your nomination forms:

- 1. Incomplete particulars of Presidential Candidate
- 2. Incomplete Particulars of Supporters (pages: 1, 2, 3, 8, 9, 24, 27, 29, 32, 46, 67, 68, 86, 124, 126 and 136.)

Meanwhile the Commission is contacting your Supporters to verify the authenticity of their consent to your nomination.

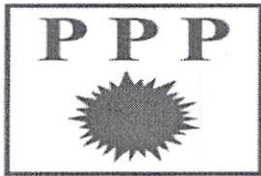
You are required to come for your nomination forms today, Saturday, 14<sup>th</sup> September, 2024 and effect the needed corrections and resubmit by 12:00 noon on Sunday, 15<sup>th</sup> September, 2024.

We wish you well.

**BENJAMIN BANO-BIOH  
DIRECTOR, ELECTORAL SERVICES**

**CC: CHAIRPERSON  
DEPUTY CHAIRMAN, OPERATIONS  
DEPUTY CHAIRMAN, CORPORATE SERVICES**

...is the instrument to be  
exhibit...  
to the affidavit...  
sworn before me this... 24<sup>th</sup>  
day of... 24<sup>th</sup>  
  
COMMISSIONER FOR ELECTIONS



# PROGRESSIVE PEOPLE'S PARTY

Awake!

PK 2

[www.pppghana.org](http://www.pppghana.org)

[info@pppghana.org](mailto:info@pppghana.org)

024 560 1193 | 0243520745

14<sup>th</sup> September, 2024

The Director  
Electoral Services  
Electoral Commission of Ghana  
Ridge, Accra

Dear Sir,

## RE-SUBMISSION OF PARLIAMENTARY NOMINATION FORMS FOR KOFI ASAMOAH-SIAW

I write in response to your letter, which drew our attention to some corrections that needed to be made in the Presidential Nomination forms for **Kofi Asamoah-Siaw**, the Presidential Candidate for the Progressive People's Party.

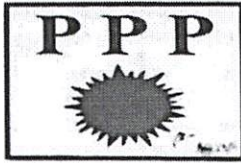
We wish to confirm that we have undertaken the following corrections, as you directed in your letters:

1. Completed the particulars of the Presidential Candidate
2. Completed the particulars of the supporters on pages: 1, 2, 3, 8, 9, 24, 27, 29, 32, 46, 67, 68, 86, 124, 126, and 136.

Yours faithfully,

Remy Paa Kow Edmundson  
National Secretary

is the instrument to be  
 exhibit. PK 2  
 to the affidavit. owusu  
 sworn before me this  
 day of  
 COMMISSIONER FOR ELECTIONS



Awake!

# PROGRESSIVE PEOPLE'S PARTY



www.pppghana.org

info@pppghana.org

024 560 1193 | 0243520745

20<sup>th</sup> September 2024



PK 3

The Chairperson,  
Electoral Commission of Ghana  
Accra

Dear Madam,

### BALLOTING FOR PRESIDENTIAL CANDIDATES

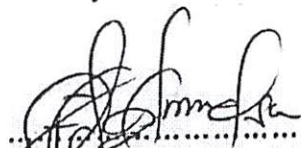
We have become aware through social media that balloting for presidential candidates takes place today Friday, 20<sup>th</sup> September 2024.

Our last communication with you after submitting our presidential forms was on Saturday 14<sup>th</sup> September 2024 when you wrote to ask us to supply further information in specified pages of our form and which we fully complied with and returned same to you.

We have since not heard from you nor received any information on this alleged balloting, scheduled for today at 4pm.

We kindly request for your confirmation of the information on social media and request for our letter to participate or any reason why you have not invited us.

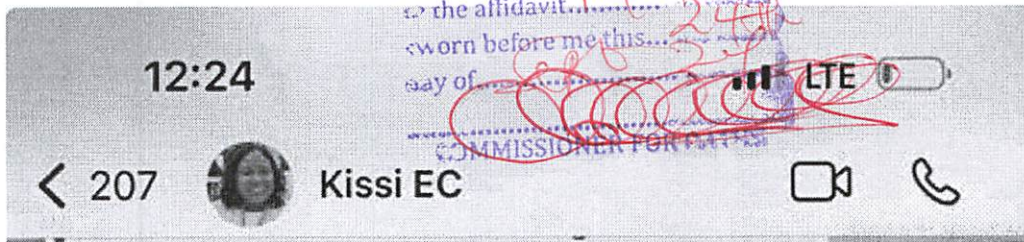
Thank you.

  
Renny Paa Kow Edmundson  
National Secretary

is the instrument to be  
exhibit. PK's re: ...  
to the affidavit. ...  
sworn before me this ...  
day of ...  
COMMISSIONER FOR CASES

"Plc -4"

...is the instrument to be  
exhibit. ...  
to the affidavit...  
sworn before me this...  
day of...  
COMMISSIONER FOR ELECTIONS



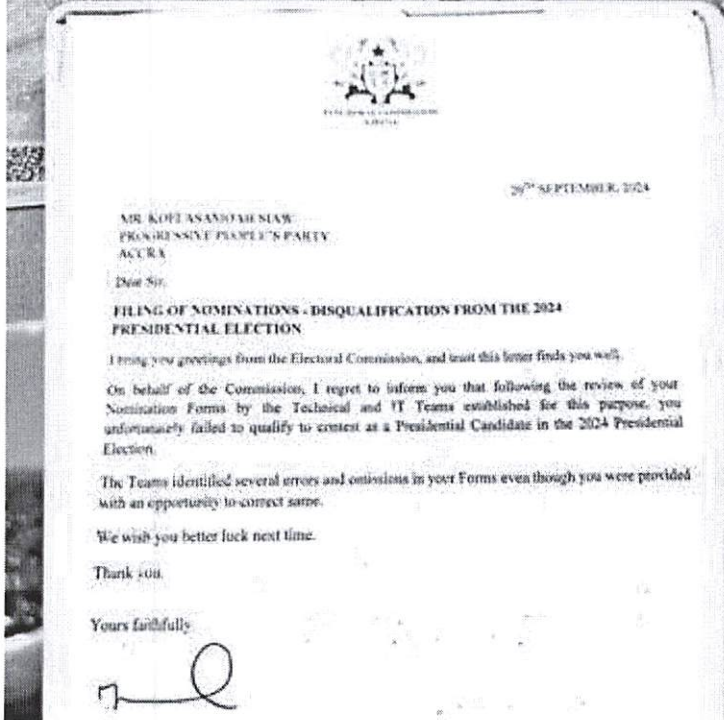
I can't tell but I suspect the forms might hv not been executed properly 11:49 AM

Ok. They won't give us any official reasons? 11:51 AM ✓✓

Another court case. 11:52 AM ✓✓

You  
Ok. They won't give us any official reasons?  
I think they should 12:34 PM

You  
Another court case.  
Mmm 12:34 PM





"PK-5"

20<sup>TH</sup> SEPTEMBER, 2024

MR. KOFI ASAMOAH SIAM  
PROGRESSIVE PEOPLE'S PARTY  
ACCRA

Dear Sir,

**FILING OF NOMINATIONS - DISQUALIFICATION FROM THE 2024  
PRESIDENTIAL ELECTION**

bring you greetings from the Electoral Commission, and trust this letter finds you well.

In behalf of the Commission, I regret to inform you that following the review of your nomination Forms by the Technical and IT Teams established for this purpose, you unfortunately failed to qualify to contest as a Presidential Candidate in the 2024 Presidential Election.

The Teams identified several errors and omissions in your Forms even though you were provided with an opportunity to correct same.

We wish you better luck next time.

Thank you.

Yours faithfully,

**JEAN MENSA  
BIRPERSON**

This is the original of the  
Exhibit PK5  
to the affidavit  
sworn before me this 24th  
day of



**THE SUPERIOR COURT OF JUDICATURE**  
**IN THE HIGH COURT OF JUSTICE**  
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**ACCRA- A.D 2024**

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**ELECTORAL COMMISSION OF GHANA**  
Ridge, Accra

**RESPONDENT**

**EXPARTE: KOFI ASAMOAH-SIAW**  
No. 3 Examination Loop  
WAEC Road  
Ridge, Accra

**APPLICANT**

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**STATEMENT OF CASE**

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Respectfully my Lords, this is an application initiated by the Applicant seeking to invoke the Supervisory Jurisdiction of this Honourable Court under Article 141 of the 1992 Constitution and Section 16 of the Courts Act 1993 (Act 459) as amended.

The brief facts of this case are that the Respondent, the body charged with the mandate to among others conduct public elections in Ghana publicly announced that it would receive the completed presidential nomination forms for Presidential Aspirants between 9<sup>th</sup> and 13<sup>th</sup> September, 2024. On the ticket of the Progressive People's Party (PPP), the Applicant submitted his completed nomination forms to the Respondent on 13<sup>th</sup> September, 2024 and paid the requisite filing fee of One Hundred Thousand Ghana Cedis (GH¢ 100,000.00). After thorough examination of Applicant's nomination forms, the Respondent identified specific errors on pages 1, 2, 3, 8, 9, 24, 27, 29, 32, 46, 67, 68, 86, 124, 126 and 136 of the 143 page nomination forms submitted in original quadruplicate and to resubmit same on which he did. The Respondent upon receipt of the completed nomination forms informed the Applicant that he would hear from them.

On 20<sup>th</sup> September, 2024, after the expiration of five (5) clear days following the submission of Applicant's nomination forms, and without further recourse or notice to the Applicant or his political party (PPP), the Respondent published on social media that they had cleared some nominees and declared them qualified to participate in the 2024 Presidential Election. It was upon inquiry that the Respondent informed the Applicant that he had been disqualified as a result of errors in Applicant's nomination forms without indicating what those errors were to be offered opportunity to amend or correct same in accordance with law.

It is the case of the Applicant that the conduct of the Respondent is unfair, unreasonable, capricious and arbitrary as same was done without recourse to the law and rules of natural justice.

## **THE LAW**

Judicial review is a procedure by which the courts supervise the exercise of public power upon an application being brought by the aggrieved person. Article 23 of the 1992 Constitution imposes a constitutional injunction on administrative bodies and administrative officials to act fairly and reasonably and to comply with the requirements imposed on them by law and persons aggrieved by the exercise of such act and decisions shall have the right to seek redress before a court of law. Judicial review is concerned with the manner in which the decision-maker has applied the relevant rules. It is thus procedural in nature. Thus, a court in a judicial review application would only look at the method in which the decision was arrived at.

Article 141 of the 1992 Constitution provides that "The High Court shall have supervisory jurisdiction over all lower courts and any lower adjudicating authority; and may, in the exercise of that jurisdiction issue Orders and directions for the purpose of enforcing or securing the enforcement of its supervisory powers. This provision is also provided for in Section 16 of the Courts Act 1993 (Act 459) as amended by Act 620 as follows:

***"The High Court shall have supervisory jurisdiction over all lower courts and any lower adjudicating authority; and may, in the exercise of that jurisdiction, issue orders and directions including order in the nature of habeas corpus, certiorari, mandamus, prohibition and quo warranto for the purpose of enforcing or securing the enforcement of its supervisory powers."***

My Lord, natural justice is one of the principles upon which this Honourable Court can exercise its supervisory jurisdiction. This is because the real purpose of the rules of natural justice is to ensure that a fair procedure has been established and followed by the decision-

making body. The rule requires that the decision maker approaches the decision process with “fairness”.

There are two main components of the rule of natural justice which are namely:

1. Audi alteram partem – the rule that no man is to be condemned without a hearing.
2. Nemo iudex in causa sua – no man should sit as a judge in his own case.

My Lord, for the purposes of the application before this Honourable court, we shall restrict ourselves to the audi alteram partem rule.

***My Lord, in the Supreme Court case of Republic v Court of Appeal & Thomford; Ex parte Ghana Chartered Institute of Bankers [2011] 2 SCGLR 941, The Supreme Court held that non-compliance with the audi alteram partem rule would result in nullity and certiorari would lie from the court to quash an offending judgment of the Court of Appeal.***

Speaking through Justice Date – Bah, the court said “.....***this Supreme Court has held several times recently that non-compliance with the audi alteram partem rule results in nullity. In The Republic v High Court, Accra; ex parte Salloum & Ors (Senyo Coker, interested party) suit no. J5/4/2011 judgment of the Supreme Court, delivered on 16<sup>th</sup> March, 2011 and reported in [2011] SCGLR 574 (ante) Anin Yeboah JSC, delivering the majority opinion of the court, held (as stated at page 585 of the Report) that***”

***“The Courts in Ghana and elsewhere seriously frown upon breaches of the audi alteram partem rule to the extent that no matter the merits of the case, its denial is seen as a basic fundamental error which should nullify proceedings made pursuant to the denial.... It is our opinion that as this court has in several cases held that a breach of the rules of natural justice renders proceedings a nullity, we should declare that the Applicants have sufficiently made a case to warrant our supervisory intervention.”***

My Lord, Article 23 of the 1992 Constitution specifically provides as follows:

***“Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed on them by law and persons aggrieved by the exercise of such act and decisions shall have the right to seek redress before a court or other tribunal.”***

My Lord, in **Awuni vrs. West African Examination Council** [2003-2004]1 SCGLR 471, the Supreme Court expressing strong sentiment in respect the requirements of Article 23 of the 1992 Constitution had this to say through Sophia Akuffo JSC (as she then was):

**“Where a body or officer has an administrative function to perform, the activity must be conducted with, and reflect the qualities of fairness, reasonableness and legal compliance. I will not venture to give a comprehensive definition of what is fair and reasonable, since these qualities are dictated by the circumstances in which the administrative function is performed. At the very least however, it includes probity, transparency, objectivity, opportunity to be heard, legal competence and absence of bias, caprice or ill-will. In particular, where, as in this case, the likely outcome of an administrative activity is of a penal nature, no matter how strong the suspicion of the commission of the offence, it is imperative that all affected persons be given reasonable notice of the allegations against them and reasonable opportunity to be heard, if the objective of article 23 is to be achieved.”**

My Lord, the Respondent pursuant to Article 51 of the 1992 Constitution provided regulations for the conduct of the 2020 Presidential and Parliamentary Elections. The said regulations are entitled “Public Election Regulation 2020, C.I. 127.

It is provided in Regulation 9 as follows:

- (1) “Whenever the nomination paper and the statutory declaration of a candidate are delivered and the deposit is paid in accordance with these Regulations, the candidate shall be considered to stand nominated, unless proof is given to the satisfaction of the returning officer of the candidate’s death, withdrawal or disqualification***
  
- (2) The returning officer shall inform a candidate that the candidate’s nomination is invalid where:***
  - (a) The particulars of the candidate or the person subscribing to the nomination Paper are not as required by law; or***
  - (b) The nomination paper is not subscribed to as required by law; and shall give the candidate any opportunity to make amendments or any alteration necessary, within the stipulated nomination period.***
  
- (3) Where a candidate fails to comply with sub regulation (2), the returning officer shall consider the nomination paper of the candidate as invalid and shall***
  - (a) Endorse and sign on the nomination paper the reasons for that decision; and***
  - (b) Inform the Commission.***
  
- (4) The Commission shall take a decision on the matter within seven days.***

It is very clear that the Respondent in appreciation of the fundamental principles of natural justice incorporated same in its Regulations under Regulation 9(2) of CI 127. The provision is in consonance with Article 23 of the 1992 Constitution and accordingly required of the Respondent *to give reasonable notice of allegations against nominees and reasonable opportunity to be heard, if the objective of article 23 of the 1992 Constitution and Regulation 9(2) of CI 127 is to be achieved.*

My Lord, the facts reveal that after the nomination forms were submitted to the Respondent within the stipulated nomination period, they notified the Applicant of specific errors which were duly corrected and same accepted by the Respondent. Exhibit PK 2 attest to this. There was no point in time thereafter that the Applicant was notified by any other error.

If indeed there were subsequent errors detected it would be reasonably expected that the Respondent would give reasonable notice of same to the Applicant in accordance with Respondent's own Regulations. Failure to do so implies that the Applicant would not be afforded the expected opportunity to rectify same as required by Regulation 9(2) of CI 127.

My Lord, it is important to reiterate that though the Respondent informed the Applicant at the time of filing that the Applicant would hear from them, the Respondent never did until they made public statement on 20<sup>th</sup> September, 2024 to announce disqualification of the Applicant. This indeed truncated Applicant's right to fair hearing. The Respondent being a public body and exercising its powers under the Constitution ought to have acted fairly, reasonably and complied with the requirements imposed on them by law.

My Lord, it is respectfully submitted that the Respondent's failure to give notice of the alleged irregularity on the form and particulars of same and to offer the Applicant the opportunity to amend those alleged errors *violates Regulation 9 (2) (b) of C.I. 127 as well as Article 23 of the 1992 Constitution.* Respondent's decision contained in exhibit PK 5, to the extent that it fails to give details of the nature of the alleged errors committed by the Applicant is arbitrary, capricious and same violates Articles 23 and 296 of the 1992 Constitution and same ought to be set aside by this Court by way of judicial review.

It is further submitted respectfully that a breach of the audi alteram partem rule constitutes a serious fundamental error of law and this court has the jurisdiction under article 141 of the 1992 Constitution and Section 16 of the Courts Act 1993 (Act 459) to quash Respondent's decision dated 20<sup>th</sup> September, 2024 as null, void and of no legal effect.

My Lord, it appears without a doubt that on the strength of the authoritative statement of the law stated supra, the decision of the Respondent ought not to stand in view of the gross

violation of its own enabling Regulations and the audi alterem partem rule. It is clear that the error made by the Respondent is apparent on the face of the record. The Respondent indeed did not invite the Applicant to correct the alleged error or make amendments on the nomination form when it detected same.

Regulation 9 (2) (b) makes it imperative that the Respondent afford an opportunity for any correction or amendment to be made within period of the nomination. It is thus incumbent on the Respondent to have provided ample time to all the aspirants knowing the volume of work that was to be done.

It was certainly not enough for the Respondent to have received the forms and indicated to the Applicant that he would hear from them (Respondent) only for Respondent to announce his disqualification in the media without notice to the him. It is very clear that the conduct of the Respondent amounts to gross violation of the rules of natural justice and such a decision cannot be said to be fair, reasonable and candid.

It is on the strength of the above submissions that the Applicant prays that the decision of the Respondent dated 20<sup>th</sup> September, 2024 disqualifying him ought to be brought to this Court to be quashed by way of certiorari. It is the Applicant's further prayer that an order be directed at the Respondent to accept nomination forms of the Applicant subject to any amendment and or alteration as contemplated within Regulation 9 (2) (b) of C.I. 127 and also for the Respondent to clear the Applicant as qualified to participate in the 2024 Presidential Election as a Presidential Candidate on the ticket of the Progressive People's Party (PPP).

Respectfully submitted.

**DATED AT ACCRA, THIS 24<sup>TH</sup> DAY OF SEPTEMBER, 2024**



**PRINCE ELI FORNYIKPOR ESQ.**  
**SOLICITORS FOR THE APPLICANT**  
**SOLVERE CONSULT, NO:17 KANFLA CLOSE,**  
**ASYLUM DOWN, ACCRA**  
**SOLICITOR'S NUMBER: eGAR 01349/24**  
**CHAMBERS LICENCE NO: ePP 09155/24**

**THE REGISTRAR  
HIGH COURT (GENERAL JURISDICTION)  
ACCRA**

**AND TO THE ABOVE-NAMED ELECTORAL COMMISSION OF GHANA,  
RIDGE, ACCRA.**