IN THE HIGH COURT OF SIERRA LEONE
GENERAL CIVIL DIVISION

GENERAL PARLIAMENTARY ELECTIONS FOR CONSTITUENCY 130, WESTERN RURAL DISTRICT IN THE WESTERN AREA OF THE REPUBLIC OF SIERRA LEONE HELD ON THE 7TH MARCH 2018.

THE PETITION OF ABDUL SULAIMAN MARRAY-CONTEH OF CONSTITUENCY 130 WESTERN RURAL DISTRICT, WHOSE NAME IS SUBSCRIBED

BETWEEN

ABDUL SULAIMAN MARRAY-CONTEH
26 HIGH BROAD STREET
MURRAY TOWN
Freetown **Petitioner**

And

OSMAN ABDAL TIMBO
HIGH BROAD STREET
MURRAY TOWN
Freetown **1st Respondent**

The National Electoral Commission
Tower HILL
FREETOWN **2nd Respondent**

The National Returning Officer
National Electoral Commission
Tower Hill
Freetown **3rd Respondent**

The Western Rural District Returning Officer
National Electoral Commission
Tower Hill
Freetown **4th Respondent**

H.M.Gevao, I.Kanu, M. Mewa, A.K. Koroma, C.A. Bangura, I.F. Sawaneh, I.S. Sankoh, A. Lavally and F.A. Kengenyeh for the Petitioner.

A.S. Sesay, B. Koroma, A. Showers, A. Sillah & S. Bah for the 1st Respondent.
Beryl E. T. Cummings for the National Electoral Commission.

Ruling Delivered this 4th Day of April 2019

By Hon Justice Desmond B. Edwards CJ

Application

1. On the 12th of November 2018 this court was all set and ready to proceed with the full trial of the Election Petitions by affidavit evidence as required by Section 35 of the Election Petition Rules 2007 with Musa Mewa all poised to begin and referring this court to the affidavits he were to use when Counsel for the 1st respondent Mr. Brima Koroma interjected stating that he is making a jurisdictional objection, to wit, that this election petition cannot go on because 4 months had elapsed since the commencement of the petition. He argued that the election petition was presented on 19th of April 2018 when the petitioner filed his petition and from that time, which marked the commencement of the election petition proceedings to the 18th of October 2018, (barring the time the Chief Justice had given directions was exempted in the reckoning of time being the vacation period), was beyond the 4 months period as provided by Section 78(2) of the Constitution of Sierra Leone (hereinafter referred to as "section 78(2) of the Constitution) during which time the petitions should have been concluded with judgment given; hence he concluded, this court had no jurisdiction to continue with Election Petition. If on the other hand, the practice direction given by the Chief Justice was not being considered, he argued further, the 4 months should have elapsed on the 18th of August, 2018. Consequent upon the above, he was humbly asking this court to state

a case to the Supreme Court pursuant to Section 124(2) of the Constitution of Sierra Leone Act No. 6 of 1991.

2. On the basis of this provision he asked this Honourable Court to stay the proceedings against the 1st Respondent until the Supreme Court interprets the provision as stated in section 78(2) of the Constitution.

In Reply

3. Counsel for the petitioner stated that the Constitutional objection raised by his learned colleague cannot be upheld. The first issue raised against it, he noted, was whether proceedings commenced after the exchange of pleadings, to wit, the trial of the proceedings which was only starting now, or from the presentation of petition as argued. Secondly, whether in the spirit of the law, Section 78 (2) of the Constitution allegedly stipulating that election petitions proceedings should be completed within 4 months period in its entirety countenanced the interlocutory applications from the respondents which had bedeviled the proceedings from its outset and which the bench in the interest of Justice was constrained and gracious enough to deal with despite the provisions in 78(3) of the Constitution that no appeal shall lie in respect of any interlocutory decision of the High Court with regard to Election petitions. He posed the question whether such time spent should be taken into consideration in the reckoning of the 4 months time. Counsel for the petitioner went further to remind counsel for the 1st respondent that time was far spent because it was counsel for the respondents that were guilty of having sought several adjournments from this court on many occasions which has now counted for the 4 months which have now elapsed.

4. He argued that the record of the court do speak to the fact that the respondents did file all their affidavit evidence before this court, out of time, and that the trial was only being made possible, through directions given by this Honorable Court which allowed the respondents to file out of time. He thus asked the question whether the respondent counsel's applications, all the while seeking time and adjournments, was a new legal strategy to run the 4 months specified in the constitution, out of time?

5. Learned counsel for the petitioner ended by stating that objecting to the jurisdiction of this court was the wrong procedure and that if for the reasons outlined the respondent feels strongly about what he was saying he ought to have approached the Supreme Court directly in its original jurisdiction and not to have come before the High Court for a case stated to the Supreme Court.

6. At this stage of the proceedings Beryl .E.T Cummings walked in with apologies for her late appearance and made representations for the 2nd, 3rd & 4th Respondents. She did not waste time to adopt the arguments of the Counsel for the 1strespondent.

In Answer

7. Learned counsel for the 1st respondent in answer to the reply hereof stated that by reason of the Rule 5 (1) – 5(4) of the EPR 2007 which is the Applicable law, proceedings before this court in an election petition commenced by presentation of the petition against the 1st Respondent and the same states when a petition was regarded as having been issued or commenced. The issuance of the election petition in the instant case was on the 19th of April, 2018 and that was the commencement date and time when

proceedings started in the sense that time – the 4 months began to run from that date.

8. On the issue of adjournments, he stated that Order 41 Rule 3 of the High Court Rules CI No 8 of 2007 was clear on the position that is was in the discretion of the court to adjourn cases. He argued that the said discretion of the court shouldn't have been considered in the light of the Constitution being the grun norm. On Section 124(2) of the Constitution which he relied upon in making the application, he submitted that the provision envisages a situation where constitutional issues might come up either in the High Court or Court of Appeal and the same ought be referred from that lower court through a case stated to the Supreme Court for interpretation and that the same had nothing to deal with interlocutory applications but rather about the interpretation of a provision of the constitution.

9. Counsel for the 2nd, 3rd & 4th Respondents, Beryl Cummings adopted the same arguments of the 1st Respondent's counsel for her respective respondents emphasizing that it was the Supreme Court alone that has original jurisdiction to hear and determine the interpretation of section 78 (2) of the Constitution and in such situations the High Court was empowered pursuant to section 124(2) to stay proceedings until questions are determined by the Supreme Court pursuant to section 124(1)(a) and 124(2) of the Constitution and the Court of Appeal has nothing to do with the issues raised under this section.

10. Counsel representing all the parties requested that the arguments herein be applied to all the other petition cases before the court as the same scenario does apply with respect to all. This was approved by the Court.

Background

11. The background to this objection is as follows:

1. Elections for parliamentary seats were conducted on the 7th of March 2018.

2. Results were published initially over the media; later, officially, in the gazette of 17th April 2018.

3. Election petitions were filed immediately thereafter and within the time allowed after publication in the gazette as provided by the Public Elections Act 2012 and the Elections Petition Rules 2007.

4. Immediately thereafter, the petitioners applied for an injunction regarding the seat in parliament, to wit, whether those who have been returned as winners by NEC, in view of the very petitions against those results, can be allowed to sit in Parliament and take part in the vote for Speaker and Deputy Speaker. An injunction was granted which prevented them from sitting and voting in those elections but the said injunction later expired/ elapsed by effluxion of time.

5. There were answers to the petition and replies to the answers; betwixted between the petitions and answers there were also objections which this court had to deal with and graciously dealt with. Finally there were affidavits in support of the petition and in

answer/opposition of the petition and reply thereto with a view to the trial of the petition. Before the usual civil court vacation which was to commence from 15th July 2018 – end 15th September 2018 the erstwhile Chief Justice then gave practice direction to the effect that the vacation period was not to be considered in the reckoning of time.

6. From the 19th of April – 18th August, 2018, 4 months had initially elapsed but for the said practice direction. But even though there was this extended period of time, 4 months had elapsed from the date the petitions commenced to the 18th of October 2018.

7. After full compliance with directions as dictated by the Masters certificate the date for trial was communicated to the public via Gazzette and so all was set for trial of the petitions to begin on the 12th of November 2018 when the said objection was raised.

8. After the 18th of October 2018 the respondent had all the power and time to apply directly to the Supreme Court in its original jurisdiction for interpretation of the provisions as contained in Section 78(2) of the Constitution pursuant to section 124(1) (a) and 124 (2) of the Constitution of Sierra Leone Act No. 6 of 1991 but failed refused or neglected to do so.

9. Now they are asking that a case be stated for the Interpretation of Section 78 (2) of the Constitution pursuant to section 124 (2) of the Constitution of Sierra Leone 1991.

Consideration of the issues

12. Having noted the background in this case the issue before this court is whether a case ought be stated for the Supreme Court pursuant to section 124 (2) because section 78(2) of the constitution provides:***"The High Court to which any question is brought under subsection 1 shall determine the said question and give judgment thereon within four months after the commencement of proceedings before that court"***

13. To get a fuller or proper understanding of Section 78(2) of the Constitution Section 78(1) of the Constitution which is referred to therein is also quoted verbatim as follows: S78 (1) ***"the High Court shall have jurisdiction to hear and determine any question whether –a) any person has been validly elected as a member of Parliament; and b) the seat of a member of Parliament has become vacant."***

14. As against the foregoing, the respondents do argue the said provisions in conjunction with section 124 (1)(a) and 124(2) of the Constitution of Sierra Leone do require that a case ought to be stated because the High Court has only 4 months to start and complete the election petitions dealing with such questions while the petitioner say this court ought not be impeded by time but rather should go on and complete the case. Both Counsel nonetheless it would seem to me from both sides are agreed that indeed it was only 4 months that was given to complete the election petitions the only difference being that the petitioner believe it only started to run after close of pleadings while the respondents believe the time commenced to run from the start of the petitions

Non Conformity with Procedure

15. The Supreme Court decision in the case of **THE STATE V ADEL OSMAN & 5 OTHERS (1988) LRC (CONST) 212 -225** throws great light in the dealing of "Case Stated' and is the leading decision on "case stated" by a Judge sitting as a High Court Judge to the Supreme Court. In that case learned counsel for the 2nd respondent Mr. Terrence Michael Terry of late blessed memory applied that a case be stated from the High Court to the Supreme Court and in the process posed & formulated five questions of law which he wanted the Supreme Court to answer through case stated from the High Court to the Supreme Court . In the same case another counsel for the 5th respondent, Mr. Eke Halloway stated a further 3 questions of law which he too requested the High Court to adopt for a Case Stated to the Supreme Court. The Learned DPP who was on the opposite side was in agreement with them for the case stated. The Learned Judge then Hon Mrs. Justice Virginia A D Wright adopted the said questions or formulations as case stated for the Supreme Court and the Supreme Court in the landmark decision regarding Declaration of a State of Emergency gave its ruling answering the said questions. The reference to the Supreme Court was by virtue of Section 104(2) of the then 1978 Constitution of Sierra Leone which ***is ipsisima verba*** the provisions of section 124(2) of the 1991 Constitution. It provided thus:

"104(1) The supreme court shall, save as otherwise provided in sections 18 and 101 of this constitution have original jurisdiction to the exclusion of other courts – a)in all matters relating to the enforcement or interpretation of any provision of this constitution ; and b) where any question arises whether an enactment was made in

excess of the power conferred by Parliament or any other authority or person by law or under this Constitution

2) <u>where any question relating to any matter or question as is referred to in the preceding subsection arises in any proceedings in any court , other than the supreme court, that court shall stay the proceedings and refer the question of law involved to the Supreme Court for determination; and the court in which the question arose shall dispose of the case in accordance with the decision of the supreme court."</u>

16. The case before me, however, can be distinguished from the ***Ardel Osman Case*** in that unlike that case no such questions of law have been posed here. The respondents rather than seeking clarifications through questions of law chose to object to the proceedings continuing by submitting in my view that the elections proceedings have exceeded 4 months from its commencement, and that by their estimation of or interpretation of or taking into consideration of section 78 (2) which provides ***"The high court to which any question is brought under subsection 1 shall determine the said question and give judgment thereon within four months after the commencement of the proceedings before that court",*** judgment ought to have been handed down falling which the case cannot continue. They did this by failing refusing or neglecting to *<u>pose any question of law for determination by the Supreme Court through the "case stated "avenue provided in the High Court</u>*

Some may say this is simply an issue of procedure which should not count too heavily on whether to uphold or dismiss the objection. To this I say while being pedantic as to procedure in such matters should never be avoided, what is at issue in fact goes beyond procedural adherence and is a matter of not only procedure but

substance. What goes to the Supreme Court or what can only be referred to the Supreme Court and that which would require determination by the Supreme Court as 'case stated' are the questions of law that emanate from the facts presented and not just the facts. Section 124(2) provides:

> "Where any question relating to any matter or question" as is referred to in subsection 1 arises in any proceedings in any court, other than the Supreme Court, that court shall stay the proceedings ***"and refer the question of law involved"*** to the supreme court for determination; and the courts in which the question arose shall dispose of the case in accordance with the decision of the supreme court."

17. When no question of law has been raised, how can you refer any question of law involved? Similarly there is no court in which the question of law arose. It was an objection, a jurisdictional objection as it were that was raised relative to a subjective interpretation of the Constitutional provision as stated in section 78(2) of the Constitution. **A question of law is according to Black's Law Dictionary 8th Edition @page 281 "an issue to be decided by the judge(s), concerning the application or interpretation of the law which are reserved for the Court."**

18. Thus based on the aforesaid facts questions of law could have been raised thus:

    1. Noting that 4 months had elapsed ***without judgment*** since the commencement of the election petition which constitutes ***question as to whether any person has been validly elected as a member of***

parliament and b) whether the seat of a member of Parliament has become vacant whether this case could validly continue?

2. Noting that the 4 months had elapsed for the completion of proceedings whether everything done in the case becomes null and void?

3. Noting that the 4 months had elapsed whether from henceforth the case cannot and should not proceed and should immediately determine and come to an abrupt end without determining the rights of the parties?

4. Whether through no fault of the parties, or the petitioners in particular, the case should immediately come to an end after 4 months whereby they the petitioners immediately and for ever lose the seat they are contesting in parliament?

   The above questions beg the issue or question of law of whether it was the intention of parliament for petitions to have commenced but yet still never completed.

5. Whether by the said provision being interpreted in one way – the way which says the election must be completed within 4 months and judgment handed down as the literal meaning of Section 78(2) to wit "***The High Court to which any question is brought under subsection 1 shall determine the said question and give judgment thereon within four months after the commencement proceedings before that court*****"** Parliament would not have attempted to control the judiciary in circumstances where section 120 (3) (an entrenched

provision pursuant to section 108 of the Constitution of Sierra Leone 1991) states that in exercise of judicial function the judiciary shall be subject to only the Constitution or any other law and shall not be subject to the control or direction of any person or authority.

6. Whether by section 78 (2) of the Constitution and the interpretation preferred on it by the respondents there will not be a conflict between an ordinary provision and an entrenched provision section 120 which guarantees the independence of the judiciary and which should take precedence?

19. All these are questions of law and none have been posed or raised for me to make a case stated to the Supreme Court. While it is in my discretion to do so I simply decline as there is no reason as would be seen as I delve further into the issue. Also the section does not give power to anybody to request but the judge/court. The power to request for a case stated is directed to the court or the judge alone and while it says "the court shall', it is a notorious fact that "shall' may mean "may" . In the Indian case of **THE STATE OF HARYANA & ANOTHER V RAGHUBIR DAYAL (1995) 1 SCC 133** the Supreme Court of India observed,

"The use of the word "shall" is ordinarily mandatory but it is sometimes not so interpreted if the scope of the enactment or consequences to flow from such construction would not so demand. Normally, the word 'shall" prima facie ought to be considered mandatory but it is the function of the Court to ascertain the real intention of the legislature by a careful examination of the whole scope of the statute, the purpose it seeks to serve and the

consequences that would flow from the construction to be placed thereon. <u>The word 'shall' therefore ought to be construed not according to the language with which it is clothed but in the context in which it is used and the purpose it seeks to serve."</u>

20. So even where questions of law have been raised, it is invariably of the judge's discretion to decide whether to invoke the supreme courts exclusive jurisdiction to interpret a provision by reference through case stated or not. Thus it is only discretionary for the court to request. So where a judge feels it unnecessary he continues with the matter to the end. In such circumstances the Applicants only would be to go directly to the Supreme Court in its original jurisdiction which was an option all along but which the Respondents as evidence of their wanting to waste time have failed refused or neglected to do.

21. On these issues alone the application ought be refused. But I will go into more substantive issues. Firstly, noting that section 78(2) provides **"**The High Court to which any question is brought under subsection 1 ***<u>shall determine the said question and give judgment thereon within four months after the commencement of proceedings before that court"</u>***, it becomes verily and truly unreal to talk of the need for interpretation of this section when the words used are so precise clear and unambiguous. The action of my court is simply to apply the constitution and no more. From a true construction and application of the provision it is clear to me that the requirement placed on this Court are twofold firstly, "to determine the said question" –this thus means that the court has a duty to hear and determine the Election petitions to its end; not to hear the petition and half way discard the petitions with no answers. Consequently what has started must continue

to the end with a determination of whether the person declared as winner must continue to be MP or be removed or replaced by the petitioner.

22. Secondly, "Give Judgment thereon within 4 months after the commencement of Proceedings". It means what it says. The respondent has attempted to place on that provision a meaning which says the elections proceedings have a time frame or limit of 4 months inclusive of judgment being delivered and that the same having expired by effluxion of time as the Election Petition has exceeded 4 months from its commencement, without judgment being handed down; therefore the case cannot continue as the High Court has no jurisdiction to continue with the case hence the petition fails. Such a conclusion cannot be correct because it is a literal meaning which is bound to produce absurdity. The Golden Rule of interpretation is that where the literal meaning is bound to produce absurdity you abandon the literal rule; the court should look for another meaning of the words to avoid that absurd effect. It may mean looking at the intention of parliament or the mischief which parliament intended. In the case of **SMITH V HUGHES (1960) 1WLR Page 830** the Court of Appeal presided by Lord Parker CJ dismissed an Appeal on a case stated. The facts of this case is that 2 common prostitutes standing behind window in their houses severally solicited men passing in the street by tapping on the windows attracting their attention and inviting them into their house. They were charged to court and found guilty pursuant to Section1 (1)of the Street offences Act 1959 which stated ***"It shall be an offence for a common prostitute to loiter or solicit in a street for purposes of prostitution"***. There was an appeal on a case stated that the prostitutes were not in a street as the literal interpretation of the Section. The appeal was dismissed on the ground that the literal meaning was bound to produce absurdity as the mischief aimed at by the Act was to

clean up the streets to enable people to walk along the streets without being molested or solicited by common prostitute. Thus it mattered not whether the prostitute is soliciting while physically on the streets or standing behind the window tapping same in a house inviting men to her house.

23. Similarly in the case before me it could never had been the intention of Parliament or the constitution for election petitions by virtue of such provisions as stated in section 78 (2) to end abruptly without determination of the questions whether the MP had been validly elected after an election petition. A literal interpretation definitely would have such an effect but clearly this cannot be the intention of parliament and it would mean that part of the electorate would have been denied justice. BANNERMAN CJ in the case of **REPUBLIC V MAIKANKAN AND OTHERS (1971) 2GLR473-478** in the Supreme Court 30th July 1971 puts it this way-

"We wish to comment that a lower court is not bound to refer to the Supreme court every submission alleging an issue the determination of a question of interpretation of the constitution or any other matter contained in article 106(1)(a) or (b). If in the opinion of the lower court the answer to a submission is clear and unambiguous on the face of the provisions of the constitution or laws of Ghana, no reference need be made since no question of interpretation arises and a person who disagrees with it or is aggrieved by the ruling of the lower court has his remedy by the normal way of appeal, if he so chooses. To interprete the provisions of article 106(2) of the constitution in any other way may entail and encourage references to the Supreme Court of frivolous submissions, some of which may be intended to stultify

proceedings, or the due process of law, and may lead to delays such as may in fact amount to denial of justice. In this connection we fully endorse the decision of the Court of Appeal sitting as the Supreme Court in the case of Awoonor- Williams v Gbedmah Supreme Court, 8 December 1969, unreported ; digested in (1969) CC 18and of TAIT V GHANA Airways Corporation Supreme court 29 July 1970 unreported."

24. Section 106 of the Ghana Constitution that is the same as section 124 and it is my opinion that the answer to any possible question of law is clear and unambiguous in the face of the Constitution of Sierra Leone and the laws of this country. There cannot be any doubt that the proposed reference, if at all, as case stated alledging the kind of interpretation being put forward by the respondents because of its clear precise and unambiguous meaning coupled with golden rule that flies against the literal Rule was only intended to stultify the proceedings and cause denial of justice. It is not short of being a frivolous submission.

25. But this is not all, noting the original and exclusive jurisdiction placed on the High Court to handle Election Petitions involving Members of Parliament one is prone to ask whether the so called jurisdictional objection raises any real or genuine issues of constitutional interpretation warranting the Supreme Court's invocation of its original jurisdiction to interprete through Case stated or otherwise. As could be seem from the questions of law I have posed above, to accede to the objection / application would only serve one purpose, stop the High Court from concluding a matter for which it has exclusive original jurisdiction . This to my mind only means that the

objection did not properly raise any real or genuine issues of constitutional interpretation or enforcement of the constitution No 6 of 1991 that justifies the invocation of the original jurisdiction of the Supreme Court through a case stated pursuant to section124(2). It would seem to me that having being given that exclusive jurisdiction with a mandate to determine and give judgment by the constitution itself nothing else can supercede it. The constitution being *Suprema Lex, the supreme Law* cannot by one hand be saying to the petitioner you have these rights and on the other hand take it back because the court was unable to work within these 4 months time frame. It would be wrong to under the quise of interpretation stop the court from concluding what it has jurisdiction to do. See the case of BAAFOUR KWAME FANTE ADUAMOA II AND OTHERS V NANA GYAKORANG ADU TWUM II AND OTHERS – Supreme Court Ghana, Suit no. 394 unreported. The contestant/petitioner in this election petition having come before this court and instituted an Election Petition in circumstances where the High Court has original and exclusive jurisdiction pursuant to section 78 (1) of the Constitution that court ought be allowed to complete its work no matter what as the petitioner has only this one remedy through that exclusive jurisdiction and no amount of interpretation can prevent the court from completing its work and justice being done. The special jurisdiction to interprete the constitution cannot be meant to usurp the jurisdiction of the High Court but only to deal with suits raising genuine real issues of interpretation of which the case before me does not fall to this exception, as the golden Rule has blatantly exposed.

26. Again one can see that the real effect of having the above interpretation as proposed being incorrect is that it makes nonsense of the Independence of the Judiciary, the same which has been guaranteed by an entrenched

provision of the constitution pursuant to section 108 thereof . How can Parliament by an unentrenched provision section 78(2) of the constitution dictate to the Judiciary that you have 4 months to the complete a case? This would only be tantamount to the Judiciary being under the control or direction of Parliament quite contrary to the entrenched provision in section 120(3) of Constitution or simply a case where section 78(2) of the Constitution is in conflict with 120(3) and section 120(3) takes precedence.

27. Against the foregoing could it be doubted that 2nd ambit of the 2 fold requirement is only directory to the Courts to proceed expeditiously with election petitions and not mandatory to the point that because there is failure to strictly comply, guillotines the proceedings to the detriment of the petitioner.

Under **HALSBURY'S LAWS OF ENGLAND 4TH EDITION VOLUME 44 STATUTES PARA 933** under the rubric Mandatory and Directory enactment it is stated

> ***"No universal rule can be laid down for determining whether provisions are mandatory or directory; in each case the intention of the legislature must be ascertained by looking at the whole scope of the statute and in particular, at the importance of the provisions in question in relation to the general object to be secured ……..It has been observed that the practice has been to construe provisions as no more directory if they relate to the performance of a public duty, and the case is such that to hold null and void acts done in neglect of them would work serious general inconvenience or injustice to persons who have no control over***

those entrusted with the duty, without at the same time promoting the main object of the legislature".

The Judge's role in all this is a public duty and his failure or neglect, if at all, to complete within the four (4) months period cannot be taken against the petitioners who have no control over the proceedings.

28. According to **SGG EDGER'S "CRAIES ON STATUTE LAW" LONDON, 7TH EDITION BY SWEET AND MAXWELL 1971**

"If the Statute itself provides for a punishment or a penal consequence implying that the act so done or done otherwise would be invalid, naturally the provision is mandatory in nature."

Equally so, there is no penal consequences as the Constitution did not prescribe any penal consequences for failure to comply.

29. Predicated on the above, it is equally clear and certain that the provision in section 78(2) of the Constitution can only be directory hence no need to refer on a case stated as all we have to do is complete the case despite the time lapse.

30. In conclusion, all things considered there can only be one conclusion the Jurisdictional objection is refused; the request for a case stated is also refused. Stay of proceedings is refused. This election petition would continue until its final determination.

The Application is refused. Cost Against the Respondents to be taxed.

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