

MALAWI / JUDGMENT

David P Banda v Attorney General (Malawi Electoral Commission)

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REPUBLIC OF MALAWI IN THE HIGH COURT OF MALAWI LILONGWE DISTRICT REGISTRY
CIVIL DIVISION ELECTION CASE NO 12 OF 2025 BETWEEN DAVID P BANDA CLAIMANT AND
ATTORNEY GENERAL (MALAWI ELECTORAL COMMISSION) DEFENDANT CORAM: HON.
JUSTICE B M KALEMBA Kalembe, J. RULING ON A WITHOUT NOTICE APPLICATION FOR AN
ORDER OF INTERLOCUTORY INJUNCTION Order 10 (27) of Courts (High Court) (Civil Procedure)
Rules The Claimant, David P. Kambalame, has filed an application for an order of interlocutory
injunction restraining the defendant from announcing parliamentary election results for
Lilongwe Mpenu Constituency or deeming or recognizing any candidate as a winner of the said
parliamentary election held on the 16th September, 2025 until determination of the matter by the
Constituency Returning Officer, District Returning Officer or The Malawi Electoral Commission
or further order of the Court. In his sworn statement in support of the application, the applicant
alleges numerous anomalies in the election process at Lilongwe Mpenu Constituency. In
paragraph 8 of his sworn statement, the claimant states that he has submitted a complaint to the
Constituency Returning Officer, District Returning Officer or The Malawi Electoral Commission
requesting that vote recounting at the 1 Constituency Tally Centre be done. A copy of the said
letter is attached and marked Exhibit “DPK 3” Section 99 of the Presidential, Parliamentary and
local Government Elections provides as follows; Save as otherwise provided in this Act, any
complaint submitted in writing alleging any irregularity at any stage, if not satisfactorily resolved
at a lower level of authority, shall be examined and decided on by the Commission, and where
the irregularity is confirmed, the Commission shall take necessary action to correct the
irregularity and its effects. Section 100 of the Act provides for appeals to the High Court where a
party is dissatisfied with the decision of the Commission. The Court will not grant an
interlocutory injunction because, inter alia, it is based on an unsubstantiated assumption that the
Commission will not procedurally address the Claimants’ complaint before making a
determination on his complaint. Further, refusal to grant the interlocutory injunction will not
result in the irreparable damage to the Claimants’ case, he has recourse to section 100 referred to
above. Finally, in any case, Order 19 rule 19 of Courts (High Court) (Civil Procedure) Rules
provides that an application for an interim injunction in connection with an election matter shall
be made inter partes. Accordingly, I dismiss the application. Pronounced in Chambers this 23 of
day of September 2025. Bruno MacDonald Kalembe JUDGE 2

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ORIGINAL SOURCE	https://www.judiciary.mw/sites/default/files/2025-09/David%20P.%20Banda%20V%20Attorney%20General%20%28MEC%29%20-%20Ruling.pdf
CASE PAGE	https://chat.esheria.ai/case-law/malawi/david-p-banda-v-attorney-general-malawi-electoral-commission-2025

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