

IN THE GOVERNORSHIP ELECTION PETITION TRIBUNAL
HOLDEN AT BENIN
EDO STATE

ON FRIDAY THE 14TH DAY OF APRIL, 2017

BEFORE THEIR LORDSHIPS:

HON. JUSTICE A. T. BADAMASI
HON. JUSTICE GILBERT A. NGELE
HON. KHADI ADAMU USMAN

CHAIRMAN
MEMBER 1
MEMBER 11

PETITION NO: EPT/EDS/GOV/2/2016

BETWEEN:

1. PASTOR IZE-IYAMU OSAGIE ANDREW
2. PEOPLES DEMOCRATIC PARTY (PDP)

} PETITIONERS/
APPLICANTS

AND

1. INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC)
2. GODWIN OBASEKI
3. ALL PROGRESSIVES CONGRESS (A.P.C)

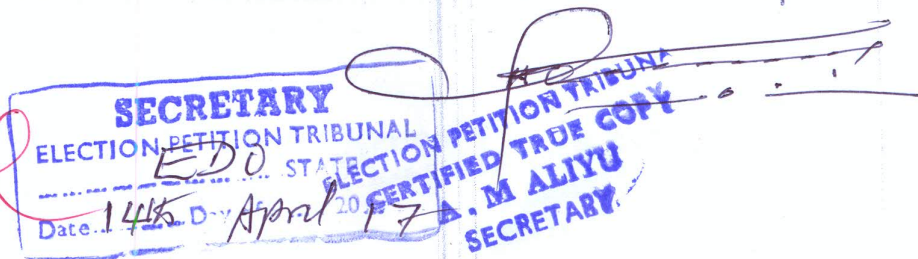
} RESPONDENTS

JUDGMENT

On 28th September, 2016, election into the office of Edo State Governor was conducted and the 2nd Respondent was declared the winner of that election by the 1st Respondent.

It was sequel to that declaration this petition was filed by the Petitioners on the following grounds:

1. That the 2nd Respondent was not duly elected by majority of lawful votes cast at the election.
2. That the election of the 2nd Respondent was invalid by reason of non-compliance with the provision of the Electoral Act (2010) (as amended).
3. That the election of the 2nd Respondent was invalid by reason of corrupt practices.



The 1st Petitioner was the candidate of the People Democratic Party (PDP) for the said Governorship election.

The 2nd Petitioner is the political party that fielded and sponsored the 1st Petitioner as its candidate for election to the office of the Governor of Edo State in the Governorship election that was conducted by the 1st Respondent on 28th September, 2016.

The 1st Respondent (Independent National Electoral Commission (INEC) is statutory body charged with the conduct of the said election.

The 2nd Respondent is a member of the 3rd Respondent political party and contested the election to the office of Governor of Edo State held on 28th September, 2016 as a candidate on the platform and sponsored by the 3rd Respondent (The All Progressives Congress (APC).

The 3rd Respondent is a registered political party which participated in and fielded the 2nd Respondent as its candidate for election to the office of Governor of Edo State held on 28th September, 2016.

In all, 19 candidates of various political parties contested the election inclusive of the 1st Petitioner and the 2nd Respondent.

Dissatisfied with the return of the 2nd Respondent as the winner of the said election, the Petitioners filed this Petition on the 19th October, 2016 in which they prayed in paragraph 754 as follows:

1. That it may be determined that the 2nd Respondent Godwin Nogheghase Obaseki was not duly elected or returned by the majority of lawful votes cast at the Edo State Governorship election held on the 28th September, 2016.
2. That it may be determined that 1st Petitioner who was the candidate of the 2nd Petitioner scored the highest number of lawful votes cast at the election and satisfied the requirements of the constitution of the Federal Republic of Nigeria 1999 (as amended) and the Electoral Act, 2010 as amended.

3. That the 1st Petitioner be declared validly elected or returned having scored the highest number of lawful votes cast at the Governorship election held on 28th September, 2016.

IN THE ALTERNATIVE

4. That it may be determined that the Edo State Governorship Election held on the 28th September, 2016 will be nullified for substantial non-compliance with the provisions of the Electoral Act which non-compliance substantially affected the result of the election and in its place, make an order for a fresh election to be conducted.

In their paragraphs 16-36, the Petitioners enumerated the various anomalies committed by the 1st Respondent which include:

1. None compliance with mandatory requirement in the process of accreditation whereby the Presiding Officer is required to do when a voter presents himself to a polling booth i.e.

Step i: The voter shall present himself to the APOIII (queue controller) for the polling unit or voting point who shall determine that he or she is at the correct pooling unit or voting point and if satisfied, direct the voter to the APOI (Verification and Statistics).

Stepii. The APOI shall:

- i. Request for the PVC from the voter
- ii. Match the photograph on the PVC to the voter
- iii. Read the PVC using the card reader to verify that the PVC belong to the voter that the polling unit details in the PVC corresponds with those of that polling unit.
- iv. Request the voter to place the appropriate finger in the place provided on the card reader for authentication.

- v. On verification by the card reader proceed to document the gender of the voter and indicate where applicable, any physically challenged person using the voter information and statistics Form EC40H

That after verification of the voter, the APO II shall;

- i. Request the voter's permanent voter's card.
- ii. Check the Register of voters to confirm that the voters name, details and Voter Identification Number (VIN) are as contained on the Register of voters.
- iii. Tick the left side of the name of the voter, if the person's name is on the voters Register.
- iv. Apply indelible ink to the cuticle of the left index finger nail on the left hand of the voter.

That it is after the above procedure is followed the voter shall present himself to the Presiding Officer who shall check the article of:

- i. The appropriate finger/thumb-nail of the voter to confirm that he or she has been accredited.
- ii. On being satisfied that the person before him has been duly accredited, stamped, signed and dated the back of the ballot paper.
- iii. Issue the endorsed ballot paper to the voter, tick the right side of the Register of voters against the voters name indicating that he or she has been issued with ballot paper for the election.
- iv. Request the voter to proceed to the voting cubicle to thumbprint the ballot papers in secret, in the place provided beside the logo of the party of the voters choice.
- v. Advice the voter to fold the ballot paper vertically inward after thumb-printing and
- vi. Ensure that the voter deposits the thumb-printed ballot papers in to the appropriate ballot boxes placed in the open view.

vii. After casting his/her ballot paper, advice the voter to exit the polling unit.

And concluded in paragraph 36 thereof that the 1st Respondent failed to comply with and abide by the mandatory requirements of the approved guidelines as stipulated in the manual for Electoral officials, 2016 and the provisions of the Electoral Act, 2010 (as amended) in the conduct of the election particularly in polling units and wards being challenged as the election in those units were characterized by non-accreditation, invalid votes by non-accredited voters, anomaly, over voting, wrongful collation of results of the election in favour of the 2nd Respondent and ballot papers unaccounted for which non-compliance and irregularities substantially affected the outcome of the election and led to the wrongful declaration of the 2nd Respondent as the winner of the election.

The Petitioners are challenging the results declared in 16 out of 18 Local Government Areas in Edo State as follows:

1. Uhumode Local Government Area
2. Akoko Edo Local Government Area
3. Egor Local Government Area
4. Etsako West Local Government Area
5. Oredo Local Government Area
6. Etsako East Local Government Area
7. Owan Local Government Area
8. Ikpoba Local Government Area
9. Owan East Local Government Area
10. Ovia South Local Government Area
11. Orhionmwon Local Government Area
12. Ovia North Local Government Area
13. Essan West Local Government Area
14. Igueban Local Government Area
15. Etsako Central and

16.Essan Central Local Government Area

Upon being served with the Petition, all the Respondents filed separate replies pleading facts in rebuttal of the allegations contained in the Petition.

The 1st Respondents reply is dated 11th November, 2016 in which it denies each and every material allegation of fact in the Petitioners' Petition as if every such allegation were expressly set out herein and traversed seriatim.

It also in paragraph 18(iii) of its reply, reiterates that the declaration of the 2nd Respondent as the duly elected candidate substantially complied with the dictates of the Electoral Act, 2010 (as amended) together with the instructions for the election.

The 2nd Respondent's reply is dated 15th November, 2016 in which he denies each and every allegation of fact contained in the petition as if same is herein set out and traversed seriatim.

The reply of the 2nd Respondent contained a preliminary objection to the effect that the 1st Petitioner was not the candidate whose name was submitted by the 2nd Petitioner to the 1st Respondent and the candidate for the 2nd Petitioner for the Edo State Governorship Election held on 28th September, 2016.

That objection was not taken during the pre-hearing session as counsel to all the parties in this Petition agreed that all objections relating to the competence of this petition or any paragraph thereof shall be deferred to the judgment stage and counsel are to address the Tribunal on the objection in their final Written Addresses.

Furthermore, the 2nd Respondent averred in paragraph 27 of his reply that the election was free and fair in all the wards and polling units being challenged.

The 3rd Respondent's reply to the petition is dated 8th November, 2016 in which it denies each and every allegation of fact contained in the petition as if each were set out seriatim and specifically denied and/or traversed.

They further averred that the 2nd Respondent was rightly elected the winner of the election having polled the highest number of valid votes cast in the election.

The Petitioners filed a reply to the 1st Respondent reply to the Petition dated 15th November, 2016 in which they joined issues with the 1st Respondent regarding all the averments contained in their reply to the petition.

Equally, the Petitioners filed a reply to the 2nd Respondent's reply to petition dated 20th November, 2016. That reply contained a prayer urging the Tribunal to discountenance the 2nd Respondent's reply for in competence and also constituting a gross abuse of process of this Tribunal. This issue was also deferred to the address stage.

Again, the Petitioners filed a reply to the 3rd Respondent's reply to petition dated 14th November, 2016 in which they deny every material allegation of fact contained in the 3rd Respondent's reply to the petition and shall at the trial put the 3rd Respondent to the strictest proof of the said averments.

Before the pre-hearing sessions, the Petitioners in a motion Ex-parte dated 5th October, 2016 and filed on the same day prayed for an order granting them leave to obtain CTC of all polling documents in custody of the 1st Respondent. Their application was granted on the 11th October, 2016.

In the same vein, the 2nd and 3rd Respondents also vide a motion Ex-parte dated 11th October, 2016 prayed for an order directing the 1st Respondent to grant access to them to inspect, scan and make copies of Electoral materials. Their application was granted on the 26th October, 2016.

The two separate orders were carried out by the 1st Respondent.

The Petitioners called a total of 92 witness i.e. PW1 – PW92 out of the 824 witness whose depositions were filed along with the petition.

Subpoened Witnesses:

Out of the 92 witnesses that testified for the Petitioners, 2 were subpoenaed witnesses that is PW90 and PW91. All the witnesses except PW90 who was on subpoena Duces Tacum adopted their written statements on oath and were cross

examined by the Respondents' counsel. PW90 who was on subpoena Dures Tacum merely layed before the Tribunal documents he was asked to produce.

Before calling witnesses, learned senior counsel for the Petitioners, Yusuf Ali SAN tendered from the bar Forms EC8A series and other electoral Forms and voters Registers. In respect of Local Government Areas being challenged in this Petition, all the documents were CTC hence were admitted in evidence without objection by the Respondent's counsel and were marked as Exhibit PO1 – PO402 respectively.

Two documents were admitted through some of the witnesses during cross examination by the 2nd Respondent's senior counsel, Ken Mozia SAN and were marked as Exhibit 2R01 and 2R02 respectively.

After calling 92 witnesses, an application by the Petitioners' senior counsel, Yusuf Ali SAN was granted allowing ballot papers brought from INEC vide subpoena Dures tacum to be recounted. The recounting exercise could not be concluded when the time allotted to the Petitioners elapsed.

The Tribunal upon another application by the Petitioner's senior counsel directed the secretary of the Tribunal to file his report showing the extent of the assignment given to them and serve the parties in the petition.

The 1st Respondent did not call witnesses. They only tendered exhibits and rested their case on that of the Petitioner. Their exhibits are marked as Exhibit 1R01 – 1R022(1).

The 2nd Respondent called a total 70 witnesses 2RW1-2R070 who adopted their Written Depositions and were accordingly cross examined by the learned senior counsel for the parties in accordance with paragraph 41(3) of the 1st schedule to the Electoral Act, 2010 (as amended). They also tendered Exhibit 2R01-2R065.

Similarly, the 3rd Respondent called a total of 15 witnesses who adopted their depositions and were cross examined accordingly. They tendered 18 Exhibit marked as Exhibit 3R01-3R018.

At the conclusion of hearing, learned senior counsel for the parties filed written addresses pursuant to the provision of 46(11) (12) and (13) of the 1st Schedule to the Electoral Act, 2010 (as amended).

The 1st Respondent's address is dated 23/03/17 while their reply on point of law to Petitioners final address is dated 31/03/17.

The 2nd Respondent final address is dated 23/03/17 while their reply on point of law to the Petitioners final address is dated 01/04/17.

The 3rd Respondent final written address is dated 23rd March, 2017 while their reply on point of law to the Petitioners response to their address is dated 31/03/17.

The Petitioners filed separate final written addresses to all the Respondents which are dated 28th March, 2017.

On the 3/04/17 learned senior counsel for the 1st Respondent Dr. Onyechi Ikpeazu SAN leading other friends of this adopted his final written address and reply. He adumbrated on some issues in the address.

Equally, learned senior counsel for the 2nd Respondent, Chief Wole Olanipekun, SAN leading his brother silk Adetunji Oyeyipo, SAN, Ken Mozia, SAN, A. J. Owonikoko, SAN Chief N. Ekanem, SAN and their other colleagues adopted his written address and reply on point of law. He also adumbrated on some issues in his address.

Similarly, learned senior counsel for the 3rd Respondent, Chief L. O. Fagbemi, SAN leading his brother silk Rickey M. Tarfa, SAN, Chief Adeniyi Akintola, SAN, Rotimi Oguneso, SAN, Dr. J. O. Olatoku, SAN, H. O. Afolabi, SAN and other colleagues of his adopted his final written address and reply on points of law. He also adumbrated on some issues in the addresses.

The Petitioners senior counsel, Yusuf Ali, SAN on the other hand leading his brother silk Emmanuel C. Ukala, SAN, Kemi A. Pinheiro, SAN, Adebayo O. Adelodun, SAN, Roland I. Otaru, SAN, D. C. DeNwigwe, SAN, Chief F. O. Orbih, SAN, Chief H. O. Ogbudu, SAN, Akintola T. Kehinde, SAN, Kehinde K. Eleja, SAN

and other colleague of his adopted his final written addresses. He adumbrated on some issues in the addresses.

These Written Address Form part of the record of the Tribunal, we do not therefore feel that they be reproduced verbatim. They will however be alluded to in the course of this judgment at appropriate stages.

The Petitioners called witness from the following Local Government Areas:

1. **Akoko Edo**

PW2, PW3, PW4, PW5, PW6, PW7, PW8, PW9, PW17, PW18, PW19, PW20, PW21 & PW22.

8 of the polling agents who testified in this Local Government Area stated that accreditation and voting were done simultaneously but the number of votes cast exceeds the number of accredited voters.

6 Ward collation agents also testified on lack of accreditation, over voting and irreconcilable entries in the result sheets.

2. **Egor**

PW36, PW37, PW38, PW39, PW40, PW41, PW55 and PW68 testified. None of these witnesses is a polling agent. They are ward collation agents and a Local Government Collation Agents.

They all testified as to what happened in their ward and PW55 testified in respect of the Local Government result.

In a nutshell, their testimony is that there were series of malpractices ranging from our voting to lack of accreditation in several units.

3. **Etsako Central**

PW65 and PW50. PW5 was a Local Government collation officer who in his evidence enumerated his duties. He also testified on the none compliance where in several wards and polling units there were total lack of accreditation and over voting. He also made a chart where he indicated the votes to be deducted from the votes of APC.

PW65 on the other hand is a polling agent in Unit 8 of Ward 6. His complaint is total absence of accreditation in his Unit.

4. **Etsako East**

PW13, PW13, PW15 and PW16. These witnesses are ward collation agents of PDP. They all testified on none compliance in several Units in their different wards. The none compliance ranges from total absence of accreditation, improper accreditation, over voting and irreconcilable entries in the result sheets.

5. **Orhionmwon**

PW1, PW42, PW45, PW82 and PW83.

PW1 is the 1st Petitioner who gave evidence in respect of all the Local Government being challenged. PW42 and PW45 are ward collation agents who gave account of what transpired in their ward while PW82 and PW83 are polling agent who gave account of what happened in their Units. The summary of their testimony is none compliance with the Electoral Act and Manual of election officials, 2016 where in their wards and units, there were several issues of lack of accreditation, over voting and irreconcilable entries in the result sheets.

6. **Ikpobaokha**

PW23, PW24, PW25, PW26, PW27, PW28 and PW29. All the witnesses except PW29 are ward collation agents. PW29 is the only Polling agent in this Local Government. The ward collation agents testified on case of over voting, multiple voting, irreconcilable entries and improper accreditation in several units in their wards.

PW29 however complained of number of votes cast exceeds the number of accredited voters.

7. **Orodo**

PW30, PW31, PW32, PW33, PW34, PW35, PW49, PW80, PW81 and PW84. Apart from PW80, PW81 and PW84, all the witnesses in the Local Government Area are ward collation agents who complained of over voting, multiple voting, lack of accreditation and irreconcilable entries in Form EC8A. PW80, PW81 and PW84 however testified as to what transpired in their units. They also complained of lack of accreditation and over voting.

8. **Igueben**

PW43, PW44, PW46, PW47 and PW48. These witnesses were ward collation agents of the PDP. They testified as to their duties on the election day and what they observed from the result sheets given to them by their polling unit agents. Their complaint is mainly lack of accreditation and over voting.

9. **Uhunmonde**

PW51, PW52, PW53, PW54, PW64, PW66 and PW67. PW51 was the Local Government collation officer who testified that from the Form EC8As he collected from his ward agents, he came to realized that there were none compliance with the Electoral Act in several units in the Local Government ranging from absence of accreditation, over voting and irreconcilable entries in the result sheets. PW52 and PW53 were ward collation agents who testified on irregularities in their ward while PW54, PW64, PW66 and PW67 were polling agents who testified on the non-compliance in that units.

10. **Ovia South West**

PW56, PW57, PW58, PW59, PW60, PW61, PW62 and PW90. PW58, PW59, and PW60 were the polling agents who testified in relation to none compliance in their units. The rest of witnesses in this Local Government are ward collation agents who claimed to have received result sheets from the polling agents and came up with different forms of irregularities such as lack of accreditation and irreconcilable entries in the result sheets.

11. **Ovia North East**

PW72, PW73, PW74, PW75, PW76, PW77, PW78 and PW79. PW72, PW73 and PW75 were collation agents whose testimonies according to them were based on the result sheets they collected from the polling agents. The remaining witnesses in the Local Government were polling units agents. The ward collation agents and the polling unit agents testified to the none compliance in their wards/units.

12. **Owan East**

PW69, PW70, PW71. The witnesses under the Local Government are ward collation agents whose complaints relate to over voting, multiple voting, irreconcilable entries in result sheets in several polling units.

13. **Owan West**

PW65, a Local Government collation officer was the only witness that testified in this Local Government Area. His testimony relates to over voting, irreconcilable entries in the result forms.

14. **Esan West**

PW85^A, PW86, PW87, PW88 and PW89. These witnesses were ward collation agents in various wards in the Local Government Area. Their testimony relates to over voting, lack of proper accreditation and irreconcilable entries in result sheets.

15. PW85 is a subpoenaed witness from INEC who was asked to produce ballot papers in respect of 4 Local Government Areas of Edo State which he did.

16. PW91 is yet another subpoenaed witness, a member of AA Party and a ward collation agent of AA Party.

The 2nd Respondents on the other hand called a total of 70 witnesses: 2RW1-2RW70. 8 out of the 70 witnesses here were subpoenaed witnesses. These are 2RW25, 2RW26, 2RW27, 2RW28, 2RW29, 2RW30, 2RW31, and 2RW32. 59 out of 70 witnesses called by the 2nd Respondents are polling unit agents who gave evidence

of what transpired in their polling units from the beginning to the end of the election. They testified to the effect that on the day of the election, the Presiding Officer informed them of the procedure for accreditation and voting, their accreditation and voting was done simultaneously. That there was no over voting in their units and that election in their various units was free and fair, peaceful and conclusive. The 10 ward collation agents also testified to the effect that they observed the procedure in their various polling unit where they voted before proceeding to their wards. That accreditation and voting took place in their unit simultaneously. That at the ward collation center, the Presiding Officers submitted their unit results, voters registers and other election materials to INEC Ward collation officer/supervisor.

PW69 was the Local Government collation officer of APC. In Owan West Local Government Area, who testified that he observed the entries of all units result in the ward to ward collation result sheets (Form EC8B). That the ward collation agents of his party gave him copies of their unit/ward Result sheets. That INEC Local Government collation officer collated the ward results in his presence and in the presence of agents of parties without any complaint.

The 3rd Respondent called a total of 15 witnesses namely: 3RW1-3RW15. They all testified to credibility of the election in their units and denied any existence of mal-practices in their units.

ISSUES FOR DETERMINATION

At the preliminary sessions, parties were directed by the Tribunal to formulate issues for determination as it relates to their case. The 1st Respondent formulated 3 issues namely:

1. Whether the Petitioners have established that the 2nd Respondent was not duly elected by majority of lawful votes cast at the election and that it was the 1st Petitioner that secured the majority of lawful votes cast at the election and satisfied the requirement of the constitution of the Federal Republic of Nigeria 1999 (as amended) and Electoral Act, 2010 (as amended).

2. Whether the Petitioners have established that the election of the 2nd Respondent was invalid by reason of non-compliance with the provisions of the Electoral Act, 2010 (as amended) which substantially affected the result of the election.
3. Whether not having claimed any relief based on corrupt practices the Petitioners had not abandoned all allegations of corrupt practices made in the petition.

The 2nd Respondent filed 5 issues for determination namely:

1. Whether having regard to S.31(1) of the Electoral Act, 2010 (as amended) and paragraph 4(1) of the First Schedule to the Electoral Act, 2010 (as amended), the person who purports to be the 1st Petitioner along with the 2nd Petitioner in the instant petition is different in law from the person sponsored as a candidate of the 2nd Petitioner at the Edo State Governorship Election held on 28th September, 2016, thereby rendering the petition incompetent and liable to be dismissed/struck out as prayed in the 2nd Respondent/Applicant motion on notice dated 29th November, 2016.
2. Whether in view of the provision of paragraph 16(1) of the 1st Schedule to the Electoral Act, 2010 (as amended) read together with the provision of paragraph 4(1) thereof, the vague averments in specified paragraphs of the petition as well as the entirety of the Petitioners reply to the 2nd Respondent's Reply are not liable to be struck out.
3. Whether having regard to the surviving pleadings and state of evidence, the Petitioners have established that the 2nd Respondent not score majority of the lawful votes cast at the Edo State Governorship Election held on the 28th September, 2016.
4. Whether the Petitioners have pleaded and established by credible evidence that the 1st Petitioner scored the highest number of lawful votes cast at the election and satisfied the requirement of the Constitution Federal Republic of Nigeria, 1999 (as amended) to warrant being declared validly elected or returned.
5. Whether from the state of the pleadings and evidence, the Petitioners have established that there was substantial non-compliance with the Electoral Act, 2010 (as amended) which substantially affected the result of the Edo State Governorship Election held on 28th September, 2016 such as to warrant the nullification of the said election.

The 3rd Respondent formulated the following issues:

1. Whether the Petition is competent, justiciable and/or discloses a reasonable cause of action and not liable to be struck out.
2. Whether paragraph 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of the Petitioners' Reply to the 3rd Respondent Reply as well as the witness statement on oath thereto are not incompetent and liable to be struck out.
3. Whether having regard to the surviving pleadings and the state of evidence, the Petitioners have made a case that the 2nd Respondent did not score the majority of lawful votes cast at the Edo State Governorship Election held on 28th September, 2016.
4. Whether the Petitioner have pleaded and established by evidence that the 1st Petitioner scored the highest or majority of lawful votes cast at the election and has satisfied the requirement of the Constitution and the Electoral Act, 2010 (as amended) so as to be entitled to be returned as the winner of the election.
5. Whether on the state of pleadings and the evidence led, the petitioners have established that there were substantial non-compliance with provisions of the Electoral Act which has substantially affected the Edo State Governorship Election held on the 28th September, 2016 to warrant an order nullifying the election and for a fresh election to be conducted.

The Petitioners submitted 3 issues for determination viz:

1. Whether there was substantial non-compliance with the provision of the Electoral Act, 2010 (as amended). In the conduct of the election at the ward and polling units being challenged in the petition and if so, whether the substantial non-compliance affected the return of the 2nd Respondent as declared by the 1st Respondent.
2. Whether the 2nd Respondent was duly elected by the majority of lawful votes cast at the Edo State Governorship election held on 28th September, 2016 and if not, whether the 1st Petitioner is not entitled to be returned as the Governor of Edo State?
3. Whether the election of the 2nd Respondent was invalid by reason of corrupt practices in some units and wards being challenged in the petition where the issue(s) of corrupt practices was/were specifically pleaded in the petition and if

so, whether the votes credited to the 2nd Respondent in such units and wards are not liable to be invalidated and discounted?

After careful examination of the issues submitted by the parties, the Tribunal distilled the following issues for determination namely:

1. Whether having regard to Section 31(1) of the Electoral Act, 2010 (as amended) and paragraph 4(1) of the 1st Schedule thereto, the person who purports to be the 1st Petitioner along with the 2nd Petitioner in the instant Petition is different in law from the person sponsored as candidate of the 2nd Petitioner at the Edo State Governorship Election held on 28th September, 2016 thereby rendering the Petition incompetent and liable to be dismissed/struck out.
2. Whether paragraph 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of the Petitioners' Reply to the 3rd Respondent Reply as well as the witness statement on oath thereto are not incompetent and liable to be struck out?
3. Whether not having claimed any relief based on corrupt practices, the Petitioners had not abandoned all allegations of corruption practices made in the petition.
4. Whether the election of the 2nd Respondent was invalidated by reason of corrupt practices in some units and wards being challenged in the petition where the issues of corrupt practices have specifically pleaded in the petition and if so, whether the votes credited to the 2nd Respondent in such units and wards are not liable to be invalidated and discounted?
5. Whether on state of pleadings and evidence led the Petitioners have established that there was substantial non-compliance with the provisions of the Electoral Act which has substantially affected the Edo State Governorship election held on the 28th September, 2016 to warrant an order nullifying the election and for a fresh election to be conducted.

Before we start considering the issues for determination, we feel it is apt at this stage to take up pending applications which are deferred to the judgment stage. These are:

1. Motion on notice dated 1st December, 2016 filed by the Petitioners praying the Tribunal to strike out the 2nd Respondent's Reply to the Petition.

2. Motion on notice filed by the 3rd Respondent dated 30/11/16 praying the Tribunal to strike out paragraph 16 and all other paragraphs relating to corrupt practice.
3. 1st Respondent's motion on notice dated 8th December, 2016 praying the Tribunal to strike out some paragraph of the petition.
4. Petitioners motion on notice dated 29th November, 2016 praying for striking out of paragraphs 812 – 813 of the 2nd Respondent's Reply to the petition.
5. Motion on notice dated 30th November, 2016 filed by the 2nd Respondent praying the Tribunal to strike out the Petitioner's Reply to the 2nd Respondent's Reply to the Petition.

The 1st Motion which is dated 1st December, 2016 filed by the Petitioner prays the Tribunal to strike out the 2nd Respondent's Reply to the petition.

The Petitioners vide a motion on notice dated 01-12-2016 prayed this Tribunal to strike out the 2nd Respondents Reply to the Petition on the ground that the Petitioners filed a joint Petition against the Respondents and the 2nd and 3rd Respondents are one and inseparable parties and ought to file a joint Reply.

The application is supported by a 10 paragraph affidavit and a written address.

They also filed a further affidavit with a written address in reaction to the 2nd Respondents counter-affidavit.

The Petitioners contention is that filing of separate Replies by the Political Party that sponsored the 2nd Respondent is an aberration and very incongruous hence the 2nd Respondents reply should be struck out. They place reliance on the case of Ladoja vs. Ajimobi (2016) ALL FWLR (Pt. 843) 1846.

In reaction to the Petitioners processes, the 2nd Respondent filed a 16 paragraph counter affidavit with a written address.

His contention is that there is no law that prevents the 2nd and 3rd Respondents to file separate Replies as the 2nd Respondent is the only compulsory party and it is not mandatory on the Petitioners to even sue or join the 2nd Respondents Political Party.

Section 133(1) 137(1) of the Electoral Act, 2010 (as amended) show how a petition will be presented and by who.

S.137(1) provides that an election petition may be presented by one or more of the following persons:

- (a) A Candidate in an election.
- (b) A Political Party which participated in the election.

By this provision, a petition can be filed by any of the above parties or by both parties jointly.

Section: Subsection 2 of this Section however makes the person whose election is being challenged a compulsory party. A Petition could therefore be presented against the winner of the election without his Political Party.

If that being the case, a Petitioner desires to sue the Political Party of the winner, he is at liberty to do so but the law does not make it compulsory upon Respondents to file a joint reply. As the Petitioner is given the liberty to sue the winner alone or the winner and his Political Party, the Respondents have the right to either present a joint reply if they so desire or file separate Replies.

The decision in Ladoja vs. Ajimobi (2016) ALL FWLR (Pt. 843) 1846 cited by the Petitioners/Applicant is not applicable in this situation. In that case, the issue that came up at the Supreme Court was the issue Petitioners Filing Joint Petition at the Tribunal and filing separate briefs on appeal, the Supreme Court frowned at that.

Nowhere in the Electoral Act the issue of joint Respondents is mentioned.

While Joint Petitioners cannot file separate appeals, the Petitioners cannot ask the Respondent to file separate Replies when they served them separately at different addresses.

The 2nd motion is dated 30th November, 2016 filed by the 3rd Respondent praying the Tribunal to strike out paragraph 16 and all other paragraphs relating to corrupt practices.

The motion is dated and filed on 30/11/2016 praying for the following orders:

1. An Order striking out paragraph 16(1) of the Petition touching on corrupt practices.
2. An Order striking out all the paragraphs of the petition in which allegation of corrupt practices are pleaded in the petition which include paragraph 17-753.
3. An Order dismissing or otherwise striking out this petition for want of jurisdiction and on ground that the petition does not disclose any reasonable cause of action.

AND for such other order or further orders as this Honourable Tribunal may deem fit to make in the circumstance.

The 3rd Respondent/Applicant filed 17 grounds upon which this application is based.

The motion is also supported by a 38 paragraphed affidavit deposed to by one Rashidi Isamotu, a legal practitioner of No. 4 Reres House, Plot 83 Ralph Shodenide Street, Opposite Federal Ministry of Finance, CBD Abuja.

The Motion on Notice is further supported by a written address.

The Petitioners/Respondents in opposition filed a 24 paragraph counter affidavit deposed to by one Anderson Asemota of Chief M. C. K. Orbih of Christiana Orbih Drive, No. 66 Boundary Road, GRA Benin City dated and filed on 3/12/2016.

The Petitioners/Respondents also filed a written address in opposition also dated 3/12/2016.

We have painstakingly perused through the above processes filed by both the 3rd Respondents/Applicant and the opposition by the Petitioners/Respondents.

We have also listened to the counsel for both parties speak to the processes in the cause of moving the motion.

The 3rd Respondent/Applicant through this motion is urging the Tribunal to strike out paragraph 16(11) of the petition touching on corrupt practices.

Paragraphs 17-753 of the petition where allegation of corrupt practices are pleaded in the petition and striking out or dismissing the petition for want of jurisdiction.

After careful scrutiny of the processes in this application, we are of the view that: the whole essence of the application is to defeat the intendment of the petition through technical process, it is pre-mature at this stage to consider striking out paragraph 17 – 753 and we so hold.

The 3rd application is dated 8th December, 2016 filed by the 1st Respondent seeking striking out some paragraphs in the petition.

By a motion on notice dated the 8th day of December, 2016, the 1st Respondent/Applicant prayed this Tribunal as follows:

1. An Order pursuant to section 6 (6), (b), of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and paragraph 16(1) and 47 of the First Schedule to the Electoral Act, 2010 (as amended) striking out paragraphs 3(a), (b), (c), (d), 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of the Petitioners' Reply to the 1st Respondent's Reply to the petition.
2. An Order pursuant to section 6 (6), (b) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and paragraphs 16(1) and 47 of the First Schedule to the Electoral Act, 2010 (as amended) striking out paragraphs 5, 6(a), (b), (c), (d), (e), (f), 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of the Additional Witness Statement on oath of Ize-Iyamu Osagie Andrew deposed to on 15th November, 2016.
3. An Order pursuant to sections 6 (6), (b) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and paragraphs 16(1) and 47 of the First Schedule to the Electoral Act, 2010 (as amended) striking out paragraphs 4, 5 (a), (b), (c), (d), (e), (f), 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of the Additional Witness Statement on Oath of Chris Agbonwanegbe deposed to on 15th November, 2016.
4. An Order pursuant to section 6(6), (b) and 36 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and paragraphs 16(1) and 47 of the First Schedule to the Electoral Act, 2010 (as amended) striking out paragraphs

3, 4, 5, 6 and 7 of the Additional Witness Statement of Iko filed on 15th November, 2016.

The application is supported by 8 paragraphs Affidavit. The application is relying on all the paragraphs of the Affidavit in support of the motion. There is a Written Address adopted by the learned senior counsel for the 1st Respondent/Applicant who urged the Tribunal to grant all the prayers.

The Petitioners filed 8 paragraph/Affidavit in opposition to the application. They relied on all the paragraphs. They also filed a long the motion paper a Written Address adopted by their senior counsel who urged the Tribunal to dismiss the application as same is lacking in merit.

We had opportunity to carefully go through the processes filed in this application and we understand that the 1st Respondent/Applicant is asking this Tribunal to strike out some paragraphs of the Petitioners' Reply to the 1st Respondent's Reply to the Petition and further strike some paragraphs of Additional Witness Statements on oath of the Petitioners' witnesses filed on the 15th day of November, 2016.

The application by the 1st Respondent/Applicant is evidently asking the Tribunal to conduct a surgical amputation on limbs of the petition to render same incapable of being treated on its merits.

It is also worthy of note that the 1st Respondent/Applicant had joined issues with the Petitioners; the reply of the 1st Respondent/Applicant is a clear testimony to that effect and in our considered view the paragraphs of the petition and the additional witness statement on Oath did not contravene paragraphs 16(1) and 47 of the 1st Schedule to the Election Act, 2010 (as amended), the Rules of Procedure and section 36 of the Constitution of the Federal Republic of Nigeria, 1999.

By reason of the foregoing, we found no merit in this application. It aims at facilitating delay of the proceedings in the substantive petition. By virtue therefore, this application is hereby dismissed.

The 4th application is dated 29th November, 2016 filed by the Petitioners praying the Tribunal to strike out paragraph 812-813 of the 2nd Respondent's Reply to the Petition.

By motion on notice dated the 29th day of November, 2016, the Petitioners prayed for orders of the Tribunal as follows:

- I. An Order of this Honourable Tribunal striking out paragraphs 812-813 of the 2nd Respondent's Reply to the petition titled "objection to votes" in its entirety for being incompetent and being in compliance with the requirements of the law.
- II. (in alternative to Relief 1) An Order of this Honourable Tribunal striking out the averments contained in paragraphs 812-813 of the 2nd Respondent's Reply to the petition for lacking in requisite particulars and for being vague, generic, evasive imprecise and for setting up an inconsistent case.
- III. An Order of this Honourable Tribunal striking out all paragraphs of the 2nd Respondent's Witness Statement on Oath predicated on the said paragraphs 812-813 of the 2nd Respondent's Reply to the petition which was filed contemporaneously with the 2nd Respondent's Reply to the petition.

The motion paper was supported by 15 paragraphs' affidavit. The applicants seek to rely on all the paragraphs in support of the motion. There is also a written address. The Petitioner also filed a paragraph further affidavit in support of the motion dated the 8th day of September, 2016 which was also accompanied with the Petitioners' Reply on points of law in response to the 2nd Respondent's Written Address dated and filed on the 5th of December, 2016.

The 2nd Respondent filed a 7 paragraphs counter affidavit in opposition to the motion. The 2nd Respondent relied heavily on all the paragraphs.

Learned senior counsel to the Petitioners adopted the processes and urged the Tribunal to grant the relief sought. The senior counsel for the 2nd Respondent also urged this Tribunal to dismiss the application for being misconceived and unmeritorious.

We have gone through the motion papers and the processes filed in opposition thereon and we understand that the Petitioners are asking this Tribunal to strike out paragraphs 812-813 of the 2nd Respondent's Reply to the petition and all Witnesses Statements on Oath Predicated on those paragraphs.

In our considered view paragraphs 812-813 formed part of the 2nd Respondent's Reply to this petition. By virtue of that Reply, the 2nd Respondent and joined issues with the Petitioners, the Petitioners should not be seen to pick and choose paragraphs to strike out from the said Reply. If the Petitioners feel those paragraphs are vague and evasive, they have ample opportunity to call evidence that could neutralize their legal efficacy instead of inviting the Tribunal to terminate those paragraphs prematurely thereby fighting for the Petitioners/Applicants by proxy.

The 2nd Respondent vide a motion on notice dated 30th November, 2016 prayed as follows:

1. An Order striking out paragraph 437, 437B, 441, 442, 449, 445, 472, 480, 489, 500, 528(a) (b) and (c) of the Petition for being vague and lacking in material specifics.
2. An Order striking out the Petitioner's Reply to 2nd Respondent's Reply to the petition.
3. For such further order(s) as this Tribunal may deem fit to make in the circumstance.

The grounds of the application are as follows:

1. The averments in paragraph 437, 438B, 441, 442A, 449, 455, 472, 480, 489, 500, 528 (a) – (c) of the petition are vague and lacking in material specifics contrary to the provisions of paragraph 4(1) of the 1st Schedule to the Electoral Act, 2010 (as amended).
2. The averments in paragraphs 5, 6, 7, 8, 10, 11, 12, 15, 16, 17, 19, 20, 21, 24, 25, 26, 27, 28 and 29 of the Petitioners' Reply are new issues of fact which tend to

add to the contents of the petition contrary to the provision of paragraph 16(1) of the 1st Schedule to the Electoral Act, 2010 (as amended).

3. The averments in paragraphs 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63 and 64 (a) – (c) of the Petitioners' Reply constitute a mere rehash by the Petitioners as they do not react to any issues raised in the 2nd Respondent's Reply but merely reassert what the Petitioners have previously stated contrary to the provisions of paragraph 16(1) of the 1st Schedule to the Electoral Act, 2010 (as amended).
4. The averments in paragraphs 65 and 66 of the Petitioners' Reply are facts by way of objection and prayers which the 2nd Respondent does not have an opportunity to respond thereby defeating the essence of the Petitioners' Reply in an election petition.
5. The averments in paragraph 67-147 of the Petitioners' Reply are mere denials and/or rehash of the averments in the 2nd Respondent's Reply to the Petition which averments do not constitute new facts that necessitates or warrant a Petitioner's Reply but simply denials of allegations in the petition.
6. The Petitioners' Reply is incurably defective and/or incompetent having been filed in flagrant disregard for and in outright break of the mandatory provisions of paragraph 16(1) of the 1st Schedule to the Electoral Act, 2010 (as amended).

The application is supported by a duly sworn affidavit of 6 paragraphs and a written address. There is also a reply on points of law to the counter affidavit of the Petitioners which is dated 5th December, 16. On being served with the processes in the application, the Petitioners/Respondent filed a 9 paragraph duly sworn counter affidavit. That counter affidavit is accompanied by a written address. The 2nd Respondent's contention is that some paragraphs in the Petitioners' Reply to his Reply to the petition offend the provision of paragraph 4(1) of the Electoral Act, 2010 as (as

amended) in that the paragraphs being challenged do not provide ample specification and are vague.

Similarly, it is further contention of the 2nd Respondent that the Petitioners' Reply to the 2nd Respondent's Reply to the petition be struck out for offending the provision of paragraph 16(1) of the Electoral Act, 2010 (as amended).

The Petitioners have in that counter affidavit and their written address denied the claim of the 2nd Respondent and argued that the paragraphs have provided enough material up polling unit levels and that Reply to the 2nd Respondent's Reply is in accordance with paragraph 16(1) of the 1st Schedules to the Electoral Act, 2010 (as amended).

Paragraph 4(1) (a) and 2 of the 1st Schedule to the Electoral Act, 2010 (as amended) provide that:

- a.
 - b.
 - c.
 - d. "state clearly the facts of the election petition and the ground or grounds on which the petition is based and the relief sought by the Petitioners."
- 2) "The election Petition shall be divided into paragraphs each of which shall be confined to a distinct issue or major facts of the election petition and every paragraph shall be numbered consecutively.

The 2nd Respondent has not shown or demonstrated to us how the paragraphs he mention in his application offence the Provision of paragraph 4 of the Electoral Act, 2010 (as amended).

We have had a calm reading of the paragraphs in issue we do not see any deficiency in those paragraphs and we so hold.

The other issue is to the competence of the Petitioners' Reply to the 2nd Respondent Reply. The 2nd Respondents contention is that that Reply does not meet

the requirement of paragraph 16(1) of the 1st Schedule because it merely rehash some paragraph in the petition and nothing more.

It is on record that in the 2nd Respondent's Reply to the petition in paragraphs 812 and 813 raised objection to votes credited to the Petitioners which objection to votes is not contained in the petition, therefore new.

Paragraph 16(1) of the 1st Schedule to Electoral Act, 2010 (as amended) provides that:

"If a person in his Reply to the election Petition raised new issues of facts in defence of his case which the petition has not dealt with, the Petitioner shall be entitled to file in the Registry within five days from the receipt of the Respondent's Reply, a Petitioners' Reply in the answer to the new issues of fact, so however that

(a) The Petitioner shall not at this stage be entitled to bring new facts, grounds or prayers tending to amend or add to the contents of the petition filed by him.

It is not in doubt that raising objection to vote by the 2nd Respondent in his reply constitute a new issue which the petitioners have the right under paragraph 16(1) to file a reply with 5 days which shall not bring new facts ground or prayer tending to amend or add to the content of the Petition.

There is nothing before us to show that the Reply of the Petitioners to the Reply of the 2nd Respondent contain facts which tend to amend or add to the content of the petition and we so hold.

Accordingly, this application is hereby refused.

We will now proceed to consider the issues for determination.

Generally, by the provision of Section 131(1) of the Evidence Act "whoever desires any court to give judgment as to any legal right or liability dependant on the existence of facts which he asserts must prove that those facts exist."

Again, in Section 133(1) of the Evidence Act stated as follows:

"(1) In civil cases the burden of First proving the existence or non-existence of a fact lies on the party against whom the judgment of the court would be given if no evidence were produced on either

side, regard being had to any presumption that may arise on the pleadings.”

See Tafri vs. Governor of Rivers State (2012) ALL FWLR (PT 628) 985 at 995, Abba vs. Jamere (1999) 5 NWLR (Pt. 602) 270 at 278, Ali vs. Osakwe (2011) 7 NWLR (Pt. 1245) 68 at 104.

In election Petition, the law is that a Petitioner can only succeed on strength of his and not on the absence or weakness of the defence. See PDP vs. INEC (2011) LPELR, these authorities are only cited for guidance.

The 1st issue for determination is born out of a motion on notice filed by 2nd Respondent.

Learned senior counsel for the 2nd Respondent picked hole on the identity of the 1st Petitioner vide a motion on notice dated 29th November, 2016 and prayed for:

1. An Order dismissing/striking out the entire Petition as being incompetent and speculative.
2. For such further or other orders as this Tribunal may deem fit to make in the circumstances.

The grounds of the application in the petition are:

- i. Pastor Ize-Iyamu Osagie Andrew and/or Ize-Iyamu Osagie Andrew named as the 1st Petitioner was not the candidate whose name was submitted by the 2nd Petitioner to the 1st Respondent as the candidate of the 2nd Petition^{er} for the Edo State Governorship Election held on 28th September, 2016.
- ii. Section 177(c) and 221 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and S.31(1) and 106(e) of the Electoral Act, 2010 (as amended) make it the exclusive preserve of political party to sponsor candidates for election in the public elective offices.
- iii. Further to (ii) above, the 1st Respondent is mandated by law to prescribe and issue out Forms wherein details of candidates sponsored by each political party will be duly filed.

The Form prescribed for sponsorship of governorship candidate is Form CFOO2B.

- iv. Form CF00B submitted by the 2nd Petitioner to the 1st Respondent does not contain the name of the 1st Petitioner (Pastor Ize-Iyamu Osagie Andrew.
- v. The name continued in the Form CF200B submitted by the 2nd Petitioner as its candidate in the 2016 Edo State Governorship Election is Ize-Iyamu Osagie.
- vi. Further to v. supra, the name of the candidate submitted by the 2nd Petitioner to the 1st Respondent as its governorship candidate is different from that of the 1st Petitioner herein.
- vii. Without prejudice to iv above, the reliefs being claimed by the Petitioners, particularly reliefs: 754(ii) and (iii) cannot be countenanced by the Tribunal, being reliefs in favour of a non-existing candidate of the 2nd Petitioner at the said election.
- viii. Further to vii supra, relief 754(i) can also not be countenanced by this Tribunal, being a challenge to the valid election for return of the 2nd Respondent by the 1st Petitioner who was not duly sponsored by the 2nd Petitioner to contest the said governorship election.
- ix. Without prejudice to (i) – (viii) supra, relief 754 (i), (ii) and (iii) can also not be countenanced by this Tribunal, the Petition having not sought for any reliefs to void the election and return of the 2nd Respondent.
- x. Consequent upon the foregoing, the 1st Petitioner is bereft of *locus standi* to file this Petition.
- xi. Paragraph 753 of the Petition is speculative and liable to be struck out.
- xii. Premised an (i) to (xi) supra, the entire Petition is incompetent, speculative and liable to be struck out/dismissed. This application was supported by a duly sworn affidavit of 10 paragraphs, one exhibit and a written address.

There is also a further affidavit of 10 paragraphs filed by the applicants in reaction to the counter affidavit of the Petitioners.

There is also a reply on points of law to the counter affidavit of the Petitioners which is dated 5th December, 2016.

Upon being served with the processes in this application, the Petitioners filed a duly sworn counter affidavit of 21 dated 3-12-16. The counter affidavit has 4 annexure marked as exhibit A-D.

The Petitioners also filed a Written Address which is filed along with the counter affidavit.

The crux of the applicants case is that the 1st Petitioner was not the person that the 2nd Petitioner sponsored in the governorship election of Edo State hence he has no *locus standi* to file the Petition.

The Petitioners/Respondents on the other hand argued that the 1st Petitioner was the person that was duly sponsored by the 2nd Petitioner and was the person who contested the Edo State Governorship Election held on the 28th September, 2016.

The 2nd Respondent/Applicant heavily relied on Exhibit I attached to that application which is Form CF002B in which the name of PDP candidate is stated as Ize-Iyamu Osagie which according to them is different from Ize-Iyamu Osagie Andrew.

In an application of this nature where both parties rely on documents, the Supreme Court in the case of Ogbona vs. The AG of Imo State and Other (1992) 1 NWLR (Pt. 220) 647 gave guidelines as to how those documents can be interpreted. Per Karibi-Whyte, JSC as he then was stated

"it has long been established and all courts at least the common law courts have always observe the practice that the principles of interpretation of status are the same as in the interpretation of documents. I think this has to be so since in either case the construction is with respect to the recognition of legal rights and enforcement of legal duties. True, like status which are interpreted in the circumstances

in which they were enacted documents are to be construed in the light of the circumstances in which they are drawn up."

Similarly, in the case of Akinbivs. the State (2006) 17 NWLR (Pt. 1007) 184, the Supreme Court had this to say:

"it is the law that for purposes of obtaining a balanced picture in documentary evidence, the entire documents must be interpreted as whole and not in parts or pockets convenient to a party. In other words, a party cannot pick and choose extract from a document that is convenient to his case that will be tantamount to shutting out the truth. Searching process in the matter before the court."

From the above Supreme Court authorities, it is glaring that to have a clear view of a particular issue is which documents are involved, the entire documents relating to the issue must interpreted as a whole. It is on this note we feel that all the exhibits in this application must be looked at.

Exhibit 1 in the applicant's motion on notice is Form CF002B which is an INEC Form in which the 2nd Petitioner sent the name of its candidate Ize-Iyamu Osagie.

At the tale end of that Form after the signature of the Chairman and the Secretary. There is a clause which reads:

"NB- Please attach sworn affidavit (CF001) of each candidate."

The Applicants did attach Form CF001 of the 1st Petitioner in the case. Rather, they only attach Form CF002B because it is convenient to them. The Petitioners/Resporndents have exhibited the said Form CF001 as Exhibit D. In that Exhibit which is affidavit of personal particular of candidate the Petitioner stated his name to be Ize-Iyamu Osagie Andrew. This name was stated by the 1st Petitioner under oath.

Again in exhibit C attached to the counter affidavit of the Petitioners, People Democratic Party (PDP) applied to INEC for CTC of nomination form of its

candidate, the name they gave to INEC on that receipt is IZE-IYAMU OSAGIE ANDREW.

Equally, in Form EC8E issued by INEC and signed by the Returning Officer, the name is IZE-IYAMU OSAGIE ANDREW.

The Petitioners have pleaded at page 1 paragraph 2 of that Petition as follows:

“your 2nd Petitioner is a Political Party duly registered in Nigeria under the Constitution of the Federal Republic of Nigeria 1999 (as amended) and the Electoral Act, 2010 (as amended) and was the Political Party that fielded and sponsored the 1st Petitioner as its candidate for election to the office of Governor of Edo State, Nigeria in the Governorship Election conducted by the 1st Respondent on 28th September, 2016.”

The averment was admitted by the 2nd Respondent in his paragraph 10 of their Reply wherein they stated:

“Respondent admits paragraph 1 of the Petition only to the extent that the 1st Petitioner contested the election held on the 28th September, 2016 to the office of the Governor of Edo State on the plat form of the 2nd Petitioner.”

The law is settled that whenever a Petitioner shows that he was a candidate in the election that alone grants him the *locus standi* to file the petition. See Uba vs. Ukachukwu (2004) 10 NWLR (Pt. 881) 224 at 225. In the instant case, the 1st Petitioner has pleaded that he contested the election in issue and the 2nd Respondent has admitted that in his reply to the Petition.

Again the 1st Petitioner in his affidavit in support averred that IZE-IYAMU OSAGIE is his given name Andrew is his Baptismal name and Pastor is a Prefix to his name. These averments are not controverted in the further affidavit of the 2nd Respondent.

It is the law that averments in an affidavit not controverted by a further and better affidavit are deemed to be admitted by adverse party and a court of law can act on those averments. See NNPC vs. Olagbejin (2006) 2 NWLR (Pt. 196) 773. There

is nothing before us to show that people of Edo State were misled by the use of the name IZE-IYAMU OSAGIE instead of IZE IYAMU OSAGIE ANDREW.

The cases cited by the Applicant are not relevant because there were no further documents to determine the actual name.

From the uncontroverted averments in the 1st Petitioner's affidavit and exhibits 1 and Exhibit A-D, we are of the Firm view that the name IZE IYAMU OSAGIE that appeared on Exhibit 1 Form CF002B is the same as IZE IYAMU OSAGIE ANDREW the 1st Petitioner in this petition and we so hold.

On the issue of lack of prayer for nullification of votes, the Petitioners in their alternative prayer prayed as follows:

"That it may be determined that the Edo State Governorship Election held on the 28th September, 2016 be nullified for substantial non-compliance with the provisions of the Electoral Act which non-compliance substantially affected the result of the election in its place make an order for a fresh election to be conducted."

The alternative prayer in our view covers the nullification of votes/election and calling for a fresh one after the nullification of the one in issue and we so hold.

This issue is there hereby resolved against the 2nd Respondent.

The 2nd issue for determination also emanates from the 3rd Respondent's motion dated 1st December, 2016.

The 3rd Respondents vide a motion on notice dated 1st December, 2016 prayed as following:

1. An Order of this Tribunal striking out paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of the Petitioners/Respondents. Reply to the 3rd Respondent Reply filed on the 14th November, 2016 for being incurably defective having been filed in flagrant non-compliance with the Rules of this Tribunal.

2. An Order of this Tribunal striking out the statement on oath of Ize Iyamu Osagie Andrew, Chris Agbonwanegbe, Esq., ELG, IKO, OSW, ETS, ETC filed on 14th November, 2016 together with the Petitioners/Respondent's Reply for being irregularly introduced in flagrant non-compliance with Rules of this Tribunal.

The grounds of the application are:

1. The Petitioners/Respondents filed their Petition on 19th October, 2016 and same was accordingly served on the 3rd Respondent/Applicant by pasting.
2. The 3rd Respondent/Applicant on 8th November, 2016 filed its Reply to the Petition and same was served on the Petitioners/Respondents.
3. On 14th November, 2016, the Petitioners/Respondents filed their Reply to the 3rd Respondent/Applicant Reply of 8th November, 2016.
4. Paragraphs 4 – 501 of the 3rd Respondent/Applicant Reply to the petition filed on 8th November, 2016 did not raise any new fact/issue warranting the Petitioners/Respondent's Reply of 14th November, 2016.
5. Paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of the Petitioners/Respondent's Reply to the 3rd Respondent's Reply filed on 14th November, 2016 was unnecessary as it only denied the allegation of fact contained in the 3rd Respondent's Reply to the Petition filed on 8th November, 2016.
6. Paragraph 7, 8, 9, 10 and 19 of the Petitioners Reply to the 3rd Respondent's Reply to the 3rd Respondent's Reply filed on 14th November, 2016 are facts within the knowledge of the Petitioners wherein presenting the Petition and or facts already in the petition filed on 19th October, 2016.
7. The statement on oath of Ize-Iyamu Osagie Andrew filed on 14th November, 2016 are evidence within the knowledge of the Petitioners while presenting the petition which is not permitted to be introduced in support of the Petitioners Reply to the 3rd Respondent's Reply.
8. There is no provision in the 1st Schedule to the Electoral Act, 2010 (as amended) permitting the Petitioners to file list of witnesses and statement on oath accompanying the Petitioners' Reply.

9. Upon the filing of the 3rd Respondent's Reply to the petition on 8th November, 2016 pleading between the Petitioners and the 3rd Respondent are deemed completed and issues are said to be joined except new issues are raised which is not the case in the instant petition.

10. The Petitioners' Reply filed on 14th November, 2016 was in flagrant non-compliance with the 1st Schedule to the Electoral Act, 2010 (as amended).

11. The Petitioners' Reply filed on 14th November, 2016 is incompetent and ought to be struck out.

12. The Petitioners will not be prejudiced if this application is granted.

The application is supported by a 7 paragraph affidavit which is accompanied by a written address in which the 3rd Respondent urged the Tribunal to grant all their prayers.

On being served with the processes in the application, the Petitioners filed a counter affidavit of 10 paragraphs which is dated 5th December, 2016. That counter affidavit was accompanied by a written address.

The 3rd Respondent's prayer is to strike out paragraph 30 of the Petitioners' Reply to their Reply to the petition because the said paragraph, offend the provision of paragraph 16(1) of the 1st Schedule to the Electoral Act, 2010 (as amended).

He relied on the cases of Obot vs. CBN (1993) NWLR (Pt. 310) 140 and the case of Achike vs. Osakwe (2000) 2 NWLR (Pt. 646) at 640. The Petitioners on the other hand argued that the paragraphs in issue are in response to the new issues raised by the 3rd Respondents in their reply to the petition which they are allowed to do by paragraph 16(1) of the 1st Schedule to the Electoral Act, 2010 (as amended).

A careful perusal of paragraph 4-501 of the 3rd Respondent's Reply to the petition one will see new issues raised by the 3rd Respondents which are not contained in the petition.

In the case of Maduabum vs. Nwosu (2010) 13 NWLR (Pt. 1212) 623 at 646. The Court of Appeal held inter alia that the main use of reply according to the above provisions of paragraph 16(1) is to answer allegations which a Respondent to the

petition who raised new issues of facts not arising from the petition. It therefore behooves, a petitioner to deal with these new facts by either admitting, traversing them or himself pleading to them by way of confession and avoidance.

Again, paragraph 16(1) of the 1st Schedule to the Electoral Act, 2010 (as amended) gives the Petitioners the right to reply in this circumstance only this they should not plead new facts, new grovels or new prayers.

There is no law prohibiting the Petitioners from filing additional statement on oath of the Petitioner in response to the 3rd Respondent's reply to the Petition.

It is trite law that what is not prohibited is permitted.

On the whole, this issue is hereby resolved against the 3rd Respondent.

3RD AND 4TH ISSUES FOR DETERMINATION

The next issue for determination is whether not having not claimed any relief based on corrupt practices. The Petitioners had not abandoned all allegations of corrupt practices made in the Petition.

This will be considered together with issue 4 which is: Whether the election of the 2nd Respondent was invalid by reason of corrupt practices in some units and wards being challenged in the petition where the issue(s) of corrupt practice(s) was/were specifically pleaded in a Petition and if so, whether the votes credited to the 2nd Respondent in such units and wards are not liable to be invalidated and discounted.

The issue of corrupt practices connotes any act or omission-representing all offences prescribed by the Electoral Act, 2010 (as amended) which offends the Electoral process.

In the case of Buhari vs. Obasanjo (2005) ALL FWLR (Pt. 273) Achonolo, JSC was quotes with approval as follows:

"I believe that the term "corrupt practices" denotes or can be said to connote and embrace certain perfidious debauched activities which are really felonious in character being redolent in the depravity and want ethics."

From the above quoted dictum of the erudite law lord, one could safely define corrupt practices to be any act or omission for which penalty is prescribed by the Electoral Act as an offence. It is in this wise, the Electoral Act made provisions for corrupt practices in Section 117, 118, 119, 120, 121, 122, 123, 124, 125, 127, 128, 130, 131 and 132.

An allegation that an election is invalid by reason of corrupt practice is very serious which should not be treated lightly.

Allegation of corrupt practice essentially borders on the commission of crimes and the burden of proof is beyond reasonable doubt. See section 131 of the Evidence Act and the case of *Tafri vs. Governor of River State (2012) ALL FWLR (Pt. 628), 985 @ 995*.

In paragraph 16, the Petitioners clearly stated that one of the grounds of the petition is that the election of the 2nd Respondent was invalid by reason of corrupt practices.

The Petitioners have in their paragraph 16(111), 17, 21, 37, 87, 100, 111, 126, 128, 129, 130, 131, 321, 433, 434, 523, 568, 569, 573, 574, 579, 652, 668, 684, 715, 726, 730, 739 and 751 made specific allegations bordering on falsification of results, swapping of result sheets, unauthorized alteration, forgery, fraud usage of fals results which all amount to corrupt practices.

Specifically, the Petitioners made their allegations in the several units in Owan East Local Government Areas as follows:

1. Owan East Ward 1 Units 1, 2, 6, 7 and 11.
2. Owan East Ward 2 Units 2, 6, 10, 11 and 14.
3. Owan East Ward 3 Units 1, 2, 3, 5, 6, 8 and 9.
4. Owan East Ward 4 Units 3, 4, 6, 7, 8, 9, 10, 11 and 12
5. Owan East Ward 5 Units 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14 and 18.
6. Owan East Ward 6 Units 1, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14.
7. Owan East Ward 7 Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 13, 14, 16 and 17.

8. Owan East Ward 8 Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17.

9. Owan East Ward 9 Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16 and 17.

10. Owan East Ward 10 Units 1, 2, 3, 4, 5, 6, 7, 8, 12, 13, 15, 16 and 17.

11. Owan East Ward 11 Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13.

Similarly, in paragraphs 568 and 569, there are averments relating to corrupt practices which unlike the ones in Owan East Local Government are general in nature. It is instructive to note that no single witness was called by the Petitioners to prove either the specific allegation on the general ones. The implication of the Petitioners' conduct is that they have abandoned their pleadings in those areas and nothing more.

The Petitioners in their paragraph 3.9 and 3.10 of the reply to the 2nd Respondent's address state that:

"We humbly refer to the averment contain in the petition which will show clearly that although the Petitioners pleaded and led evidence of corrupt practices. They did not consider it necessary to found any relief on it bearing in mind other competing acts of non-compliance that are sufficient to determine the petition in their favour."

In paragraph 3.10, they stated as follows:

"the implication of the foregoing is that the Petitioners chose to confine their case to non-compliance"

By choosing to confine their case to non-compliance will they then have recourse to their pleading in respect of corrupt practice? We believe NO. The Petitioners only want to be clever by half when they chose to confine their case to non-compliance. In a nutshell, they have abandoned their pleading in respect of corrupt practices and we so hold.

It is noteworthy that some petitioner's witnesses gave evidence on multiple voting, voting by unqualified persons, inducement of voters, intimidation of voters, which are not pleaded in the petition. This include: PW12, PW13, PW14, PW15, PW16, PW23, PW24, PW26, PW27, PW28, PW51, PW52, PW78 and PW79.

The corresponding paragraphs in the petition are: Paragraphs 37, 86, 116, 117, 118, 120, 122, 432, 522, 539, 540, 544, 545, 546, 547, 548, 549, 550, 555, 559, 536, 573, 538, 671 and 579.

The law is that evidence in respect of fact not pleaded goes to no issue.

The testimonies of the above Petitioners witnesses on the evidence not pleaded go to no issue and we so hold.

Additionally, the above witnesses did not mention the person(s) alleged to have carried out the alleged corrupt practice i.e. multiple voting, voting by unqualified persons, inducement of voter etc. This means that the Petitioners did not prove allegation of corrupt practices beyond reasonable doubt. See *Wali vs. Bafarawa (2004) 16 NWLR (Pt. 8987) 1 at 44-45*.

The pertinent questions that beg for answers are what is the implication of the Petitioners failure to specifically claim a relief for nullification of the election based on corrupt practice and what is the effect of abandoning their pleading on allegation of corrupt practices?

While it is true that the Petitioners had claimed in their alternative relief the nullification of the election for substantial non-compliance with provision of the Electoral Act which non-compliance affected the result of the election, this does not take the place of allegation of corrupt practices which the Petitioners made a ground of the petition as the 2 reliefs are materially different.

On the importance of having a clear and unambiguous relief, Tobi, JCA as he then was and now of blessed memory states in the case of *Uzoukwu vs. Ezeonu* 11(1999) 6 NWLR (Pt. 200) 784-785 paragraph a – c said that:

“Because of the major role relief plays in the judicial process, counsel must take all the time he has in the word to draft it very carefully. He must not be in hurry. He has to go over available evidence and reflect the relief accordingly. Where the relief does not reflect the cause of

action and the available evidence, a court of law will throughout the matter.”

The absence of a separate relief for the nullification to the election based on corrupt practice is in our view fatal to the case of the Petitioners and we so hold.

Similarly, by abandoning the pleadings on corrupt practice, we are left with no means of separating the pleading on corrupt practice with the other averments.

In other words, we cannot sieve the grounds of corrupt practices from other grounds.

Accordingly, these issues are hereby resolved against the Petitioners.

5TH ISSUE FOR DETERMINATION

The 5th issue for determination is whether on the state of pleadings and evidence led the Petitioners have established that there was substantial non-compliance with the provisions of Electoral Act which substantially affected the State Gubernatorial Election held on 28th September, 2016 to warrant an order nullifying the election and for fresh election to be conducted.

This issue is the Hallmark of this Petition because it centered on consideration and evaluation of the Petitioners’ witness testimonies to ascertain whether the Petitioners have established their case to warrant given them this their reliefs.

The law is that a Petitioner is to succeed on the strength of his case and or on the weakness of the case of the Respondent. See the case of CPC vs. INEC (2012) 2-3 SC 1 at 30-32.

The Petitioners at paragraph 16(i), (ii) and (iii) of the petition questioned the election on the ground that the election was marred by non compliance with the provisions of the Electoral Act, corrupt practices and the alleged failure of the 2nd Respondent to secure majority of lawful votes.

In paragraph 17, 21, 36, 37, 87, 100, 111, 131, 321, 432, 523, 552, 579, 652, 668, 684, 710, 711, 712, 730 and 739 they alleged non-compliance with the provision of the Electoral Act which can be distilled as follows:

1. Non accreditation/proper accreditation
2. In proper account of ballot paper
3. Alteration of results
4. Inflation and reduction of scores
5. Over voting
6. Inadequate form not filed
7. Swapping of votes.

It is of note that alteration of results, inflation and reduction of score as well as swapping of votes have criminal element hence they require proof beyond reasonable doubt. See PDP vs. INEC (2014) 17 NWLR (Pt. 1437) 525 at 569 and Section 1135(1) Evidence Act.

Before we consider and evaluate the testimonies of Petitioners witnesses we want to reiterate the position of law that under Section 126 of the Evidence Act, oral evidence shall in all cases whatever, be direct. The word “shall” used in the section is mandatory.

It is against the backdrop we will consider and evaluate the Petitioners witnesses.

PW1: is the 1st Petitioner who deposed to 4 separate witness statement on oath covering 2627 units. He stated in chief that his evidence is based on his interaction/analysis with INEC documents.

He admitted under cross examination that he was only in his polling unit on the election day and that he saw accreditation and voting at his unit only. In the case of Okechukwu vs. INEC (2014) 9 SC 1at 50, the Supreme Court hold

“.....a polling agent or even the Appellant himself cannot only testify of what transpired that he saw in his own polling unit. Being a human being, he can only be physically present at only one polling unit at a given time.

Similarly, in Oke vs. Mimiko 11 (2014) 1 NWLR (Pt. 1388) the Supreme Court considered the testimony PW45 to be more than a superman for him to give evidence covering 372 polling units across

to Local Governments. The apex court then held that his testimony is hearsay. We want state that the testimony of the witness apart from his evidence regards his polling unit is hearsay.

Again in the case of Abubakar vs. Yaradua (2008) 19 NWLR (Pt. 112) at 173, Niki Tobi, JSC as he then was said

"the witnesses are those who saw it all on the day of election and not those who pick to evidence from an eye witness. No, they must be eye witnesses too."

The 1st Petitioner was not in all the polling units he alluded to his evidence regarding all the polling units he did not visit is hearsay.

We do not therefore ascribe probative value to testimony of this witness.

PW2 – 91:

PW2: Antony Omezalemi, a ward collation agent for PDP in ward one, Akoko Edo the ward consist of 13 polling units. His complaint is numerous infractions in polling units 1, 2, 3, 4, 5, 7, 9, 11 and 13. His main complaint is absence of accreditation and over voting. He prepared his deposition based on pink copies he received from his agents. The pink copies are not tendered.

He stated under cross-examination that he was in his polling unit from the beginning to the end of election. That the identity card given to him only allowed him to make phone calls and not to move around.

He voted in unit 8 and was duly accredited incidentally, the polling unit where this witness voted is not among the units being challenged. He said that he was in that unit from the beginning to the end of voting. His evidence regarding other units is hearsay. We do not believe this witness.

PW3: Alaba Okere Oga is a ward collation agent of PDP in ward 9. He stated in chief that there are 15 polling unit in his ward. His complaint relates to unit 1, 2, 3, 5, 6, 7, 8 and 11. His complaint is mainly on over voting, absence of accreditation and irreconcilable entries in the result sheets. He stated in chief in his paragraph 15 that he received information regarding the election from his party agents but under cross

examination he said he did not receive any information from his party agent. This is not reliable witness. We do not believe his testimony.

PW4: James Manyakui Adike, a PDP ward collation agent ward 2 Akoko Edo. He stated in-chief that in unit 1, 2, 3, 6, 7, 8 and 9 there are cases of lack of accreditation as the voter's register was not ticked at all, irreconcilable entries on result sheet and over voting. He stated under cross examination that he was not in all the units from the beginning to the end of election. In paragraph 12 of his deposition he stated the score of PDP to be 180 but in exhibit PO69, the score is 140. He maintained that the score of PDP is 180 despite exhibit PO69.

This witness is not a truthful witness because he said he was not in all the units from the beginning to the end of election but he testified on the units he did not even visit. When he was confronted with exhibit PO69 he said the score of PDP therein is 140 but he insisted that the score of PDP is 180. We do not accept the testimony of this witness.

PW5: Chief Charles Osagemeh is a ward collation agent at ward 8 Akoko Edo. He stated in-chief that there was lack of accreditation, over voting and irreconcilable entire sin result sheet in unit 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11. He stated under cross examination that he voted at unit 15 without accreditation. He was not in other units to know what happened there. His party had agents in the other units. This witness voted at unit 15 which is not among the units in contention. He remained in his unit up to the end of the voting. His testimony regarding the other units which he did not visit is hearsay. We do not accept his testimony.

PW6: Richard Omerero, a PDP ward collation agent in ward 5 Akoko Edo. He evidence in-chief is that ward 5 is made up of 16 polling units. He complained about lack of accreditation, over voting and irreconcilable entries in the result sheets at units 1, 3, 4, 5, 8, 9, 11 and 13.

Under cross examination, he said the analysis in his deposition was not only based on the pink copies but also by Exhibit 4(5). His deposition was made on the

19th October, 2016. On being shown Exhibit PO5(5), the date of certification is 20/10/16.

The testimony of this witness was discredited when he said he used Exhibit PO4(5) in his analysis which was only obtained by his party on 20/10/2016, days after he made his deposition. This witness is not reliable. We do not accept his testimony.

PW7: Ayeni Dominic Sunday, a PDP ward collation agent for ward 10 Akoko Edo. His testimony in-chief is that there were cases of over voting, absence of accreditation and irreconcilable, entries in result sheet in units 1, 2, 3, 4, 5, 8, 9, 11, 12 and 13.

He stated under cross examination that all PDP agents signed the result sheets. He did his analysis in his deposition based on INEC materials. When Exhibit PO10 was shown to him, he said, it is after they obtained this document he made his analysis. His deposition is dated 19th October, but the CTC of INEC document read 20/10/16. This follow that this witness is not a truthful one. We do not accept his testimony.

PW8: Aweri Saturday, a polling agent of ward 15 unit 15 Akoko Edo. His testimony in-chief is that accreditation and distribution of ballot papers were done simultaneously. 414 votes were accredited but 447 voted. When Exhibit PO202 (15), the voter's register of his unit was shown to him, he said the number of accredited voters here is 486.

The testimony of this witness is the discredited. We do not therefore accept his testimony.

PW9: Patrick Balogun, PDP polling agent in unit 4 ward 5 Akoko Edo Local Government Area. His testimony in-chief is that in unit 4, 347 voters were accredited vide the voters register but the total votes cast were 350. Under cross examination, Exhibit PO9(4), the voter's register for his unit was shown to the witness who said the number of votes cast as per the voter's register is 338 which is below 350. The testimony of this witness is completely destroyed under cross examination. We do not accept his testimony.

PW10: Etahmesor Oshiomoha, a ward collation agent for PDP in ward 2 (Wanno 1) in Etsako Local Government Area. His testimony in-chief is that there are 8 polling units in ward 2. He stated further that in units 1, 3 and 6 there was over voting and lack of accreditation. He stated under cross examination that he voted in unit 4. His agent signed the result sheets upon being shown exhibit PO266 the voter's register, he said there are ticking for voting but there is none for accreditation. He was accredited before he voted. This witness complained about accreditation in units other than the unit where he voted. He confirmed that he was accredited before he voted. His testimony regarding units 3 and 6 is hearsay. We do not accept his testimony.

PW11: Omoka Solomon, a ward collation agent for PDP in ward 1 Etsako East Local Government Area. He stated in-chief that there are 10 polling units in the ward. That there were cases of voter voting, multiple voting and irreconcilable entries in result sheets, lack of accreditation in units 1, 6, 9 and 10.

He stated under cross examination that he is not aware of any manual used in the conduct of the election. He did not talk of any manual of election, he only talked about Electoral Act. In paragraph 8(a) of the witness deposition, he made reference to manual for election officials 2016. This witness is not a truthful one. We do not accept his testimony.

PW12: Edodo Abdurresag Emmanuel, a PDP collation agent in ward 4 in Etsako Local Government Area. His testimony in-chief is that he examined the result in Form EC8A for the ward and discovered that there were cases of over voting multiple voting, irreconcilable entries in election document in units 2, 3, 4, 5, 6, 7 and 9 in his ward.

He stated under cross examination that he voted in ward 4 unit 1. He is satisfied with the election in his unit that is why he is not challenging the result there. In the unit where he voted, his party won in the unit where his party won there is no complaint regardless of any irregularity.

The testimony of witness id technically knocked out because he does not appear to be a truthful one. How can he say that where his party won they do not challenge the election therein regardless of any irregularity. We do not accept his testimony.

PW13: Alh. Muh Shuarb, a PDP ward collation agent in ward 6 in Etsako East Local Government Area.

His testimony in-chief is that he examined the result sheets submitted to him by his party agent and discovered that there were cases of over voting, multiple voting and irreconcilable entries in Form EC8A and EC8B in units 2, 3, 4, 6, 7 and 9 in his ward. He stated under cross examination that he specifically stated in his deposition that there was multiple voting and lack of accreditation in unit 9. When asked further he said, he did not specifically state in his deposition where multiple voting occurred. When voter's register was shown to him, he stated that there are tickings at the right side of the register. This witness is inconsistent in his testimony. He said in one breadth that he stated where the over voting took place and in yet another breadth he said he did not specify where the over voting took place. He is not a reliable witness. We do not accept his testimony.

PW14: Mr. Yusuf Sandi Abu, a ward collation agent of PDP in ward 8 Etsako East Local Government Area.

His testimony in-chief is that there were cases of multiple voting, wrongful entries in result sheet and lack of accreditation in units 1, 2, 3, 4, 5, 6 and 7 in the ward.

He stated under cross examination that he was the Petitioner, he voted in unit 9. He was accredited before he voted. When Exhibit PO266(1) was shown to him he identified his name with only one ticking and insisted that he voted. He insisted that no accreditation in units 4 and 7 despite the tickings.

This witness stated that he was accredited before he voted and only one tickings is found against his name, he however insisted that there was no accreditation in other

units with similar tickings. He does not appear to be truthful, we therefore do not accept his testimony.

PW15: Okponivivi Henry, a ward collation agent of PDP in ward 10 Etsako East Local Government Area. His testimony in-chief is that there were cases of over voting multiple voting and lack of accreditation in units 1, 3, 5, 6 and 8 in his ward.

He stated under cross examination that he was a ward collation agent as well as a polling unit agent. His complaint is that ballot is that ballot papers did not corresponded with used and unused one. He has no other complaint relating to unit 6. In unit 6, there was multiple voting. When Exhibit PO268(2) was shown to the witness he said there are tickings to the right side on this voter's register.

This witness is a confused witness, he said he has no other complaint regarding unit 6 but he shifted ground and said there was multiple voting in that unit. He is not consistent. We do not accept his testimony.

PW16: Imran Igh Shuab, PDP ward collation agent at ward 5 Etsako Local Government Area. His testimony in-chief is that he examined all the result sheets submitted to him by his party polling agent and his discovered that there were cases of over voting irreconcilable entries in Form EC8A and lack of accreditation and EC8B in units 1, 5, 6 and 7 of his ward.

He stated under cross examination that he voted at unit 6, he did not witness the over voting. He is aware of election manual 2016. Accreditation and voting were made simultaneously.

His name was ticked to right in the voter's register. Before he voted, he submitted his card to the presiding officer who checked his name in the voter's register, ticked his name before he was given a ballot paper to vote.

This witness complained of lack of accreditation. In some units in his ward but in the unit where he voted, he described what the presiding officer did before he issued him with a ballot which confirms with the guideline issued by INEC. His

testimony regarding other polling units is hearsay which is not admissible in law. We therefore do not accept his testimony.

PW17: Bolaji D. Kingsley, PDP polling agent at unit 3 and ward Etsako Local Government Area. His testimony in-chief is that 256 voters were accredited in his unit but 619 voted.

He stated under examination that he saw the voter's register after the election. He cannot remember how many pages the voter's register has. He voted on that day. He was accredited before he voted. The number of accredited voters was 256.

We have examined the voter's register Exhibit PO199(3) and the result sheet Exhibit PO8(3), we discovered that the number of accredited voters is 620 against the claim of this witness 256. The witness is therefore discredited.

PW18: Ballogun Omoloye Michel, PDP polling agent in unit 2 of ward 2 Etsako East Local Government Area. His testimony in-chief is that the used and unused ballot paper is not equal to the Ballot papers issued to the polling unit. Used Ballot paper is 362 and unused is 544 totaling 906 less than 912 issued to the polling unit.

He stated under cross examination that INEC officials got to the unit in time. Election was conducted as per regulations presiding officer was in custody of voters register. We discovered that the used ballot paper is 911 as against his claim of 912.

We do not therefore accept his testimony.

PW19: Dauda Sunday, PDP polling agent at ward 7 unit 1 Etsako East Local Government Area. His testimony in-chief is that in his unit 276 voters were accredited but the votes cast was 289. He stated under cross examination that all INEC materials were in control and custody of INEC staff.

When Exhibit PO11(1) was shown to the witness, he said the number of accredited voters here is 292 and not 276.

By Exhibit PO11(1) therefore the claim of the witness fails. We do not therefore accept his testimony.

PW20: Dania David, PDP polling agent at unit 9 ward 4 Etsako East Local Government Area. His testimony in-chief is that 642 voters were accredited but 650 voted. When Exhibit PO8(9) a voters register of his unit was shown to him he said the number of accredited voters is 686 and not 642. By Exhibit PO8(a) therefore the testimony of this witness is discredited. We do not therefore accept his testimony.

PW21: Antony O. Balogun, a PDP Party agent at unit 16 ward 5 Etsako Local Government Area. His testimony in-chief is that in his unit, 403 voters were accredited but total votes cast was 406. When the witness was confronted with Exhibit PO9(16) under cross examination he stated that the number of accredited voter here is 406.

By this testimony under cross examination, his examination in-chief becomes discredited. We do not therefore accept his testimony.

PW22: Joshua Francis, a PDP polling agent at unit 6 ward 9. His evidence in-chief is that no accreditation in his unit at all but 489 voters cast that vote. He stated under cross examination that he voted for the party of his choice. Before he voted he showed his card to the presiding officer who confirmed his name from the voters register, his name was then ticked on the right hand side. From the description given by this witness from submitting his card to the presiding officer to the time he was issued a Ballot paper to vote, the witness has been accredited. We do not therefore believe him when he said there was no accreditation in this unit.

PW23: Godwin Igbimaken ward collation agent for PDP in ward 7 Ikpoba Okha Local Government Area. His testimony in-chief is that he examined the result sheets given to him by his party agent and he discovered that there were cases of over voting multiple voting lack of or improper accreditation in unit 1, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 32, 33, 34, 35 and 39 in his ward. He stated under cross examination that he is not one of those who inspected INEC materials. He cannot remember how many units in his ward where malpractices occurred but they are in his deposition. He prepared his deposition based on INEC documents.

Exhibit PO319(23) shown to the witness he said the date on the document is 20/10/16. This witness contradicts himself when he said he based his deposition on INEC documents. His deposition is dated 20th October, 2016 while the date of certificate of Exhibit PO319(23) is 25th October, 2016. This shows that this is not reliable witness. We do not believe his testimony.

PW24: Godwin Bobori, PDP ward collation agent for ward 5 Ikpoba Okha Local Government Area. His testimony in-chief is that when he received the result sheets from his agents, he discovered that there were cases of over voting irreconcilable entries in the result sheets and lack of accreditation in unit 5, 7, 9, 12, 14, 16, 20, 23, 26, 27, 28, 30, 31, 32, 34, 36 and 38 in his ward.

He stated under cross examination that he voted in unit 5 and was not accredited. PDP had agents in all the 39 units. He signed his name on his unit result. There is a tick against his name in Exhibit PO137. When Exhibit PO137(5) was shown to the witness, he said, PDP scored 89 votes but in his deposition paragraph 12 thereof, he said PDP scored 91 votes.

This witness is not good in figures. The score of PDP in his deposition is not the same in the Exhibit relating to his unit. His testimony regarding the other units constitutes hearsay. We do not therefore believe him.

PW25: Comrade Godwin Edosa, a PDP ward collation agent for ward 9 in Ikpoba Okha Local Government. His testimony in-chief is that there were cases of over voting, multiple voting and lack of accreditation in units 8, 10, 18, 19, 21, 22, and 27. He stated under cross examination that he presented his card to the Presiding Officer who checked his name in voters register and gave him a ballot paper to vote. PDP agents signed the result sheets which they gave him. The polling units are scattered. It will be painful to him if PDP loses this petition. He will do anything possible to see that his party wins this petition.

That last 2 sentences elicited under cross examination make the testimony of this witness unreliable. We do not therefore believe his testimony.

PW26: Actor Osarbuku Ozakolon, a PDP ward collation agent in ward 10 of the Ikpoba Okha Local Government Area. His testimony relates to over voting multiple voting irreconcilable entries in result sheets and absence of accreditation. He stated under cross examination that his ward has 30 polling units, 15 on land and 15 on Riverine areas. He did not receive voter's registers from his agents.

He doubled as polling agent in unit 1 as well as ward collation agents. He does not know the names of those who engaged in over voting. He does not know how long it took INEC to distribute INEC materials. Apart from unit 1 where the witness voted and served as polling agent. His testimony in respect of other polling is hearsay. He also confirmed that his party agents did not give him voter's register. From where then he got his source of lack of accreditation.

We do not believe the evidence of the witness.

PW27: Maxwell Igieche, a PDP ward collation agent in ward 8 Ikpoba Okha Local Government Area. His testimony in-chief relates to multiple voting, over voting and irreconcilable entries in result sheets. In units 2, 4, 7, 9, 11, 13, 15, 19, 20, 21, 22, 24, 29, 33, 35, 39, 41 and 42.

He stated under cross examination that PDP had polling unit agents in all the 42 units in his ward. He did not examine any voters register in his ward. His name is on Exhibit PO320 (38) with only one tick against his name.

When shown Exhibit PO140(15), he said APC has 63 votes and PDP had 96. Contrary to what he stated in his deposition.

Again, when Exhibit PO140(39) was shown to the witness, he said APC had 23, PDP 12 contrary to his deposition in which he stated that PDP has 16 while APC has 105.

The testimony of the witness regarding the 42 units in his ward is hearsay.

He was never in any of the units from the beginning to the end of election. His testimony under cross examination on figures show that this is not a credible witness.

We do not therefore accept his testimony.

PW28: Rev. Martin Ebbuomwan, a PDP ward collation agent from ward 6 Ikpoba Okha Local Government Area. He stated in-chief that there are 53 polling units in his ward and that from the result sheets he received from his party agents there were cases of over voting, multiple voting and improper accreditation in units 1, 2, 3, 4, 5, 11, 12, 44, 45, 46, 47, 48, and 52. He stated under cross examination that he used pink copies in making his analysis but the pink copies are not with him.

His party had polling agents in all the units. He voted in unit 7 and due process was followed. None of his agent brought voters registers to him. Ticking in the left side of voters name is regarded as accreditation.

On being show Exhibit PO318 (16) he said there are no pages 38 and 39 on this exhibit. Apart from the hearsay nature of the testimony of this witness stated under cross examination that he did not receive the voter's registers from his agents, from where did he get his information regarding lack of accreditation? This witness does not seem to be a truthful witness. We do not accept his testimony.

PW29: Bright Osaro Osasunwon, a PDP polling agent in unit 15 ward 1 in Ikpoba Okha Local Government Area. His complaint is that in his unit the total number of accredited voters on the voters register is 249 but 280 people were recorded as having voted.

He stated under cross examination that everything went smoothly in his unit. He cannot remember the number of voters in the voters register. His pink copy was not tendered. The testimony of this witness is based on the voter's register. He did not indicate that he examined the voters register before he made his deposition.

His testimony in that regard is not reliable.

We do not accept his testimony.

PW30: Odua Igbiosun, a PDP ward collation agent in ward 1 in Oredo Local Government Area. He stated in-chief that he had carefully perused Forms EC8A submitted to him by his polling agents and juxtaposed same with the copies of voter's register for the affected units (copies of which voters registers were retrieved by the

2nd Petitioner from the custody of the 1st Respondent during the ballot inspection exercise) he observed that there were cases of absence of accreditation and over voting in units 5, 7, 11, 12, 13, 14, 15, 17, 20, 29 and 19 in his ward and he provided a table showing the irregularities. He stated under cross examination that he voted at unit 6. PDP had agents in all the units. He did not inspect any voters register in his unit. He was accredited before he voted.

He did not see the voter's register before making his deposition. He did not see the voter's register and the result sheets at the same time before he made his calculation in paragraph 5 of his deposition. He did not pin point in his table where there was no ticking.

This witness was demolished under cross examination, he said in his deposition at paragraph 5 that he perused Forms EC8A given to him by his party agents and juxtaposed same with the voter's register for the affected units but somersaulted under cross examination where he said, he did not see the voters register and the result sheets at the same time before he made his deposition. We do not know which of the 2 versions to believe.

We do not accept the testimony of this witness.

PW31: Oka Friday Osiege, a PDP ward collation agents in ward 7 in Oredo Local Government Area. He stated in chief that he perused Forms EC8A and juxtaposed them with the voter's register when he discovered that there was total absence of accreditation and over voting in the units 2, 9, 13, 14, 15, 16, 20, 21, 22, 23, 24, 26, 29 and 30 in his ward.

He stated under cross examination that PDP had polling agents in all the units. He had no access to electoral material on the election day. He voted at unit 1. INEC officials were in all the units. There are 30 units in his ward. PDP won in 15 units. There is no complaint where PDP won. The process of accreditation in unit 1 is fairly ok. He does not know the number of units in which they are contesting.

The testimony of the witness apart from being hearsay, be stated that he had no access to voting materials on the election day from where did he get to know that there were no accreditation and there were cases of over voting in some of his units.

We feel that this is not a reliable witness. We do not believe him.

PW32: Joseph Iyen, PDP ward collation officer for ward 3 in Oredo Local Government Area. In paragraph 5 of his deposition, he stated that he had examined the result sheet and the voter's register and he observed that there were cases of absence of accreditation and over voting in unit 2, 3, 4, 7, 8, 9, 11, 12, 13, 14, 15, 17, 18, 19 and 22 in his ward.

He stated under cross examination that he was accredited before he voted. He cannot off-head state in how many units there was no accreditation. There is no column for lack of accreditation in his unit. There is no column for over voting in his table.

This witness is a ward collation agent, he said he was accredited before he voted. The issue of lack of accreditation in other polling units is hearsay, none of the voters in other units come to say that he was non-accredited.

The table supplied by the witness did contain a column for lack of accreditation and over voting.

This is not a reliable witness we do not believe him.

PW33: Okoro Osadepamwan, a PDP ward collation agent for ward 5 in Oredo Local Government Area. His testimony in-chief is that there were case of total lack of accreditation and over voting in units 1, 2, 6, 7, 8, 12, 13, 14 15, 19, 20, 22, 23, 24, 26 and 27 in his ward. He provided a table depicting the non-compliance.

He stated under cross examination that he voted in unit 1. He was not accredited, by that he means his name was not ticked to the left. There should be 2 tickings, one to the left and one to the right but in his own case, there is only one tick.

He did not put a column for lack of accreditation in his table and no column for over voting. He does not know if his name was ticked in the register.

This witness appears to be confused. He stated under cross examination that there should be 2 tickings in the voter's register but in his own case, there is only one ticking. When further asked under cross examination, he said, he does not know if his name was ticked. Which of the 2 version are we to take.

His testimony was destroyed under cross examination.

We do not believe him.

PW34: Frank Pax Osifo, PDP ward collation agent in ward 10 Oredo Local Government Area. His testimony in-chief is that he perused Form EC8As and juxtaposed same with the voters register and he observed that there were cases of absence of accreditation and over voting in unit 1, 2, 5, 6, 7, 8, 14, 17 18, 28 and 19.

He stated under cross examination that he voted in unit 27. He was accredited before he voted. He did not monitor election from beginning to the end of the election. He complained about unit 10 but the table in his deposition did not contain that. He is satisfied with the accreditation in Exhibit PO332 (1). He did not include separate columns for absence of accreditation and over voting in his table.

The complaint of the witness is lack of accreditation. He stated under cross examination that he was accredited before he voted and on being shown Exhibit Po332(1), he said he is satisfied with the accreditation there. He admitted not providing separate columns for accreditation and over voting in his table. From where on earth can we then get any information on the 2 issues of lack of accreditation and over voting when they are not contained in the witness deposition?

We do not attach any value to the testimony of this witness.

PW35: Osamule Edevivi, a PDP ward collation officer for ward 4 Oredo Local Government Area. His testimony in-chief is that having perused from EC8As and juxtaposing same with the voter's registers he observed that there was total absence of accreditation and over voting in units 2, 4, 10, 8, 11, 13, 14, 16, 19, 18, 20, 21, 22, 23, 24 and 25 in his wards.

He stated under cross examination that his party had polling agents in all the units who after the election passed information to him as to what happened in their units. There is no tickings on the voter's register. Polling unit agents reported to him that there was absence of accreditation units 8 and 18. There are 27 units in his ward but when shown Exhibit PO146(27) he said there are 28 and not 27 units in his ward.

Apart from the hearsay nature of the testimony of the witness, he contradicted himself when he first said there are 27 units in his ward but later changed it to 28 when Exhibit PO146(27) was shown to him.

He admits that it was after the election his party agents passed information to him as to what happened in their units.

This is hearsay which is not admissible in law. We also not believe this witness.

PW36: Prof. Edada Omoiegie, a PDP ward collation agent for ward 9 Egor Local Government Area. His testimony in-chief in that he had a careful perusal of Form EC8A and juxtaposed same with the voters registers (copies of which were retrieved by the 2nd Respondent and observed that there were cases of lack of accreditation and over voting in units 1, 3, 4, 5, 6, 7, 9, 10, 12 and 15 in his ward.

He stated under cross examination that he voted at unit 10 ward 9 but would not know if he was accredited before he voted. PDP had agents in all the units. He was not in all the units at the same time but he visited other units. He was never a legal adviser of APC. His name was not announced as representing APC in the proceedings of 16th January, 17 but in the previous proceedings, his name was announced.

He saw PO23(11) when he was preparing his deposition.

This witness, a Professor of Law will say that he voted in a particular unit but does not know if he was accredited does depict his position as a Professor of Law. Such testimony could only be accepted from an ordinary person or from our brothers in rural areas who might not have gone to school. He also said he compared Form EC8A with the voter's register which was retrieved by the 2nd Respondent. His

deposition is dated 19th October, 2016 while the date of certification of the voter's registers is 20/10/16 a day after the deposition was made.

We do not accept the testimony of the witness.

PW37 at page 393 Vol. 2
Victor Ogbonze

The witness sworn on the Holy Bible and speaks English. He adopted his sworn statement he made on the 19th of October, 2016; and identified Exhibits PO15(17), PO4(11) and PO206(1-77); he complained of over voting. Lack of accreditation or improper accreditation and non-accounting of used and unused ballot papers in units 5, 8, 9, 10, 11, 13, 15, 16 and 17 of his ward. Under cross-examination, the witness confirmed having voted but would not know if he was accredited because he presented his voter's card and he was given a ballot paper to vote and that he did not check the Register to find out. In further cross-examination, the witness was shown Exhibit PO26(9). He found as a fact that this name was ticked on the voter's Register. The witness further confirmed that the number of total votes cast in unit 5 is 275 and 404 in unit 11 and 205 in unit 13 but the accredited voters on the voter's Register are missing in all the 3 units. The table by which he claimed over voting under paragraph 6 was prepared by him.

The witness is not a credible witness because he is a ward collation agent who voted at unit 9 of ward 01 of Egor L.G.A. That has 17 units whose activities did not cover all the units on the election day; and this claim of over voting as per his table is not worthy of belief because there is no column indicating over voting, lack of accreditation, improper accreditation, or non-accounted ballot papers.

PW38 Page 296 Vol. 2
Ogbebor Clement

The witness sworn on the Bible and speaks English. He adopted his sworn statement made on the 19th day of October, 2016 and identified Exhibit PO16(1-14), PO4(12) and PO207(1-14). The witness was a ward collation agent for the Petitioners

for ward 02 of Egor Local Government Area. He complained of over voting and irreconcilable entries in units 3, 6, 8, 13, 14 of his ward.

Under cross-examination, the witness said he voted at unit 12 and he accredited before he voted; and that his party agents signed the result sheets. He confirmed that his party agents reported to him what happened in the units as there is no way he could be in all the units at the same time. The witness confirmed what he signed the collated ward result; and confirmed further that in his table under paragraph 6, there are void or excess votes for which he did not provide a column, but still maintained that the tables are correct. He also confirmed that unit 008 for the ward was duplicated on the table. When Exhibit PO207 (3) and (14) were shown to him, he said the document is readable.

The witness is not credible because is a ward collation agent while his evidence is not direct; and that his table under paragraph is misleading for the excess votes subject of the over voting cannot be ascertained by the table. This witness is a ward collation agent. He confirmed that his party agent reported what happened at the units to him. This is hearsay. He was discredited when Exhibit 207(3) was shown to him. We do not accept his testimony.

PW39 page 299 Vol. 2
Jonathan Oke Alohan

The witness sworn on the Holy Bible and speaks English. He adopted his statement on Oath deposed to on the 19th day of October, 2016; and identified PO17 (1-20), PO4(13) and PO208(1-13). The witness was a ward collation agent for ward 03 of Egor Local Government Area.

He complained of lack of accreditation and over voting in units 1, 3, 4, 6, 7, 11, 12, 15, 17 and 19 in his ward. Under cross-examination, the witness confirmed that he voted but being accredited. The witness said he signed the collated result in error. He confirmed that as per his table at paragraph 6, there is nothing in the column of accredited voters in units 1, 2 and 3 though he confirmed later that PO17(1) has 208 as

number of accredited voters. Exhibits PO208(18), and PO208(7) were shown to the witness and confirmed that there are 5 tickings on them. The witness said further that he drew his table under paragraph 6 and he also used voter's Register when so doing. He further confirmed that he made the table immediately after the election using Exhibit PO208(18), though PO208(18) was certified on 20th October, 2016.

The evidence of this witness is not worthy of belief because he was a collation agent who voted at unit 19 of his ward of 20 units on which he cannot give direct evidence. He claimed having used Exhibit PO208(18) even before it came into existence when preparing his deposition. The table he provided in his deposition is deficient because no column for accreditation. We do not accept his testimony.

PW40 Page 311 Vol. 2
Edo-Esamah Samuel

The witness sworn on the Holy Bible and speaks English. He adopted his statement on the 19th day of October, 2016 and identified Exhibit PO21(1-19), PO4(17) and PO212(1-19). The witness was a ward collation agent for ward 07 of Egor Local Government Area; he complained of over voting, lack of accreditation and improper accounting of Ballot Papers in units 1, 3, 4, 6, 7, 11, 12, 15, 17, 19. Under cross examination, the witness confirmed that he voted at unit 4 and that he does not know in how many units the petitioners had problem in that ward. He stated that the number of used and unused ballot papers were not properly recorded in Form EC8A. He further confirmed that he used INEC forms to prepare his deposition which he came across after the election. He further said he discovered errors at the time he signed the EC8B. The witness told this Tribunal that at the time he was preparing his deposition, he did not see voters Register. He said also that he had compared Form EC8As with his table the he prepared based on his analysis. When confronted with Exhibit PO212(11) he confirmed there were 8 tickings on it for accredited voters but on the table unit 11 had "O" and Exhibit PO212 (6), the number of accredited voters is 274 while on the table it is 258.

The witness who is a ward collation agent could not give direct evidence covering the 19 units of the ward; and the entries on his table conflict with the entries on the Exhibit shown to him. His evidence is not reliable. We do not accept his testimony.

PW41 Page 314 Vol. 2
Omoregbe Esseser

The witness sworn on the Holy Bible and speaks English. He adopted the statement he made on the 19th day of October, 2016 and identified Exhibit PO22(1-19), PO4(18), PO213(1-19) and PO373(16). He served as the ward collation agent for the Petitioners.

Under cross-examination, the witness said that though he voted at unit 2 of ward 8, he cannot remember if he was accredited. His complaint was on over voting and lack of accreditation. He had confirmed that the total number of votes cast is not on his table; and that the table does not carry a column for total number of accredited voters. He further said he used pink results in his analysis and that the number of accredited voters on Exhibit PO22(3) is 281 as against "O" on his table. He confirmed further that there are 7 tickings on Exhibit PO213(3), 6 tickings on Exhibit PO213(5) but he cannot say if pages 3, 4, 7 and 8 are missing from the said exhibit.

This witness is not reliable because he cannot give direct evidence in relation to 16 other units apart from unit 2 where he voted being a ward collation agent. His table under paragraph 6 could not prove over voting or lack of accreditation as same is inconsistent and misleading. We do not accept his testimony.

PW42 Page 1765 Vol. 3
Osaua Antony Ogbomudia

The witness sworn on the Holy Bible and speaks English. He adopted his deposition made on the 19th day of October, 2016; and identified Exhibit PO4(175), PO186(10), (11), 12, 19, PO357(10)(11)(12) and 19. He served as a ward collation agent; he complained of over voting, lack of accreditation and non-accounting of

ballot papers in units 10, 11, 12, and 19 of his ward for ward 03 of Orihionmwon Local Government.

Under cross examination, the witness confirmed as having registered at unit 4 but did not vote. His complaints were restricted to a 4 units i.e. 010, 011, 012 and 019. He only visited the units after having reports of anomalies. Confronted with Exhibit PO186(1) the witness said the number of votes cast is 106 and the accredited voters is also 106 contrary to his table where the scores are 46+36 if added up will give 82. As per Exhibit PO4(176) the number of accredited voters is 164 and the total number of votes cast is 143. 79 for APC and 64 for PDP. This shows there is no anomaly. He further confirmed that there is no column for the number of accredited voters. He also signed Exhibit PO4(176).

This witness is not credible for the inherent contradictions in his testimony; and that the 4 units in which he claimed anomalies, no such anomalies were found under cross examination. Beside, his being a ward collation agent who cannot give direct evidence beyond his unit, his testimony is in conflict with Exhibit PO186(10) and PO4(176). We do not accept his testimony.

PW43 Page 1615 Vol. 3
Augustus Diara

The witness sworn on the Holy Bible and speaks English. He adopted his statement made on the 19th day of October, 2016; and he also identified Exhibit PO4(31), PO35(1), PO216(1) and (5). He functioned as a ward collation agent for the Petitioners at Ward 01 of Igueben Local Government Area.

Under cross examination, the witness confirmed that he voted at unit 2 of ward 1. That his complaint was in respect of units 001 and 005. He agreed that he was not in the other units at the same time. As per Exhibit PO35(1) the witness confirmed that the number of accredited voters is 305 while his deposition indicated 292; as also the number of accredited voters in Exhibit PO35(5), is 619 and his deposition indicated 474. The witness identified single ticking. On Exhibits PO216(2), (3) and (4), on the

voters Register. He confirmed signing Exhibit PO4(31) but refrained to answer which one is greater as between figure 292 and 274 contradicts the figures in his deposition.

This witness is discredited and that his testimony is nothing to go by. Beside being a collation agent who cannot give direct evidence having confirmed he was not in all the units his testimony is in conflict with Exhibits PO35(1) and PO35(5). We do not accept his testimony.

PW44 Page 1619
Otaibhi Francis

The witness sworn on the Holy Bible and speaks English. He adopted his deposition made on the 19th day of October, 2016 and identified Exhibit PO4(33), PO37(1), (3) and (4), and PO218(1), (3) (4).

He served as ward collation agent for the Petitioners for ward 03 of Igueben Local Government Area. He complained of over voting, lack of accreditation and non-accounting of ballot papers in units 1, 3 and 4.

Under cross examination, he admitted voting at unit 3. He confirmed that where there is 1 ticking on the voters Register, the election there is still proper and that he used pink copies to prepare his table. The witness confirmed further that in Exhibit PO37(1) the number of accredited voters is 299 and the number of votes is also 299 contrary to his table where he recorded 290. The number of accredited voters in Exhibit PO37(3) is 343 while the table carries 320 if the score of 177 for APC is added to the score of PDP of 137 it gives 314 to show over voting. He confirmed that the accredited voters per Exhibit PO37(4) is 564. If the score of APC of 276 is added to that of PDP of 274 it gives 550. This indicates that the table is incorrect and could not prove over-voting. The witness told the Tribunal that he got voter Register which he used to prepare his deposition before the 19th October, 2016 while same voter's Register were certified on the 20th day of October, 2016.

This testimony is not reliable, same is discredited under cross examination and that the witness is a collation agent who cannot give direct evidence on all the units,

his testimony is in conflict with Exhibit PO37(1), PO37(3) and PO37(4). We do not accept his testimony.

PW 45 Page 1762 Vol. 3
West Josieogbebor

The witness sworn on the Holy Bible and speaks English. He adopted his statement on Oath made on the 19th day of October, 2016; and identified Exhibit PO4(175), PO185(1)-(12), PO356 (2), (3), (14) (5-9) and (10-12). He complained of over voting, lack of accreditation, improper accounting of ballot papers in units 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of his ward.

Under cross examination, the witness confirmed that he was accredited before he voted. The witness said as per Exhibit PO185(1) the number of accredited voters is 193 and if the score of 148 for APC is added to the score of 43 for PDP it gives 191; and if 2 rejected ballot papers are added will make it 193 for the votes cast and 193 for the accredited voters to show that there was no over voting in that unit. He confirmed that the table had no column for accreditation to show the figure accredited, the votes cast. He agreed that his paragraph 7 that contained table is not correct.

The witness is not credible. His evidence is contradictory. His table could not prove over voting, lack of accreditation, improper accounting of ballot papers and the deposition conflicts with Exhibit PO185 (1-12), PO356.

PW46 Page 1628 Vol. 3
Andrew Awudu

The witness sworn on the Holy Bible and speaks English. He adopted his statement on Oath, and identified Exhibit PO4(37), PO41(1-4)-(1-4) and PO22 (2) and (4). He was a ward collation agent for the Petitioners for ward 07 of Igueben Local Government Area. He complained of over voting, lack of accreditation and improper accounting of ballot papers in units 2 and 4 of his ward.

Under cross examination, the witness confirmed having been accredited before he voted and that his party had agents in all the units. He relied on the reports of his agent. He said in unit 2 there was no accreditation because there is only 1 ticking to

the right on the Register. He relied on the pink copies to make his analysis which he tendered in court. His agents signed the Result Sheets. He signed Exhibit PO41(1-4). The accredited voters as per Exhibit PO41(2), is 402 and total votes cast is 395 not 403 of the score of APC of 222 is added to the score of PDP 173 it gives 395. This shows that he claim of over voting is not proved.

The evidence of this witness is not reliable. His testimony is discredited under cross examination. His deposition is in conflict with Exhibit PO41(1-4) and PO41(2); and his table did not prove his complaints. His testimony is hereby rejected for being hearsay.

PW47 Page 1625 Vol. 3
Ernest Asueliner

The witness sworn on the Holy Bible and speaks English. He adopted his *statement on Oath made on the 19th day of October, 2016*; and identified Exhibit PO4(36), PO40(2) and (5), PO221(2), (5) and (10-12). He functioned as ward collation agent for the Petitioners for ward 06 of Igueben Local Government Area; he complained of over voting, lack of accreditation and improper accounting of ballot papers in units 2 and 5 of his ward.

Under cross examination, the witness said that he was accredited before he voted at suit 8 of his ward. The witness insisted that in unit 2, there was no accreditation and in unit 5 though there were tickings but the number of total votes cast is above the number of accredited voters. Exhibit PO40(2) showed that the accredited voters are 244 while the number of votes cast is 242; and Exhibit Po40(5) showed the accredited voters as 289 and the total votes cast is 283. He complained that he did not receive any report from his agents concerning the election.

This testimony is discredited under cross examination therefore had no value as evidence. The testimony is in conflict with Exhibit PO40(2) and Po40(5); the table is rejected as proof of his complaints. His testimony is not accepted.

PW48 Page 1631 Vol. 3
Kennedy Idemudia

The witness sworn on the Holy Bible and speak English. He adopted his deposition of the 19th of October, 2016; and identified Exhibit PO4(38), PO42(3) and (4) and PO223(3) and (4). The witness served as a ward collation agent for the Petitioners. His complaints are over voting, lack of accreditation, improper accounting of ballot papers in units 3 and 4 of his ward.

Under cross examination, the witness maintained that he voted at unit 1 and that accredited voters in unit 3 are 95 though the total was not indicated in his table. When confronted with Exhibit PO42(3), he told the Tribunal that the accredited voters are 435 and that of the valid votes cast is 385 while Exhibit PO42(4) the witness said the accredited voters are 333 and the total votes cast 275. He said his party had agents in all the units and that he did not receive any complaint from them in relation to unit 3 and 4. He confirmed signing Exhibit PO4(38).

The testimony of this witness is not worthy of belief because his entries in his table are sharply contradicted by the entries in Exhibit shown to him i.e. Exhibit PO42(4).

PW49 Page 1271 Vol. 3
Deacon Marvel Osagae

The witness sworn on the Holy Bible and speaks English. He adopted his deposition made on the 19th day of October, 2016; and identified Exhibit PO4(137), PO148(1-20), PO328 (1), (5), (6), (9), (12), (20), (21) and (22). He served as a ward collation agent for the Petitioners. He complained of over voting, lack of accreditation and improper accounting of ballot paper in units 1, 5, 6, 10, 13, 21, 22 and 23 of his ward.

Under cross examination, he confirmed that he voted at unit 10 of ward 6 of Oredo Local Government Area. He was informed that there was no accreditation because the voter's Register was ticked once. HE Observed tickings on the right side; and in other voter's Registers there were partial ticking. He further said that there was

no accreditation in unit 5. He complained of over voting and non-accreditation and that in units 10, 21 and 22, the votes cast exceeded the accredited voters. But on his table, he did not indicate a column for non-accredited voter; and also no column of the excess votes he complained about on the table; Also there is no column for the number of used and unused ballot papers. He said his deposition was based on the report of party officials.

The testimony of this witness is discredited; and the table formulated could not prove over voting or non-accreditation as there is no column provided to enter such votes as affected by over voting or non-accreditation.

PW50 Page 2643 Vol. 4
Jarrett Tenebe

The witness sworn on the Holy Bible and speaks English. He adopted his sworn testimony made on the 19th day of October, 2016; and identified Exhibit PO34, PO55-66, PO4(51-62), PO226-233. The witness served as a Local Government collation agent for the Petitioners for Etsako Local Government. He doubles also as polling unit agent at unit 6 of ward 12.

He complained of over voting, lack of accreditation and improper accounting of ballot papers in Ward 1 units 1, 2, 4, 5, 6, 9 and 10.

Ward 2 units 1, 2, 3, 4 and 7.

Ward 3 units 1, 2, 3, 4, 5, 6 and 7

Ward 4 units 2, 5, 7, 8, 9 and 10

Ward 5 units 1, 2, 3, 5, 6, 9, 11, 13

Ward 6 units 1, 2, 3, 4, 5, 6, and 7

Ward 7 units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15 and 17

Ward 8 units 1, 2, 3, 4, 5, 6, 7, 8, 9.

Ward 9 units 1, 2, 3, 5, 6, 7, 8, 10, 12 and 13

Ward 10 units 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16

Ward 11 units 2, 3, 4, 7, 8, 9 and 10.

Ward 12 units 1, 2, 4, 6, 7, 9, 11, 13, 14 of his Local Government.

Under cross examination, the witness confirmed he voted at unit 6 of ward 12; and that he was in all the units, that are 142 in number. I relied on the reports of my agents as I said. When Exhibit PO66(6), was shown to him, he said the accredited voters there are 386 while the figure on his deposition is 390. He confirmed signing Exhibit PO3H. He further said that accreditation means ticking to the left. He was confronted with Exhibit PO237(6) page 49 SN.762 he said there is a ticking on the left.

This witness though he doubles as polling agent the complaint he arranged on his table is not factually substantiated therefore not reliable.

His testimony is in conflict with Exhibit PO55-66, PO4(51-62) and Po226-233 and PO3H especially PO66(6) on accreditation and that his table at paragraph 6 of his deposition is rejected as proof of his complaints mentioned earlier. We do not accept his testimony for same is hearsay. The witness cannot give testimony in 12 Wards and their units at a go.

PW51 Page 923 Vol. 2
Joe Atohengbe

The witness was sworn on the Holy Bible and he speaks English. He adopted his deposition he made on the 19th day of October, 2016; and identified Exhibit PO165(1-10), PO166(1-9), PO167(1-7), PO168(1-10), PO169(1-10), PO170(1-11), PO171(1-6), PO172(1-10), PO173(1-9), PO367(1-6), PO4(154-163), PO3Q, PO335(1-9), PO344(1-9). The witness was a Local Government collation agent for the Petitioners for Uhumwade Local Government Area.

He is complaining of over voting, lack of accreditation and improper accounting of ballot papers and; irreconcilable entries in forms in:

Ward 1 units 3, 4, 5, 10.

Ward 2 units 3, 4 and 4

Ward 3 units 3, 4 and 5

Ward 4 units 1, 2, 5 and 7

Ward 5 units 3, 8, 10 and 11.

Ward 6 units 1, 4, 5, 6 and 10.

Ward 7 units 2, 3, 4, 5, 6, 7, 8, 10 and 11.

Ward 8 units 2, 3, 4

Ward 9 units 1, 5, 7, 8 and 9

Ward 10 units 1, 2, 3, 4, 5, 6, 8 and 9 of his Local Government.

Under cross examination, the witness said he voted at ward unit 4. He said it is not correct to say my paragraph was based on the reports of my agents. He admitted signing exhibit PO3Q being result for the Local Government Area. He said all his agents are alive. He said non-accreditation means the voters register was not ticked to the left. When Exhibit PO172(7) i.e ward 9 unit 7, the score of PDP is 78 and in his deposition on paragraph 3 it is 48.

The evidence of this witness is not reliable if we look at the sharp departure as between the PDP scores in his deposition and same on Exhibit PO172(7), ward 9 unit 7 where 78 was declared as against 48 in the deposition. He is not competent and worthy to believe his evidence of hearsay. Paragraph 7, 8 and 9 of his deposition cannot prove his complaints for they are in conflict with exhibits in relation to the wards and units. His testimony is not accepted.

PW52 Page 914 Vol. 2
Avannenren-Osarenren

The witness sworn on the Holy Bible and speaks English. He adopted his statement on Oath made on the 19th day of October, 2016; and identified Exhibit PO169(1-10), PO4(159), PO340(1-9). It is a ward collation agent for the Petitioners for ward 6 of Uhumwode Local Government Area. He complained about over voting, multiple voting, irreconcilable entries in Form EC8A and EC8B in relation to the voters register.

Under cross examination, he said he was accredited and voted at ward 6 unit 9. He had agents in all the units; and that he relied on the agent's reports to prepare his deposition. He also relied on the pink copies for the purpose. My agents, he said signed the result sheets but did not sign the collated result because there was no such collation. I did not put this complain in my deposition but I complained to the INEC officer. When the witness said "there was no accreditation". The witness means there is no ticking on the left side of the voters Register. He further confirmed that he does not know the names of these who were disenfranchised as he does not know also the means and number of persons who were induced with money though he made the allegations in his deposition.

Since the witness cannot prove his allegations under cross examination his evidence is nothing to rely upon. His evidence is hearsay as he relied on agents reports to raise his deposition. He has no direct evidence hence not worthy; his testimony is not accepted.

PW53 Page 894 Vol. 2
Albert Akanno

The witness sworn on the Holy Bible and speaks English. He identified and adopted his deposition made on the 19th day of October, 2016; and he also identified Exhibits PO165(1-10), PO4(154), PO335(1-9). He is a ward collation agent for ward 1 of Uhunmwode Local Government Area. He complained of over voting, multiple voting, irreconcilable entries in Form EC8A and EC8B in relation to the voters register and that there was electoral malpractices, intimidation, harassment of voters, disenfranchisement of eligible voters and allowing unqualified persons to vote.

Under cross examination, the witness confirmed that he voted at unit 6 ward 01. He alleged multiple voting but he did not know the names of those who did the multiple voting despite the fact that he had agents in all the units. He signed Exhibit PO4(154); and said that all the agents of his party are alive; and he did not hear the news of the death of any of the victims of disenfranchisement; and that he used pink copies and voters Register to raise his analysis.

The testimony of the witness is not reliable in that all the allegations he made under paragraph 8 of his deposition cannot be substantiated by evidence. He is a ward collation agent who had no direct evidence from his units.

His evidence is in conflict with the Exhibits before the Tribunal. His testimony is hereby rejected.

PW54 Page 892 Vol. 2
Felix Okoro

The witness sworn on the Holy Bible and speaks English. He also identified and adopted his deposition as well as identifying Exhibit PO173(9), and PO344(9). He served as the polling agent for the Petitioners for ward 10 unit 9 of Uhumwade Local Government Area. His complaints are lack of accreditation and improper accounting of ballot papers.

Under cross examination, the witness identified Exhibit PO344(9) where his name was found under voter number 737. He claimed that he voted but he denied being accredited. He also signed the result sheet and was given the pink copy result.

The witness made allegation of discrepancies in the used and unused ballot papers but without substance to be relied upon. Though a fit and proper witness being a polling unit agent he contradicted himself in his testimony.

PW55 Page 302 Vol. 2
Osarelin Alexander Ujanah

The witness sworn on the Holy Bible and speaks English. He identified and adopted his deposition. He also identified Exhibit PO18(1-9), PO4(14), PO209(1-8) and PO372. He served as a ward collation agent for the Petitioners for ward 4, unit 3 of Egor Local Government Area. He complained of lack of accreditation and improper accounting of ballot papers in units 2, 3, 4, 5, 6, 8 and 9 of his ward.

Under cross examination, he said he did not rely on the report of his agents and that he witnessed everything himself. He later said he believe the reports of his agents. He further said he went round the units one after the other. When the witness was asked whether he was at unit 9 from the beginning to the end. His answer was

"No"; He also admitted that he was not at units 2, 4, 5, 6 and 8 from the beginning to the end. He claimed that he voted but his name as per Exhibit PO209(3) was not ticked.

The evidence of this witness is not reliable for the fact that he is a ward collation agent who cannot be at all the units at the same time and his allegation of non-accountability of used and unused ballot papers under paragraph 5 and 6 is misleading and is therefore rejected.

PW56 Page 579 Vol. 2
Omesoke Festus Osasuyi

The witness sworn on the Holy Bible and speaks English. He identified and adopted his testimony made on the 19th day of October, 2016; and he also identified Exhibit PO8(1-8), PO4(63), PO270(1-8). He served as a ward collation agent for the Petitioners for ward 2 of Ovia South West Local Government Area. His complaints are lack of accreditation and improper accounting of ballot papers in ward 2 unit 4, 5 and 6.

Under cross examination, the witness stated that he was not in any of the units from the beginning to the end; and he was in his unit 1 when the result was declared. He confirmed that people were accredited and voted in his ward. He further confirmed that all their agents are alive. He said after checking the voters Register, he concluded that there was over voting in his ward.

The witness allegation of over voting is not established since he could not tell the Tribunal the votes that were affected, by the over voting; and no one knows whether the over voting affects all the units or part thereof. There is no first hand information to call for our belief in such allegation, the testimony is attached no weight.

PW57 Page 582 Vol. 2
Edo-Oya Omeruyi

The witness sworn on the Holy Bible and speaks English. He identified and adopted his sworn statement made on the 19th of October, 2016; He also identified

Exhibits PO69(1-11), PO4(65) and PO271(1-11). The witness was a ward collation agent for the Petitioners for ward 3 of Ovia South-West Local Government Area. His complaints are lack of accreditation and improper accounting of ballot papers in ward 3 units, 1, 2, 3, 6, 7, 8, 9, 10 of the Local Government.

Under cross examination, the witness confirmed that he voted at unit 1 ward 3. He said he witnessed counting and declaration of the result of his unit; and his agents signed the results; He also signed Exhibit PO4(65).

The evidence of this witness is not worthy of belief because he is ward collation agent who received information from agents; and that he used voter's Registers to make this tabulation is far from truth because voters Registers were certified on the 20th of October, 2016 and this deposition was filed on the 19th of October, 2016. This testimony has no evidential value at all; it's not accepted.

PW58 Page 630 Vol. 2
Imafidon Osabouchiers

The witness sworn on the Holy Bible and speaks English. He identified and adopted his written deposition dated 19th October, 2016; and also identified Exhibits PO681(4) and PO270(4). The witness was a polling agent of the Petitioners for unit 4 and ward 2 of Ovia South-West Local Government Area. His complaint is irreconcilable entries in the voter's register and Form EC8A of unit 4 of ward 2.

Under cross examination the witness by his paragraph 2 alleged that there was over voting because on the voters Register there is 300 and on Forms EC8A there is 338 as accredited voters. He said he relied on the result sheet and the voters Register to arrive at the conclusion in paragraph 3 vide Exhibit PO68(4) the number of accredited voters is 336 which was cancelled and replaced with 333 on the Exhibit. There is figure 338 on the Exhibit.

This witness is only misled. Now, Exhibit PO68(4) had the figure of accredited voters thus: 333 and the score of APC is 182 and PDP 130 therefore, $182 + 130 = 312$

total votes cast of 312 is subtracted from 333 we have the balance of $333-312=21$. Therefore there is no over voting here.

PW59 Page Vol. 2
Omoria Frank

The witness sworn on the Holy Bible and speaks English. He identified and adopted his deposition filed on the 19th day of October, 2016. He also identified Exhibit PO69(1) and PO271(12). He is a party agent for the Petitioners at unit 1 of Ovia South-West Local Government. His complaint is irreconcilable entries in the voters register and Form EC8A for unit 1 of ward 3.

Under cross examination, the witness said that he was present when the result was entered and declared; and that he signed it. As per Exhibit PO271(1). There was partial accreditation in that Serial No. 551 and also NO. 630 but Serial No. 615 and 635 were accredited but not fully ticked on the exhibit but the witness agreed that this serves as accreditation as well. Having checked Exhibit PO96(1) and discovered that the votes of APC and PDP are 142 and 98 respectively while the no of accredited voters is 255 contrary to the deposition of this witness.

He is not a reliable witness and do not accept his testimony.

PW60 Page 593 Vol. 2
Aiyanyor Daius

The witness sworn on the Holy Bible and speaks English. He identified and adopted his deposition filed on the 19th day of October, 2016 and he identified Exhibits PO72(1-6), PO4(68) and PO274(1-6). He was the ward collation agent for the Petitioner for ward 6 of Ovia South-West Local Government Area. His complaints are lack of accreditation and improper accounting of ballot paper in ward 6 units 2, 3, 4, and 5.

Under cross examination, the witness the identified Exhibit PO4(68) as being the ward result that he signed. He also identified Exhibit PO72(1-2) being result sheets for the ward and that all his agents signed the results. He said further that it is correct to say that the CTC of election documents were obtained on 17/10/2016. He

further confirmed that his party agents in units 2, 3, 4 and 5 of ward 6 are alive. On paragraph 5(d) of the deposition he said the number of accredited voters in the voters register is 256 and the number on Form EC8A is 273. The return of 273 used ballot papers is more than the 256 accredited in the voters register for APC had 151 and PDP 103 = 254. On this issue, the witness was shown exhibit PO274(5) and was asked to count and he counted 265 as number of tickings to the left on the voter register.

We have examined the voters register for the unit. We found that the number of accredited voters is 267 and the total votes cast is 265. The witness apart from being a ward collation agent, he has been impeached under cross examination.

We therefore ascribe no value to his testimony.

PW61 Page 589 Vol. 2

Ifemidon Osaretin

The witness sworn on the Holy Bible and speaks English. He identified and adopted his deposition made on the 19th day of October, 2016; and also identified Exhibits PO71(1-15), PO4(67) and PO273(1-15). The witness was a ward collation agent for the Petitioners for ward 5 of Ovia South-West Local Government Area. His complaints are lack of accreditation and improper accounting of ballot papers in ward 5 units 1, 3, 4, 5, 8, 10, 11, 12, 13, 14, 15.

Under cross examination, the witness told this Tribunal that he had no access to Exhibits PO273 (1) and (2) and that he made his tabulations on the day of the election. He said, his party appointed agents for all the units; and that he was not in all the units at the same time; He said he voted at unit 7 and was not at unit 3 when accreditation was completed; he further said that he could not be at all the units at the conclusion of the election. He said there was no accreditation in units 11 and 12 because no ticking to the left of the voter's register. He said the figure in my paragraph 4(a) is 1004 but when was confronted with Exhibit PO71 on the number of used ballot paper is 259

and the unused is 750 which equals to 1009 and not 1004 per paragraph 4(a) of the deposition.

The witness is not credible being a ward collation agent with no first hand information in relation to the units under is ward; Exhibit PO71(1) contradicts paragraph 4 (a) of his deposition concerning accreditation; his testimony is rejected.

PW62 Page 752 Vol. 2

Osaro Idehen

The witness sworn on the Holy Bible and speaks English. He identified and adopted his deposition made on the 19th day of October, 2016; and also identified Exhibits PO274(4), PO72(2); He is an agent at unit 4 of Ward 6. His complaint is irreconcilable entries in the voter's registers and Form EC8A for unit 4 of ward 6.

Under cross examination, the witness said he did not inspect voter's register. Afterwards he said, he inspected the voter's register after the election; and that he inspected the voter's register alone. He added that the number of tickings determine the number of accredited voters. He confirmed that the only document he had was the pink copy given to him by the Presiding Officer of INEC; and that accreditation and voting were done simultaneously. He further confirmed that number of tickings on Exhibit PO274(4) is not more than 330; and the number of accredited voters as per Form EC8A is 338; and the return of 338 used ballot papers is more than the 330 accredited voters on the voter's register.

The witness is not credible because he contradicted himself on issue of inspection of voter's register; and at the time he was preparing paragraph 4 of his deposition he had no opportunity to compare Exhibit PO274(4) with Form EC8A to determine the actual number of accredited voters on each because the exhibit was only available on the 20th of October, 2016 and the deposition was filed on the 19th October, 2016.

PW63 Page 507 Vol. 2

Stanley Omohegbeanu

The witness sworn on the Holy Bible and speaks English. He identified and adopted his deposition made on the 19th day of October, 2016. He also identified Exhibits PO3P, PO4(101-111), PO112-122 and PO238-248. The witness is a ward collation agent for the Petitioners. The witness complained of lack of accreditation and irreconcilable entries in the voter's register and Form EC8A for unit 8 of Ward 10.

Under cross examination, he said the party appointed polling agents in all the 150 units of the Local Government; and that the agents report to him; he further said where there is only one ticking in a voter's register it means the voter was accredited. He admitted further that his table did not provide column for the complaints of over voting and non-accreditation for improper accreditation. He stated in his deposition that the score of PDP is 140 but Exhibit PO122(8) showed the score is 89, also in his deposition the score of APC is 37 while on exhibit PO122(13) it is 38.

The witness is not credible; he is a ward collation agent who relied on reports of his agent for his deposition.

PW64 Page 890 Vol. 2

Ojika Ozumor Raymond

The witness sworn on the Holy Bible and speaks English. He identified and adopted his deposition filed on the 19th day of October, 2016 and he also identified Exhibits PO174(8), PO344(8); he was polling agent for unit 8 ward 10 of Ugunmwo Local Government Area.

Under cross examination, the witness said he signed the result of his unit and was given a pink copy; he further said that 3 officers were doing the accreditation. The Presiding Officer and 2 others he said it is on that day that he observed that the votes cast exceeded the number of accredited voters; he based his observation on Form EC8A; he confirmed being accredited and voted at his unit; he claimed that the number of accredited voters in the voters register is 243 as per paragraph 4 of his

deposition when he was confronted with Exhibit PO173(8), it was found that the number of accredited voters is 440 not 243.

This witness is not credible; paragraph 4 of his deposition is in conflict with Exhibit PO173(8); his testimony is not reliable; and therefore rejected.

PW65 Page 1954 Vol. 4

Uloto Michael Idamabamha

The witness sworn on the Holy Bible and speaks English; he identified and adopted his sworn statement made on the 19th day of October, 2016; and also identified Exhibits PO30(8) and PO254(8). The witness was a party agent at unit 8 of ward 6 of Etsako Central Local Government Area. He complained of lack of accreditation in unit 8 ward 6.

Under cross examination, the witness said paragraph 6 of the deposition is not his statement and that he did not see the Presiding Officer on the day of the election; though nowhere did the witness mention the scores of parties in his deposition, he maintained that he did so. Exhibit PO30(8) showed the number of valid votes as 308 but page 209 of the petition gave 330 as the total valid votes cast.

This witness is not credible because there is no scores of the parties in the deposition; and the conflict between Exhibit PO30(8) which gave figure 308 as the votes cast and page 209 of the petition which gave figure 330 as the votes cast.

PW66 Page 802 Vol. 2

Roland Ileveaosa

The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition made on the 19th day of October, 2016; and also identified Exhibits PO165(5) and PO335(5). The witness was a polling agent for unit 6 of ward 1 Uhunmwode Local Government Area. The witness complained of lack of accreditation at unit 5 of ward 1.

Under cross examination, the witness conceded that the number of accredited voters is 625 as per Exhibit PO165(5); and he conceded also the score of APC of 324

and of PDP of 275 plus the score of 13 votes of other parties which gave the figure of 612 did not exceed the figure of the accredited voters which stands at 625.

The evidence of this witness has been discredited under cross examination.

PW67 Page 854 Vol. 2

Obesoyi Felix

The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition made on the 19th day of October, 2016; and also identified Exhibits PO170(7), PO341(7); he was a polling agent for unit 7 of ward 7 of Ugunmwa Local Government Area. He complained of lack of accreditation and irreconcilable entries in the voter's register and Form EC8A for unit 7 ward 7.

Under cross examination, the witness was confronted with Exhibit PO170(7) wherein he said the total votes of parties is 134 which is less than the number of the accredited voters which is 137 to show that there was no over voting there; and he further stated that to have over voting, the number of votes cast exceeded the number of accredited voters which did not happen here. The witness further stated that there are tickings to the left and to the right on Exhibit PO341(7), and some ticked only once; and that he did not consider those ticked to the right as having been accredited.

The testimony of this witness has been discredited under cross examination by reason of conflict between paragraph 4 of his deposition and Exhibit PO170(7).

PW68 Page 305 Vol. 2

Osawe Liberty

The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition and also identified Exhibits PO19(1-12), PO4(25) and PO210(1-12); He is a ward collation agent for Ward 5 of Egor Local Government Area. His complaints are over voting, lack of accreditation and improper accounting of ballot paper in unit 1, 2, 3, 6, 7, 8, 9, 10, 11, and 12 of ward 5.

Under cross examination, the witness conceded that the total of votes cast for PDP and APC in all the units except unit 8 is less than accredited voters; and he said

he did not list the other parties on his table because he is not their agent. He further said he was not in all the units when votes were counted but was in units 8 where he voted. The witness insisted that he used Exhibit PO210(8) to prepare his deposition filed on the 19th of October, 2016 despite the fact that the Exhibit was certified on the 20th day of October, 2016 and he agreed that 19th October, 2016 is earlier than 20th October, 2016. He further conceded that his table is at variance with the Exhibit for example Exhibit PO19(1), the number of accredited voters is 355 and 352 on the table; Exhibit PO19(2), the number of accredited voters is 382 and 380 on the table; and on Exhibit PO19(6), the number of accredited voters is 235 and 234 on the table; and on Exhibit PO19(7), the number of accredited voters is 469 and 406 on the table; and on Exhibit PO19(8), the number of accredited voters is 414 and 'O' on the table; and on Exhibit PO19(9), the number of accredited voters is 272 and 268 on the table; and on Exhibit PO19(10), the number of accredited voters is 196 and 192 on the table.

The testimony is discredited if his table under paragraph 6 of his deposition is compared with the Exhibits and that being a ward collation agent, he has no direct information from the units under review; his table will not prove his complaints in that there is no column which indicates the votes attracted by over voting and lack of accreditation on the table; it is of no effect as it is misleading; his testimony is squarely rejected as being hearsay.

PW69 page 1728 Vol. 3

Comrade Braimon Gabriel Olionah

The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition made on the 19th day of October, 2016; and also identified Exhibits PO93(1-11), PO4(82) and PO295(1-12); he was a ward collation agent for the Petitioners for ward 4 of Owan East Local Government Area. The complaints of the witness are over voting, multiple voting, irreconcilable entries in Form EC8A and EC8B in relation to the voter's register in ward 4 units 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12.

Under cross examination, the witness stated that accreditation is determined by ticks on the left; and that accreditation and voting took place at the same time; he further said in most cases, the number of accredited voters do not tally with the votes cast; the witness confirmed that he was accredited voted at unit 6 and ward 4. On his paragraph 8 he gave APC 124 vote however on Exhibit PO93(11) the APC score is 140 and 93 for PDP, despite the above, the witness in further cross examination insisted that Exhibit PO93 (11) and paragraph 8(j) and (i) are the same. It is worthy of note that paragraph 8(i) and (j), of the deposition are the same with the petition as captured at page 154.

This testimony is discredited for it is in conflict with the exhibits tendered and that the evidence of the witness is hearsay as it is not direct.

PW70 Page 1743 Vol. 3

Eugene Festus Owu

The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition made on the 19th day of October, 2016; and also identified Exhibits PO98(1-17), PO4(87) and PO300(1-17). The witness is a ward collation agent for ward 9 of Owan East Local Government Area. The witness complained of over voting, multiple voting, irreconcilable entries as between voters' register and Forms EC8A and EC8B ward 9 units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 14, 15 16 and 17.

Under cross examination, the witness stated that he was not stationed in all the 17 units of the ward; and he was not in each unit during accreditation; he further conceded that Exhibit PO98(1) the score of PDP is 50 while on paragraph 8(c), it is 51; and on Exhibit PO98(9), the score of PDP is 117 while on paragraph 8(d), it is 177. The witness accepted that as per Exhibit PO98(17) if the number of ballot paper used is 324 and the number of accredited voters is 325. There is no over voting; and that he signed Exhibit PO4(87).

The evidence of this witness has been discredited hence became worthless; and even if same is not discredited his evidence is hearsay.

PW71 Page 1740 Vol. 3
Chief Kashimawo Ostin Ajakaye

The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 19th day of October, 2016 and also identified Exhibits PO97(1-17), PO4(86) and PO299(1-17); he served also as the ward collation agent for ward 8 of Owan East Local Government Area.

Under cross examination, the witness stated in paragraph 8 of the deposition that 351 voted but Exhibit PO97(16), the number of persons voted are 517; and in paragraph 8, he said that 239 voted but in Exhibit PO97(17) 234 voted; and the number of registered voters as per Exhibit PO97(1) is 435 while in his deposition it is 247; and in Exhibit PO97(2), the number of accredited voters is 391 while in the deposition it is 274.

It is clear that the testimony of this witness has been discredited under cross examination and thereafter cannot be relied upon for the inherent conflict between the deposition and exhibits PO97(16), PO97(17), PO97(1) and PO97(2) with which the witness was confronted during cross examination; His testimony is hereby rejected.

SUMMARY OF EVIDENCE OF PW^S

The Petitioners witnesses based on what they called security reasons had acronyms as their names. However, in the cause of their testimonies before the Tribunal stated their real names for purpose of proper identification. We shall use the two identities.

PW72: (Onen 10) Omorogieva Osayemweme

The witness adopted his written statement on oath and stated he was the ward collation agent for PDP in ward 10 Ovia North-East Local Government Area of Edo State. He adopted Exhibit PO370(5), PO86(1-13) and PO288(1-13).

He stated in paragraph 4(c) of his deposition that there was no accreditation.

Under cross examination and when confronted with Exhibit PO288(8), the voter's register for the unit, he confirmed that the voters register was ticked to the left and right and that he signed Exhibit PO370(5). He gave evidence of that happened in

all the polling units in ward 10 based on information from the polling unit agents. Because of hearsay evidence and false claims of non-accreditation, we do not accept his testimony.

PW73: (Onew 12) Mrs. Elizabeth Idomwandaghon

This witness adopted her deposition and stated she was the ward collation agent for the Petitioners in Ward 12 Ovia North-East Local Government Area of Edo State. She identified Exhibit PO4(78), PO88(1-13) and PO290(1-13).

She stated in paragraph 4(f) of her deposition that there was no accreditation in the units.

Under cross examination, she admitted that everything she said in her deposition was correct. She admitted there were tickings in Exhibit PO290. The Petitioners had agents in all the polling units. She said, she saw the voter's register for the 1st time at the party secretariat on 19/10/2016. The witness deposition covered the units in the ward but admitted the units are scattered but accessible. Her claim of non-accreditation is false as shown on Exhibit PO290. Her evidence regarding other units is hearsay. We do not accept her testimony.

PW74: (Onew 5) Jonah Osazuwa:

Witness adopted his deposition and stated he was the Petitioners ward collation agent for Ward 5 in Ovia North-East Local Government Area of Edo State. He identified Exhibit PO370(31), PO283(1-8) and PO81(1-8).

He stated in paragraph 4 a-b of his deposition that there was over voting in units 1 and 5. He maintained he was not present when entries were made in units 1 and 5.

Under cross examination he admitted he did not know what led to the entries. Under further cross examination, witness said he signed Exhibit PO81(3) for the Petitioners and that he has many signature. Witness further admitted he signed Exhibit PO370 (3) as ward collation agent but that one Festus Imasun was the party agent.

Comments: His deposition is based on information he received from unit party agent which constitute hearsay which is not admissible. We do not accept his testimony.

PW75 (ONEW 12): Johnbull O. Idehen

The witness adopted his deposition and states he was the PDP polling agent for polling unit 11 ward 12. Ovia North East Local Government Area of Edo State. The witness identified Exhibit PO88(11) and PO290(11).

He stated in paragraph 3 of his deposition that accreditation and distribution of ballot papers to voters were done simultaneously. Cross-examined the witness said that 234 voters were accredited but 239 votes were recorded. He does not know those who voted multiply and for which party. Further cross-examined witness stated he was at the polling unit throughout the election.

Comment: This witness was discredited under cross examination when Exhibit PO88(11) was shown to him who said the number of accredited voters is 234 which according to him is not correct as it contradicts what he said in his deposition. That apart, his testimony on other polling units is hearsay. We do not believe him.

PW76: (ONEW 2): Alohan Osakpanwon:

The witness adopted his deposition and states he was the PDP polling unit agent in Ward 2 and unit 3 Ovia North-East Local Government Area of Edo State. The witness identified Exhibit PO78(3) and PO280(3).

Witness stated in paragraph 3 of his deposition that accreditation and distribution of ballot papers to vote were done simultaneously. That total voters accredited was 273 but votes cast was 275. He also alleged some malpractices in favour of 2nd Respondent.

Under cross-examination, witness said he did not witness collation of result and does not know people who voted multiply. He maintained his depositions in paragraph 4 and 5. Maintained he was at the polling unit till the end of election and arrived before INEC officials. When he was confronted with Exhibit PO78(3), the voter's register of his unit, he said, he does not know.

Comments: the number of accredited voters here is 234. This alone has discredited his testimony and we so hold.

PW77(ONEW 4 U 4): Ekhatior Peter:

The witness adopted his deposition and stated he was the PDP polling unit agent for ward 4 unit 4, Ovia North-East Local Government Area of Edo State. Witness identified Exhibits PO80(4) and PO282(4). Witness stated in paragraph 3 of his deposition that accreditation and distribution of ballot papers to voters were done simultaneously.

In paragraph 4, he stated that total votes accredited was 198 but the total votes cast was 389. The witness alluded to malpractices in favour of the 2nd Respondent and non compliance.

Under cross examination, witness said he was not in possession of the voter's Register on the election day and was at the ward collation center. Confronted with PO80(4) which contains 392 accredited voters witness said it was not correct. Further cross examined witness admitted he signed PO80(4) but does not know who voted more than once. He admitted there was no problem at the polling unit that is why he stayed till the end of election. The witness answers under cross examination are at variance with his deposition in paragraph 5 hence we hold that his testimony has been rendered unreliable.

PW78 (ONEW 12 U 12): Omorogbe Osazemwan Stanley

The witness adopted his deposition and states that he was the polling agent of PDP in ward 12 unit 12 of Ovia North-East Local Government Area of Edo State. Witness identified Exhibit PO88(12) and PO290(12). Witness stated in paragraph 3 that there was no accreditation in unit 12 but the total votes cast was 252. He made allegation of non compliance, over voting multiple voting, wrongful collection of result of the election in favour of the 2nd Respondent.

Under cross examination witness said collation was not done at the polling unit but that he signed the result. He stated that there are 2 voting points in the unit.

Witness maintained that there was no accreditation and does not know those who voted more than once. Witness said there were other party agents present at the polling unit. He did not witness the counting of votes.

Comment: The witness has not been able to establish the allegations contained in paragraphs 3 and 4 of his deposition. We do not therefore accept his testimony.

PW79 (ONEW 12 U 6) Osareren Edomwandagbon

This witness adopted his deposition and stated that he was the polling agent for PDP in ward 12 Unit 6 Ovia North East Local Government Area of Edo State. Witness identified Exhibits PO88(6) and PO290(6). Witness stated in paragraph 3 of his deposition that accreditation and distribution of ballot papers were done simultaneously. He said total accreditation in Unit 6 as indicated by the voter's register was 242 but the total votes cast was 245.

Witness in paragraph 5 of his deposition alleged non-accreditation, non-compliance, over voting, multiple voting wrongful collation of results in favour of the 2nd Respondent etc.

Under cross examination, witness said there was no accreditation. That all the agents and voters were not allowed into the voting center and does not know how many voters voted more than once and that the number of accredited votes is 242 instead of 246.

Witness admitted that the total votes cast from PO88(6) is 239. Witness stated he did not vote because he lost his voter's card and those who were not there were recorded to have voted. He does not know the names of those who were not there but voted. He admitted there were security men in the polling unit.

Comment: This witness somersaulted under cross examination as the answers he gave are not in tandem with his deposition especially on figure. When Exhibit PO88(6) was shown to him and he said the number of accredited voters here is 239 and not 242 as he stated in his deposition. We do not therefore accept his testimony.

PW80 (AAKL): Omomia Peter:

The witness adopted his deposition and states that he was the PDP polling agent for ward 11 unit 029, Oredo Local Government Area of Edo State. Witness identified Exhibit PO153(25) and PO333(28). Witness stated that he has personal knowledge of information in his deposition. That he was present at the polling unit from the beginning to the end of polls. In paragraph 5 of the deposition he claims that the number of accredited voters is 242 but 249 voted. When confronted with Exhibit PO153(29), he said the number of accredited voters here is 249 and not 242 in my deposition.

Under cross examination, the witness maintained that the figure 242 was the total accredited voters for the unit but was shown to be 249. Witness says he was accredited to vote as evidenced by PO333(25) Serial No. 623. Witness further said card reader did not work but accreditation was done by manual. Witness said other party agent and security men were present at the polling unit.

Comment: This witness has been discredited under cross examination. We do not believe him even though a competent witness.

PW81(A.AKB) Ifijaeh Augustine Oruamen

The witness adopted his deposition and stated that he was the PDP polling unit agent for ward 11 unit 005 of Oredo Local Government Area of Edo State. Witness identified Exhibit PO153(5) and PO333(5). Witness stated that his deposition is borne out of his personal knowledge. That he was present at the polling unit from the beginning to the end of election. In paragraph 5 of the deposition he acknowledged that there was accreditation and that the result of the polling showing that the 2nd and 3rd Respondent scored 96 votes while Petitioners scored 73 votes.

Under cross examination, the witness said he complained about the anomalies to INEC but that the letter was not here with him. He also reported to his party but was surprise his party did not tender the letter. When confronted with the voter's register in his unit Exhibit PO153(5) he said the number of accredited voters here is 177. The total votes cast is 177 as against the vote cast which is 175.

Comment: This witness though competent as the polling unit but was discredited under cross examination. We do not therefore accept his testimony.

PW82 (OKPA 12) Legema Omo Kenneth

Witness adopted his deposition and stated that he was the PDP polling agent in ward 2 unit 10 Orhionmwon Local Government Area of Edo State. Witness identified Exhibit PO185(10) and PO356(10).

In paragraph 2 of his deposition witness stated that the content of his deposition is within his personal knowledge. In paragraph 5 of the deposition witness deposed to the fact that the total accreditation was 194 while the total votes cast was 196. He maintained that the results are 147 votes for APC and 43 votes for Petitioners.

Under cross examination, witness maintained that his deposition was correct. Further cross examined the witness was confused with figures he earlier quoted. He said, he was at the polling unit from the beginning of voting to the end. He signed the result under protest. He saw the CTC before 19/10/2016.

Comment: The witness was discredited under cross examination as he was not sure of his answer. We therefore disbelieve him.

PW83(ORPA 41) Celestine Iseregwu.

The witness adopted his deposition and stated he was PDP polling agent for ward 10 unit 003 Orhionmwon Local Government Area of Edo State. Witness identified Exhibit PO193(3) and PO364(3). Witness said in paragraph 6 that there was over voting in his polling unit based on the figure he calculated.

Under cross examination witness said he got total vote cast in the election from his party through the pink copy. The total vote cast is 235. The witness further said he signed PO193(3) and still stands by his deposition in paragraph 5. He said he voted after accreditation and other party agent also did. He said he raised the issue of accreditation but INEC said he cannot teach them their job on being shown Exhibit PO193(3), he said by the exhibit the total number of valid votes cast is 228 and not

241. The testimony of this witness is impeached under cross examination. We do not therefore believe him.

PW84(AAHA) Osamudiden Smarth:

Witness adopted his deposition as his evidence and stated that he was a polling unit agent for PDP in ward 8 unit 018 Oredo Local Government Area of Edo State. Witness identified Exhibits PO150(18) and PO330(18).

Witness in paragraph 5 of the deposition state that there was over voting in his unit which showed 151 accredited voters and 155 total votes cast.

In paragraph 7 of the deposition under cross examination, the witness shown Exhibit PO150(18) who said that the number of accredited voters in PO150(18) is 155 which is different from what is contained in the pink copy result. Witness did not tender the said pink copy result. Witness admitted he signed the result and that he voted in unit 018 and was accredited like others. He was after signing the result that he started alleging over voting.

Comment: Witness discredited under cross examination when Exhibit PO150(18) was shown to him. We do not accept his testimony.

PW85: A subpoenaed witness INEC official – Ahmed Salma an administrative officer with INEC. The witness said my boss asked me to come and show these bags of used voter's card in the disputed election of 28/9/2016. His subpoena tendered and marked as Exhibit PO402. This witness was not cross examined as he was merely on subpoena Duces Tecum.

PW85A (ESWLG 7) Hon. Dr. Felix Akhabub:

Witness adopted his deposition as his evidence and stated that he was the ward collation agent for PDP in Ward 7 Esan West Local Government Area of Edo State. Witness identified Exhibit PO180(1-15), PO4(170) and PO351(1-15).

The witness stated in paragraph 5 that there were cases of over voting, improper accreditation, lack of accreditation irreconcilable entries etc.

Under cross examination, the witness said he did make a formal report in respect of his depositions in paragraph 6, 7, 8, 9 and 10 but gave same to the returning officer not to his party. Witness confirmed the PO180(1-15) is the unit result for ward 01 and confirmed that APC scored 108 votes and PDP scored 67 votes.

Witness said they had agents in all the polling units and that he was accredited and he voted and signed PO4(170).

Comments: This witness being a ward collation agent cannot give evidence of what happened at the polling units other than the one he voted. He was however shaken under cross examination. His allegation of malpractice could not be proved.

PW86 (ESWLG 1) Ukurebor Solomon

Witness adopted his deposition as his evidence and stated that he is the ward collation agent for PDP in Ward 1 of Esan West Local Government Area of Edo State. Witness identified Exhibits PO174(1-10), PO4(164) and PO345(1-10).

The witness stated in paragraph 5 and 6 of the deposition that there was no accreditation and enumerated all the malpractices and non-compliance with the Electoral Act, 2010 (as amended) and the manual for Election officials, 2016.

Under cross examination, the witness said he based his allegations in paragraphs 5 and 6 of Form EC8A and EC8B. Witness confirms there was only one ticking in PO345(8) but said in paragraph 9 that there was no accreditation. When asked whether counterpart original and pink copy result are the same documents, witness refused to answer.

Comment: This is an evasive witness who remained dormant when a question was thrown to him under cross examination. We do not accept his testimony.

PW87(ESWLG2) Ojemheke Paul:

Witness adopted his deposition as his evidence and stated that he was the ward collation agent for ward 2 of Esan West Local Government Area of Edo State. The witness identified Exhibits PO175(1-9), PO4(165) and PO346(1-8). The witness

stated in paragraphs 5 and 6 of his deposition that there were glaring cases of malpractices, no accreditation, over voting, non-compliance etc.

Under cross examination, the witness said he voted in unit 001 and left after he remained there for a short time. The voters Register was all the time with Presiding Officer. He said, his perusal of the voters Register and EC8A showed over voting. Witness confirmed there was Serial No. on PO175(1). Witness stated in paragraph 6 of his deposition that there were unlawful cancellations on the results but did not state the specific areas where the cancellation were done and areas where figures were inflated. Witness said he signed PO4(165) and the unit agents signed PO175(1-9) with complaint. He said he was not in all the units at the same time.

Comment: The evidence of this witness cannot be reliable as the evidence of a polling unit agent who was an eye witness of all his depositions. Having admitted under cross examination, he was not at all the units at the same time. We therefore attach a very light weight to his evidence. More so, when his testimony is on irregularities general which are generic with no specifications.

PW88 (ESWLG 4): Joseph Agbon:

Witness adopted his deposition as his evidence and stated that he was the ward collation agent for PDP in Ward 4 of Esan West Local Government Area of Edo State. Witness identified Exhibits PO4(167), PO348(1-16) and PO177(1-15).

Witness stated in paragraphs 5 and 6 of his deposition that there was no accreditation, over voting improper accreditation without the use of voter's register, irreconcilable entries in Form EC8A and EC8B and non-compliance with the Electoral Act, 2010 (as amended).

Under cross examination, the witness said he voted in Unit 6 and that at the end of the election, he concluded there was over voting in unit 5 but not through the voter's register. Witness stated, he did not state specific unit of unlawful cancellation in his deposition. Confirms the score for APC is 244. Witness said he signed

PO4(167) after entries have been made and there is a voting point and 2 voter's registers which made up PO4(167).

Comments: This witness who voted in polling unit 6 gave evidence as to what happened in unit 5. His testimony got a bruise under cross examination as he merely chorused the deposition of PW86 and PW87. We do not therefore ascribe value to his testimony.

PW89(ESWLG 9): Hon. Zuberious Edeoghon:

Witness adopted his deposition as his evidence and stated that he was the PDP ward collation agent in Ward 09 of Esan West Local Government Area of Edo State. Witness identified Exhibit PO182(1-11), PO4(172) and PO353(1-11).

Witness stated in paragraph 5 and 6 of his deposition that there were cases of over voting, improper accreditation, lack of accreditation with the use of voter's register, irreconcilable entries in Form EC8A and EC8B and non-compliant with the Electoral Act, 2010 (as amended) and the manual for Election officials, 2016.

Under cross examination, the witness admitted that election in ward 9 was regularly conducted apart from unit 3. Witness said he voted in unit 3 and there was over voting. Witness confirmed PO182 (1-11) had serial numbers at the left hand side. He said there were entries in all columns in PO4(172) and he did not state the specific unit where there was unlawful cancellation. Witness did not give any answer when asked whether he still stood by paragraphs 6 and 8 of his deposition. He said they have agents in all the units and he signed the unit result. He also signed PO4(172).

Comments: This witness could not substantiate the allegations made in his deposition which were also badly discredited under cross examination. His reference to other units apart from unit 3 is hearsay evidence.

PW90(OSW1): Asemota Festus:

Witness adopted his deposition as his evidence and states that he was the ward collation agent for PDP in ward 1 in Ovia South West Local Government Area of Edo State. Witness identified Exhibits PO67(1-9), PO4(63) and PO269(1-9).

Witness state in paragraph 4 (a-c) that there was no accreditation in unit 001 and 009 and non-compliance with the Electoral Act, 2010 (as amended) and the manual for Electoral officials, 2016. Under cross examination the witness said his party had agent in all the polling units. That his deposition is based on what he observed and what the agents told him. He visited 7 units. He denied there was no ticking on PO269(1). When confronted with serial Nos. 36, 37 and 39, witness admitted there were tickings. He admitted he used PO269(8) in concluding his deposition on Oath.

Comments: This witness apart from the unit where he voted, all other evidence in respected of the other units are hearsay. Moreover, his testimony was discredited by confronting him with Exhibit PO269 in which he confirmed accreditation. We do not believe his testimony.

PW91-A: A subpoenaed witness Otikpere Morrison:

His subpoena is tendered and marked as Exhibit PO403. Witness adopted his deposition on oath as his evidence. He identified Exhibits PO4(131), PO142(1-29) and PO322(1-29).

Under cross examination, the witness said he was invited to appear before the Tribunal via subpoena. He admitted he made a report to his party AA after the election. The witness party did not file petition against the election.

The deputy Governorship candidate of AA party is Mrs. Rita Ewere Osagie.

Witness admitted he did not sign any of the Exhibits he identified. The witness admitted he was a member of PPA Benin City. The said application was admitted in evidence and marked as Exhibit 2R02-02.

Witness admitted that their party AA agent signed on only 5 unit results for their party.

Comments: The witness testimonies do not seem to help the Petitioners case. He stated in chief that he belongs to a political party known as AA. AA has not filed a petition before the Tribunal. AA has not applied for CTC of voter's registers and other electoral forms. From where did this witness get all information regarding the petition.

We have closely observed the demeanor of the witness. We do not feel he is a witness of truth. We do not therefore accept his testimony.

We will now consider the evidence adduced on Local Government basis.

1. In Akoko Edo Local Government, the following witness gave evidence that is PW2, PW3, PW4, PW5, PW6, PW7, PW8, PW9, PW17, PW18, PW19, PW20, PW21 and PW27.

6 out of the witness that testified in the Local Government are ward collation agents who gave evidence regarding the wards consisting of several polling units.

The Supreme Court in the case of Uche vs. Elechi (supra) and Gundir vs. Nyako (2014) 2 NWLR (Pt. 1391) 211 held that the evidence of one witness spanning (11) eleven polling units was insufficient to establish irregularities alleged therein.

The testimony of the 6 ward collation agents in this Local Government is hearsay. We do not believe them.

Similarly, the testimonies of polling unit agents that testified were discredited under cross examination. We do not therefore accept their evidence.

The Petitioners therefore not proved the case of non-compliance with Local Government and we so hold.

2. Egor Local Government: In this Local Government, the following witnesses testified for the Petitioners, PW36, PW37, PW38, PW39, PW40, PW41, PW55 and PW68.

7 out of the witnesses that testified for the Petitioners are ward collation agents whose evidence are not reliable as it amounts to hearsay as none of them was a polling agent. By the authority of Uche vs. Elechi (supra) and Gundire vs. Nyako (supra), they are not reliable witnesses.

Similarly, PW55 was the Local Government collation officer who gave evidence of what transpired in all the wards and units in the Local Government Area. We weight to be attached to his testimony depend on whether he was in any unit or not. He stated under cross examination that he was only in one unit in his Local Government that being the case he is not fit to testified in any unit other than the one he voted. We do not therefore accept his testimonies.

It is our view that the Petitioners have not proved their allegation of malpractice in this Local Government and we so hold.

3. Etsako Central: Only one witness gave evidence in this Local Government Area. He is PW65 who is a Local Government collation officer of PDP and who testified on numerous units and ward in the Local Government.

This witness adopted his deposition at PP2643 – 2644 without correcting the nomenclature of the Local Government. His deposition reads Etsako Local Government Area. We do not have Etsako Local Government Area. We only have Etsako East, West and Central in Edo State.

This mistake aside, the entirety of the deposition of this witness is hearsay because he gave evidence on what transpired in polling units when he was not a polling agent.

We do not therefore accept his testimony.

4. ETSAKO EAST LOCAL GOVERNMENT AREA: PW10, PW11, PW12, PW13, PW14, PW15 and PW16 gave evidence in this Local Government. They are all ward collation agents who testified in respect of 10 wards and

89 polling units. None of them was a polling unit agent who saw what happened in the polling unit and who can give direct evidence.

By the decision of the apex court in *Gundire vs. Nyako* (supra), their evidence is not reliable.

We do not therefore believe them.

5. ORHIONMWO LOCAL GOVERNMENT AREA: PW1, PW42, PW45, PW82 and PW83.

PW42 and PW45 are ward collation agents who testified in respect of several polling units on their wards. They did not give first hand information of what transpired in the units they testified on.

Their evidence is hearsay.

Similarly PW82 and PW83 though polling units agent who were competent to testify as to what happened in their units but were impeached under cross examination.

Similarly, PW1, the 1st Petitioner testified in the Local Government Area. His evidence was akin to PW45, Mr. Olushola Olle in the case of *Oke vs. Mimiko (2014) 1 NWLR (Pt. 1388) 332* where the Supreme Court endorsed the finding of both the Tribunal and Court of Appeal that the swamping evidence of PW45 was insufficient to prove the allegation of non-compliance in the polling unit.

It is our view therefore that the Petitioners have not established the case of non-compliance in the Local Government and we so hold.

6. IKPOBA OKHA LOCAL GOVERNMENT AREA: 7 witnesses of the Petitioners testified in the Local Government. They are PW23, PW24, PW25, PW26, PW27, PW28 and PW29. Apart from PW29 who was the only polling unit agent, all the remaining 6 witnesses that testified in this Local Government were ward collation agents. Their evidence regarding the polling unit is hearsay as they had no direct evidence regarding what

transpired in the polling unit. We do not accept their testimonies. The only polling unit agent among them is PW29 whose evidence was discredited under cross examination. It is our view that the Petitioners have also established the allegation of non-compliance in the Local Government and we so hold.

7. OREDO LOCAL GOVERNMENT AREA: 10 Petitioners' witnesses testified in the case PW30, PW31, PW32, PW33, PW34, PW35, PW49, PW80, PW81 and PW84.

Apart from PW84, all other witnesses that testified on this Local Government are ward collation agents whose evidence relate to 357 polling units their evidence was rendered hearsay under cross examination and for PW84, his situation is not dissimilar with the other witnesses in the Local Government. His evidence was impeached under cross examination.

We are of the view therefore that the allegation of non-compliance is not also proved in the Local Government and we so hold.

8. IGUEBEN LOCAL GOVERNMENT AREA: The following Petitioners' witnesses testified in this Local Government. They are: PW43, PW44, PW46, PW47 and PW48. They are all ward collation agents who gave evidence of over voting, non-accreditation in several units in their wards. They even provided table depicting the non-compliance, they were however discredited under cross examination for not given direct evidence of what transpired in the unit and giving inadequate table of what they are complaining about.

The allegation of non-compliance has not been established in this Local Government and we so hold.

9. UHUNMOND LOCAL GOVERNMENT AREA: 7 witnesses testified in the Local Government PW51, PW52, PW53, PW54, PW64, PW66 and PW67. Out of these witnesses, 2 are ward collation agents and the

remaining 5 are polling agents. The testimonies of the ward collation agents were impeached under cross examination so also that of the polling agents as they were confronted with voters register of their polling units and they were contradicted.

The allegation of non-compliance is also not established and we so hold.

10.OVIA SOUTH WEST LOCAL GOVERNMENT AREA: 8 Petitioners' witnesses testified in the Local Government. They are PW56, PW57, PW58, PW59, PW60, PW61, PW62 and PW90.

3 out of the witnesses that testified in the Local Government are polling agent. The remaining 5 are ward collation agents whose testimonies were rendered hearsay and could not provide sufficient materials in the table they drew in their deposition. It is our view that the allegation of non-compliance is not established in the Local Government.

11.OVIA NORTH LOCAL GOVERNMENT AREA: 8 Petitioners' witnesses testified in this Local Government Area. They are: PW72, PW73, PW74, PW75, PW76, PW77, PW78 and PW79.

5 out of these witnesses were polling agents who gave evidence on what transpired in their units but were all impeached under cross examination, the remaining 3 are ward collation agents who did not give direct evidence on any polling unit and whose testimonies were rendered hearsay under cross examination.

The allegation of non-compliance is not established in this Local Government and we so hold.

12.OWAN EAST: 3 witnesses testified in this Local Government Area namely: PW69, PW70 and PW71. They are all ward collation agents of PDP whose testimonies were discredited under cross examination. They all agreed that they were not in any polling unit from the beginning to the end of the election.

The Petitioners could not through these witnesses establish the allegation of non-compliance and we so hold.

13.OWAN WEST: One witness testified for Petitioners in this Local Government i.e. PW63 a Local Government collation officer who gave evidence of that transpired in the entire Local Government Area. His evidence is akin to PW45, Mr. Olusola Oke in the case of Oke vs. Mimiko (2014) 1 NWLR (Pt. 1388).

The allegation of non-compliance is not established to the Local Government Area.

14.ESAN WEST: 5 witnesses testified in the Local Government Area namely: PW85A, PW80, PW87, PW88 and PW89. These witnesses are ward collation agents of PDP who all stated under cross examination that they were not in any polling unit from the beginning to the end of election.

Their testimonies were rendered hearsay under cross examination the allegation of non-compliance is not established in the Local Government Area.

15.ETSAKO WEST: PW50, a Local Government Collation Officer of PDP was the only witness in the Local Government Area. His evidence is akin to PW45, Mr. Olusola Oke in the case of Oke vs. Mimiko (supra). We do not ascribe any probative value to the testimony of the witness.

The allegation of non-compliance is not proved in the Local Government Area.

In paragraph 36 of the Petition, the 1st Respondent is alleged to have failed to comply with and abide by the mandatory requirement of the approved guidelines as stipulated in the manual of election officials, 2016 and the provisions of the Electoral Act, 2010 (as amended) in the conduct of the election particularly in the polling units and wards being challenged as the election in those polling units were characterized by non-accreditation,

invalid votes by non-accredited voters, anomaly over voting, wrongful collation of results of the election in favour of the 2nd Respondent and ballot papers unaccounted for, which non compliance and irregularities substantially affected the outcome of the election and led to the wrongful declaration of the 2nd Respondent as the winner of the election.

In the course of trial in this petition, the Petitioners concentrated on:

1. Improper/absence of accreditation in polling units
2. Over voting and
3. Inaccurate ballot paper accounting

Improper/absence of accreditation:

We want to state that the foundation for the credibility of an election is accreditation. If it is not done or improperly done, it will lead to the cancellation of an election. See Ajadi vs. Ajibola (2004) 16 NWLR (Pt. 898) 91 AT 182-183.

The Petitioners in paragraph 4.33 of their Reply to the 2nd Respondent's Final Written Address submitted that based on the testimonies of PW1, PW3, PW4, PW5, PW6, PW7, PW10, PW11, PW12, PW13-PW16, PW19-PW30, PW33-PW71, the allegation of lack of accreditation/improper accreditation have been established. We do not agree with the submission of the Petitioners in the regard. All the Petitioners' witnesses above were impeached under cross examination by the respective senior counsel of the Respondents. How on earth can the evidence of a discredited witness go to establish an allegation of non-compliance?

The Petitioners made heavy weather about non-compliance by either ticking to the left or right of the voter's name in the register.

See 49(1) and (2) of the Electoral Act, 2010 (as amended) provides:

- (1) Any person intending to vote with his voter's card shall present himself to a presiding officer of the polling unit in the constituency in which his name is registered with is voter's card.

- (2) The presiding officer shall on being satisfied that the name of the person is on the register of voters, issue him a ballot paper and indicate on the Register that the person had voted.

The submission of learned senior counsel to the Petitioners Yusuf Ali SAN that ticking the left side of the voters in the voter's register as provided for at page 36 of Exhibit PO391, manual for Electoral officials, 2016 is mandatory does not in our view hold water because:

1. The manual is an administrative directive of INEC and
2. Ticking is a minor process which is akin to blowing of hot air which has not value.

See CPC vs. INEC (2012) 2-3 SC 1 at 32 – 33 where Peter Odili, JSC opined as follows:

“On this matter of ticking, the Appellants seem to take shelter in the quest to establish either over voting, or irregularities or malpractices upon which can be based a nullification of the election victory of the 1st Respondent and a declaration as winner of the Appellants. However, in setting out on the adventure, the Appellant went on the Journey without the necessary implements. That would have enabled them established over voting or malpractices as envisaged by the Electoral Act, rather being empty handed had gone into the minor details of ticking or marking on the right side or the left side, a situation akin to blowing of that air which has no value. What one expected is for the Appellant to show that registered voters in a polling unit or units were more than allowed or that accredited voters were less than, cast the votes, all of which are easy to establish where a party was not distracted by minor issues unless such irregularities did not take place. It is to be stated and clear that the polling unit forms part of the foundation of an election and so what took place there is what is needed for a party seeking to establish malpractices to put across and not this flighty session on ticking on the right and left, an administrative process of the election officials.”

It is worthy of note that in the entire Petition, there is no single specific averment on the issue of ticking either to the left or to the right in respect of any polling unit being challenged. All that we have are averments from paragraphs 22 – 36 which apart from being generic, they are merely reproduction of provisions of manual of Electoral official, 2016 which cannot in any way serve as specific pleadings.

Having not specifically pleaded the issue of ticking in the pleading, all evidence given in that wise go to no issue as the law is evidence on facts not pleaded goes to no issue. See Buhari vs. Obasanjo (2005) 2 NWLR (Pt. 910) 241 at 362; Omoborio vs. Ajasin (1984) 1 SC NLR 108

Furthermore, a cursory look at the voter's registers tendered as Exhibit PO196 - PO366, PO371 – PO370 on would see some ticking to the left and the right showing that accreditation and voting took place. Equally, in other voter's register there are ticking each to the left or to the right or both.

One important point here is that the Petitioners did not seem to show good faith when some of their witnesses stated under cross examination that they are comfortable with the result of the unit even when the voter's registers were ticked once.

PW12, PW27 and PW31 were the witnesses who testified that their results were ok despite having one tick on the voter's register because their party ^{was on} was on in those polling units.

PW31 stated under cross examination that he had no complaint in respect of 15 polling units in his ward in which his party PDP won. When he was shown Exhibit PO329 in respect of the fifteen units won by his party wherein there is only one tick. The witness stated that "I am ok with that and any unit that is like that is Ok. The Petitioners did not challenge the 15 polling units with one tick because they won in those units. This in our view does not show good faith on the side of the Petitioners.

The Petitioners having accepted results on which the voter's register had only one tick they have no basis for challenging the results of other units with only one tick. See Buhari vs. INEC (supra).

From the Petitioners table in their reply to the 1st Respondent, the total voter of APC and PDP to be cancelled for lack of or improper accreditation is 13,192 and 7065 voters respectively.

Even if these votes were cancelled, the result declared by the 1st Respondent will not change.

MANUAL FOR ELECTION OFFICIALS 2016

On the issue of manual for election officials which the Petitioners heavily relied on, we dare say that the efficacy of that manual depends on who issued it and for what purpose and comparing it with other electoral guidelines.

It is worthy of note that the 1st Respondent issued approved guidelines and regulations for the conduct of the 2015 General Election that document was admitted as Exhibit 2RO64. In paragraph 8(a) of Exhibit 2RO64, it is provided that there shall be separate periods of accreditation and voting. The procedure of separate periods of accreditation and voting was amended in yet another documents titled A SUPPLEMENT TO THE 2015 GUIDELINES AND GUIDELINES which is admitted in evidence as Exhibit 1RO22(1). That exhibit contains a provision for continues accreditation and voting where it says:

"the accreditation process shall comprise of authentication and verification of voters using the card reader, checking of the register of voters and in king of the cuticle of the specified figure."

The manual for Election officials, 2016 is document issued by the 1st Respondent is admitted as Exhibit PO391 provides in paragraph 2.4.2 thereof that:

"The verified voters shall then present himself to the APO 11 (Assistance Presiding Officer) who shall:

- 1. Request for his or her permanent voters card.*
- 2. Check the Register of voters to confirm that the voters name details and Voters Identification Number (VIN) are as contend in the Register of voters.*

3. Tick the left side of the name of voter if the person's name is in the Register of voters.

From Exhibits 2RO64 and IRO22(1), it is evident that the procedure for accreditation and voting at separate time has been amended and substituted by simultaneous accreditation and voting. This was confirmed by PW1, PW62, 2RW10 and 3RW15.

That being so, the procedure of having double ticking for accreditation and voting has been abolished.

The Election official manual, 2016 from its name show that it is only issued by the 1st Respondent for the purpose of training its officials and nothing more. We are fortified in this on the case of CPC vs. INEC (supra) where Odili, JSC described ticking to left or right of voter's name provided in the manual as "an administrative process of the election officials."

Furthermore, in the case of Agbaje vs. Fashola (2008) ALL FWLR (Pt. 443) 1304 at 1334, it was held thus:

"The 3rd document is titled "manual for Election Officials 2007". Its main purpose is expressed in the introductory passage of page (iv) paragraph 3 thereof, as "the manual has therefore been designed to assist polling station officials in understanding the election process and procedure."

It is clear for the above decision. That manual for Election Officials, 2016 is merely issued by the 1st Respondent to help its officials and nothing more. That is why the Supreme Court in Agbaje vs. INEC(supra) upheld the judgment of the Court of Appeal which among other things decided that none use of card reader for accreditation provided in the manual cannot be relied on to impeach the credibility on an election.

Similarly, in the case of Nyson vs. Peterside (supra), heavy reliance was placed by the Tribunal relating to the compulsory use of card reader and the Supreme Court upturn the decision of Court of Appeal on that.

The summary of what we have been saying is that the Petitioners heavy reliance on the election manual for election official, on the issue of lack of accreditation is misplaced.

2. OVER VOTING: The Petitioners have in several polling units alleged that no proper accreditation was made hence the votes returned are more than the accredited voters. That according to them is over voting.

Section 53(2) of the Electoral Act, 2010 (as amended) defines over voting as follows:

"Where the votes cast at an election in any polling unit exceed the number of registered voters in that polling unit, the result of the election for that polling unit shall be declared null and void by the commission and another election be conducted at a date to be fixed by the commission where the result at that polling unit may affect the overall results in the constituency.

From the above definition, it is clear that the excess votes should be in relation to registered voters and not accredited voters.

The case of Ndukwe Ogugu Louis vs. INEC (2010) LPELR 4442 is on the above preposition. It was held in that over voting can only occur where the total number of votes cast exceeds the total number of registered voters for the polling unit.

One could vividly see that the emphasis is on registered voters and not accredited voters. For a petitioner to prove the allegation of over voting, he has to cross some hurdles:

- 1. He has to tender voters register for the units he is challenging over voting.*
- 2. Tender ballot boxes containing ballot papers*
- 3. Tender statement of result for the affected units.*

See Audu vs. INEC(2002) (2010) 13 NWLR (Pt. 1212) 456 at 547. In the instant petition, the Petitioners did not tender ballot boxes with the ballot papers nor did they tender the original voters register showing the colour used for accreditation of voters.

The Petitioners instead of focusing their pleading and evidence on consideration of excess votes in relation of registered voters, they focused same on excess votes in relation to number of accreditation voters. This is against the clear provision of Section 53(21) of the Electoral Act, 2010 (as amended). The testimonies of all the witness who testified in that regard are of no moment. ✓

Another point is that apart from tendering Electoral document, the Petitioners did not show the figure representing over voting. In the wise PWs 30, 33, 34, 35, 41, 42, 45, 37, 38, 39 and 49, all gave evidence of over voting. Their testimony is based on votes cast exceeding the number of accredited voters and even at that they did not in their tables stated the figure representing over voting.

In other words, none of them demonstrated the excess figures representing over voting.

Some of the documents tendered by the Petitioners are incomplete. This is confirmed by PW28 who said under cross examination upon being shown Exhibit PO318(16) that there is no pages 28 and 39 in this document.

The Petitioners having not produced the ballot boxes containing the ballot paper had not proved over voting and we so hold.

IN ACCURATE BALLOT PAPER ACCOUNTING

The next point is in improper ballot papers accounting. Some of the Petitioners' witness stated in that deposition that the ballot papers distributed in their units did not tally. The allegation cannot be proved by mere *ipse dixit* of the witnesses.

The ballot papers that did not tally were never tendered. There is nothing before us to show the actual number of ballot papers distributed to each unit being challenged in the petition. The allegation is not in any way proved by the petition and we so hold.

REPORT ON BALLOT PAPERS RECOUNTING

The Petitioners pleaded in paragraph 753 of the petition that they would apply for the recount of the ballot papers used in the election in some or all of the polling

under and pursuant to the said paragraph, the Petitioners duly applied for subpoena to be issued to INEC officials to produce the said ballot papers at the trial, this Tribunal duly granted that application and the said ballot papers for 4 (four) Local Governments were duly produced.

The Local Government are:

1. Etsako West
2. Akoko Edo
3. Egor and
4. Etsako East

The recounting exercise took place in open court and ended on the 10th February, 2017. The recount was partially done due to time frame. This Tribunal upon an application by senior counsel for the Petitioners who urged the Tribunal to direct the secretary to file his report, that application was granted by the Tribunal.

We want to emphasis that the report filed by the secretary is inconclusive because the recounting exercise was partially done in 3 out of 4 Local Government Area in issue and one Local Government was not even touched. The ballot papers in contention were never tendered before us.

We agree with the learned senior counsel for the Petitioners that we can look at the report since it is in the court's file but what is the probate value can we ascribe to such a report.

The foundation of the report is shaky because

1. The ballot papers in contention were not tendered.
2. The report itself has not also tendered to subject it to cross examination.

Additionally, the table of the Petitioners showing some kind of discrepancies was not subjected to cross examination by the other parties.

In the Final Written Address, the matters of the report were not call to testify and be cross examined on the report. In the case of Mark vs. Almakura (2016) 5 NWLR (Pt 1505) 201 at 220 D 221 H-222C documents produced on subpoena were

never tendered by the Petitioners, the Supreme Court agreed with the learned senior counsel for the Respondent. In that appeal, same amounted to dumping the document on the Tribunal thus:

"Under that 3 issue, learned senior counsel to the 1st Respondent Yusuf Ali, SAN submits that the lower Court affirmative of the Tribunals finding that the Appellant failure to link any of the documents to specific aspect of his case is fatal to the petitions cannot be faulted.on scrutinizing the record of appeal, one must agree with the learned counsel to the Respondents that the findings of the two courts below that the Appellant only dumped the documents which would otherwise have sustained his case remained unassailable. In deed as counsel rightly submitted, most of the document produced by the 3rd Respondent on subpoena was never tendered by the Petitioners let alone have the Tribunal admit them in the evidence. To establish his case, the principle is indeed not only for the Appellant to tender and have admitted to evidence he relies in making his case, he must go extra mile of linking the evidence here, the various documents to specific aspect of his case..... learned counsel for the Respondents are again on from wicket that the demonstration of the value of the various documentary exhibits resorted to by the learned Appellant counsel at paragraphs 4.65-4.87 on pages 14 – 19 of the Appellant's brief is a desperate and belated effort at doing not only the heedful but necessary."

It is on the strength of the apex court decision we found footing in ascribing no probative value to the report as well as the chart in the Petitioners' final written address emanating from the report.

We had earlier in the course of this judgment held that the Petitioners conceded that they have abandoned their pleadings. On corrupt practices, that may not be the only pleading the Petitioners abandoned. A careful assessment of the witnesses called by Petitioners in proof of their case will reveal that the Petitioners abandoned their pleading in a lot of polling units/wards of Local Government of the state having not called any witness from such polling units as wards notwithstanding tendering (from the bar) document relating to such polling units/wards.

The Petitioners did not call witnesses from the polling units/wards in the following Local Governments.

1. Akoko Edo:

All the polling units of wards 3 and 6

2. Etsako East:

All polling units of ward 3, 7 and 9

3. Ikpoba Okha

All the polling units of wards, 2, 3 and 4

4. Oredo Local Government Area

All the polling units of ward 2, 9 and 12

5. Egor

All the polling units of wards 6 and 10

6. Orhionwan

All the polling units of wards 1, 4, 5, 6, 7, 8, 9, 11 and 12

7. Igueben

All the polling units of wards 2, 4, 5 and 10

8. Owan East

All the polling units of wards 1, 2, 3, 5, 6, 7, 10 and 11

9. Ovia North East

All the polling units of wards 3, 6, 7, 8, 9, 11 and 13

10. Esan West

All the polling units of wards 3, 5, 8 and 10

11. Ovia South West

All the polling units of wards 4, 7, 8 and 9

12. Etsako Central

All the polling units of wards 1, 2, 3, 7, 8, 9 and 10

13. Esan Central

No witness was called in the entire Local Government.

Pleadings relating to the above units and wards are in paragraph 42 – 55, 70 – 77, 90, 93, 106, 110, 115, 119, 121, 149-154, 261 – 269, 303 – 318, 320 – 431, 432 – 522, 527 – 528, 529 – 530, 531 – 535, 552 – 554, 556 – 558, 651 – 578, 604 – 613, 631 – 651, 652 – 653, 654 – 661, 663 – 666, 670, 673 – 676, 678, 680 – 683, 691 – 693, 695 – 698, 701 – 704, 706 – 708, 717, 719 – 720, 729 and 730 – 742 of the petition.

It is trite law is that pleading without evidence are deemed abandoned. STATUS OF WITNESSES VISA VIS the pleading.

The Petitioners are challenging the election on the basis of non-compliance in 2627 polling units in Edo State. They led evidence in proof of their case from 92 witnesses out of their witnesses are polling agents, 2 witnesses were as polling agents/ward collation agents, the remaining 63 are all ward collation agents.

We had earlier in the course of this judgment shown the basis of evaluating the witnesses in this petition. We alluded to the fact that by the provision of Section 126 of the Evidence Act oral evidence shall in all case be direct. We are fortified in that by the decision of the Apex Court in the case of Buhari vs. Obasanjo (2005) 13 NWLR (Pt. 941) 1 at 315.

All the ward collation agents that testified in the Petition did give direct evidence of what transpired in the polling unit rather, they relied on information/report submitted to them by their polling agents which were not tendered in evidence, most of the ward collation agents stated under cross examination that their polling agents are still alive and can be produced. We wonder why those polling agents were not called by the Petitioners.

We further relied on the case of Oke vs. Mimiko 2 in rejected the testimonies of the ward collation agents who were not supermen to be at several polling units at the same time a ward collation agent can only give evidence of what happened at the collation center where he saw what happened but not polling unit where he did not visit.

The polling agents were competent to testify on what transpired in their polling units.

All the 27 or 29 of polling agents that testified in the petition were discredited under cross examination. Their testimonies mostly related to what termed over voting that is when the total votes cast exceeds the number of accredited voters in the register.

Most of these witnesses when confronted with the voter's register of their units, they stated figures that contradict their deposition with that, most of them were discredited.

Even if the evidence of the 27 or 29 polling agents was accepted, the deducting the votes cast in their polling unit will not change the result declared by the 1st Respondent.

PW1, the 1st Petitioner also gave evidence on virtually all the polling units being challenged in the petition like PW45. In Oke vs. Mimiko (supra) we considered his evidence absolutely hearsay and we did not attach any weight therein.

On the documents tendered from the Bar by the senior counsel to the Petitioners, they did not through their witnesses activate those documents by linking them to relevant aspect of their case. Their witnesses did not demonstrate the applicability of the documents to their case. It is the duty of the Petitioners tendering documents to link them to relevant aspect of their case. See Ladoja vs. Ajimobi (2016) 10 NWLR (Pt. 1591) 87 at 144 – 155 and the case of Maku vs. Almakura (supra).

From the evidence adduced on this issue, we hereby make the following findings:

1. The much talked about absence of accreditation or improper accreditation in relation to ticking either to the left or to the right of voters name in voter's register has not been specifically pleaded in any of the polling units being challenged.

2. The claim of over voting based on the total votes cast exceeding number of accredited voters is of no moment.

3. The complaint of improper accounting of ballot papers is not proved before us because no material in terms of ballot papers or anything relating to the entries was made available to us to enable us have a thorough examination of same and take a stand on it. None of petitioners' witnesses i.e. PWs 1, 15, 18, 23, 38, 39, 40, 41, 54, 55, 61, 68, 75 – 78, 86 – 91 who testified on the issue showed us any ballot papers to confirm his allegation.

Similarly, alteration of results, inflation and reduction of scores, over balloting incident forms not filed and swapping of votes were not proved before us as no witness was called by the Petitioners in that regard. The implication of not calling witnesses on this is the pleading on those allegations are abandoned.

This issue is therefore hereby resolve against the Petitioners.

The question now is the Petitioners, having not discharged the burden place on them in accordance with Section 136 of Electoral Act, will the onus now shift to the Respondents to enter their defence?

In the case of Omison vs. Aregbesola (2015) 15 NWLR (PT 1482) 205 at 322, the apex court held that *"it is only after the Petitioners/Appellant herein have proved their case that the onus will shift to the Respondents to establish that the result of the election was not so affected."*

Out of abundance of caution however, the Respondents defended the petition. The 1st Respondent tendered 22 Exhibits marked as Exhibit 1R01 – 1R022 and elicited evidence from the Petitioners' witness under cross examination. The 2nd Respondent called a total of 70 witnesses and tendered 65 exhibits marked 2R01 – 2R065. The 3rd Respondent called 15 witnesses and tendered 18 exhibits marked as Exhibit 3R01-3R015.

The 2nd Respondents witnesses that testified as to the free and fairness of the election are submitted as follows:

2RW1: Osagie Jimoh Justice: Polling agent for APC unit 24 ward, 4 Oredo Local Government Area of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO146(24). Tendered his party agent tag Exhibit 2RO3.

Under cross examination, witness stated he was at the polling unit from the beginning to the end of election. That the process of accreditation and voting in his polling unit was simultaneously and election was free and fair.

Comment: The witness gave credible evidence and we shall ascribe probative value to same.

2RW2: Orobo A. A. Augustine: Polling unit agent for APC unit 024 ward 5 Oredo Local Government Area of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO147(23).

Under cross examination, witness stated he was at the polling unit from the beginning till the end of election. He stated that one ticking on the voter's register suffices for accreditation and voting unlike before. The election was free and fair and that Petitioners' agents signed the result without complain.

Comment: This witness as a polling agent gave credible evidence and we believe him.

2RW3: Ishoa Farouk Eseosa: APC polling agent for ward 06 unit 22, Oredo Local Government of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO148(21).

Under cross examination, witness said he was at the polling till the end of election. He stated that election was free and fair and nobody including the Petitioners' agents complained about the conduct of the election. All the agents including the agent of the Petitioners signed the result.

The agents/witness testimony is in tandem with the evidence of the Respondents.

2RW4: Evbuomwan Ere Jackson: APC polling agent for ward 07 unit 30 Oredo Local Government Area of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO149(30).

Under cross examination, witness stated that the election was free and fair and that accreditation and voting was simultaneously done. All the party agents were given copies of the unit result and they all signed without complain.

The evidence of the witness was not shaken under cross examination. It is therefore credible.

2RW5: Lovely Igene: APC polling agent for ward 07 unit 23 Oredo Local Government Area of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO149(23) and tendered. APC party agent tag – Exhibit 2RO4.

Under cross examination, witness stated the election in his polling unit was free and fair and nobody complained. All polling agents signed the result. He stated the accreditation and voting took place at the same time and one ticking was enough for both accreditation and voting. Witness confirmed that $326 + 585 = 911$.

The testimony of this witness could not be discredited under cross examination and therefore credible.

2RW6: Efe Edosa: APC polling agent for ward 03 unit 11, Oredo Local Government Area of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO145(11).

Under cross examination witness stated that the election was free and fair in the polling unit and nobody complained. All the agents signed the polling unit results and presiding officer gave copies to each agent. Accreditation and voting took place simultaneously.

The witness testimony discredits the case of the Petitioners.

2RW7: Abukhare S. Eddie: APC polling agent for unit 01 ward 05, Oredo Local Government Area of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO147(1) and tendered his APC agent tag Exhibit “2RO5.

Cross examination, witness stated he was at his polling unit from the beginning till the end of election. Accreditation and voting was done at the same time. Upon being given the ballot papers, the presiding officer will tick your name on the voter's register. Witness stated he voted in unit 7.

The witness testimony is credible and we attach probative value to same.

2RW8: Valentine Asuen: APC polling unit agent for unit 026 ward 03 of Oredo Local Government Area of Edo State. Witness adopted his deposition as his evidence, identified PO145(25) and tendered his party agent tag Exhibit 2RO6.

Under cross examination, witness stated that accreditation and voting took place at the same time. That PDP agent also witnessed the accreditation and voting and did not raise any objection. Witness confirmed he signed the unit result Exhibit PO145(25).

The Petitioners could not discredit this witness under cross examination. His evidence is credible.

2RW9: Mr. Prosper Osayamen: APC party polling agent for unit 008 ward 10, Oredo Local Government Area of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO152(8) and tendered his party agent tag Exhibit 2RO7.

Under cross examination, witness stated that voters were duly accredited and voted. Nobody voted without accreditation. Witness maintained, he did not see PDP agent PW34 on the day of election at polling unit 008.

This is a reliable witness. His testimony was not at all shaken by the Petitioners under cross examination.

2RW10: Alonge Matthew: APC party polling unit agent for unit 07 ward 10, Oredo Local Government Area of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO152(7) and tendered his party agent tag Exhibit 2RO8.

Under cross examination, witness stated the in previous elections, you come to the polling unit accredit and go home and come back by 12 noon and vote before going but that of 2016 in Edo, INEC adopted the method of continuous accreditation

and voting. Witness stated he did not receive any training by INEC. He stated he did not see PW34, PDP agent in his unit that day.

This witness creditably rebutted the claims of the Petitioners.

2RW11: Anthony Okoro: APC polling agent for unit 27 ward 04. Oredo Local Government Area of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO146(27) and tendered his party agent tag Exhibit 2RO9.

Under cross examination, witness stated that in the previous elections, accreditation and voting were not done simultaneously unlike the election in Edo State, 2016 which was done simultaneously. He confirmed that he was only trained by his party and not INEC. No party agent of any party was trained by INEC. He said he voted at unit 22. He saw the PDP agent in his unit but does not know his name he confirmed there was accreditation in the unit.

This witness evidence is credible as he was not discredited under cross examination by the Petitioners.

2RW12: Osarumwense Ugiagbe: APC polling unit agent for unit 21 ward 6, Oredo L.G.A of Edo State. Witness adopted his deposition as his evidence identified Exhibit PW148(20) and tendered is party agent tag Exhibit 2RO10.

Under cross examination, stated that the election was freely and fairly conducted in his polling unit and that he and other polling unit agents were present when the presiding officer counted the number of accredited voters and entered same in the result sheet and nobody complained and they all signed. He knows PW49 but did not see him in the polling unit that day. He confirmed he voted in unit 24.

This witness is reliable as his testimony was in accord with the outcome of the election.

2RW13: Ikponmwosa Nosa Joseph: APC polling unit agent for unit 03 ward 10, Ovia North East L.G.A of Edo State. Witness adopted his deposition identified Exhibit PO86(3) and tendered his party agent tag Exhibit 2RO11.

Cross examined witness stated that before the voting, the presiding officer explained the procedure of voting to all including the PDP agent. Nobody voted without accreditation. All the agent witnessed the entries in Form EC8A and signed and nobody objected. The specimen signature of the witness was tendered as Exhibit PO404.

The evidence is straight forward and we attach probative value to same.

2RW14: Clement Obaze: APC polling unit agent for unit 6 ward 12, Ovia North East L.G.A. of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO88(6) and tendered his party agent tag Exhibit 2RO12.

Cross examined the witness stated he was at the polling unit from the beginning till the end of election with the PDP agent. Both of them observed the process of accreditation and voting which was continuous. The presiding officer counted and entered the results in Form EC8A and all agents signed without complain. Witness said he voted.

The evidence of this witness is straight to the point ensuring compliance.

2RW15: Monday Ifelunni: APC polling unit agent for unit 08 and 10 Ovia North East L.G.A of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO86(8) and tendered his party agent tag Exhibit 2RO13.

Cross examined witness stated that there was accreditation before voting. INEC adopted continuous accreditation and voting. All agents were present when the presiding officer explained the procedure of accreditation and voting. Witness stated he did not see PW12 at his polling unit on that day. Witness stated the polling unit has a voting point. All agents signed result without complain.

The witness evidence was not impeached under cross examination.

2RW16: Bright Ojo Enodiaria: APC polling unit agent for unit 09, ward 12 Ovia North East L.G.A. of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO88(9) and tendered his party agent tag Exhibit 2RO14.

Cross examined witness stated that there was accreditation of voters in his polling unit and nobody voted without accreditation. All agents were present when presiding officer counted the number of people accredited and recorded. After recording the results, all agents including the PDP agent signed without complain. He stated that PW73 was not in his polling unit.

Testimony not impeached.

2RW17: Paul Ogido Aigheyisi: APC polling unit agent for unit 3 ward 2 Ovia North East L.G.A. of Edo State witness adopted his deposition as his evidence, identified Exhibit PO78(3) and tendered his party agent tag Exhibit 2RO15.

Cross examined the witness stated that he observed the process of accreditation and voting in the unit along with others. All the agents observed the entries in Form EC8A and signed without complain. No agent was harassed or chased away from the polling unit; witness confirmed there were tickings on PO280(3) to the left and right.

The witness was consistent with his evidence qua his deposition.

2RW18: Osaretin Onaruna: APC polling unit agent for unit 011 ward 05, Ovia South West L.G.A of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO71(11) and tendered his party agent tag Exhibit 2RO16.

Under cross examination, the witness stated, he saw the process of accreditation with the voters Register in his polling unit. That at the end of the election, the presiding officer counted and entered the results in EC8A in the presence of all the agents and they all signed. Accreditation and voting were simultaneously.

This witness is believable.

2RW19: Edema O. Scott: APC polling unit agent for unit 004 ward 06 Ovia South West L.G.A. of Edo State. Witness adopted his deposition as his evidence and tendered his party agent tag Exhibit 2RO17.

Cross examined the witness stated that he was at the polling unit from the beginning till the end of election. Accreditation took place. INEC adopted the procedure of accreditation and voting in 2016 Edo Governorship election. At the

conclusion of voting, all agents were there when the presiding officer counted the votes and entered into the result sheet Form EC8A and all agents signed without complain.

This is a witness of truth.

2RW20: Ihama Osaigbkan Endurance: APC polling unit agent for unit 04 ward 05 Ovia South West L.G.A of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO71(4) and tendered his party agent tag Exhibit 2RO18.

Under cross examination, witness stated that he saw the presiding officer with the voter's Register in the polling unit. The voters register was used for the accreditation and voting which INEC adopted. Nobody voted without accreditation. All agents present observed the counting of votes, entries on Form EC8A and signed without complain.

This witness evidence was not discredited under cross examination by the Petitioners.

2RW21: Imuetinyan Kudos: APC party polling unit agent for unit 04 ward 02, Ovia South West L.G.A of Edo State. Witness adopted his deposition as his evidence identified Exhibit PO68(4) and tendered his party agent tag Exhibit 2R019. Cross examined the witness stated that there was proper accreditation and voting in his polling unit. That INEC adopted continuous accreditation and voting process. He confirmed that whether the voter's register is ticked once or twice it represents accreditation and voting. Witness said he observed with other agents the process of voting, counting, entries and all the agents signed without complain. Witness stated he knew PW56, PDP agent but denied he did not see him in his unit.

This witness contradicts all the allegation of the Petitioners.

2RW22: Hon. Harrison Okpamen: APC ward collation agent in ward 6, Ovia South West L.G.A. of Edo State. Witness adopted his deposition as his evidence and identified PO4(68).

Cross examined witness stated he voted at polling unit 2 ward 6. That INEC adopted the process of continuous accreditation and voting. He stated he was at the ward collation centre and witnessed the collation of results and that the collation was properly done and nobody complained. He signed at the close of collation.

This witness not being a polling unit agent stated what happened at the collation centre.

2RW23: Vincent Ewansiha Ede: APC party polling unit agent in unit 10 ward 5, Ovia South West L.G.A of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO71(10) and tendered his party agent tag Exhibit 2RO20.

Cross examined witness stated he was at the polling unit where he served as polling unit agent from the beginning till end of election. He observed the process of accreditation and voting in the polling unit. The presiding officer educated the voters that accreditation and voting will be done simultaneously. Witness stated that at the end of the votes, all agents observed the counting and entries with Form EC8A, the votes cast, used and unused ballot papers and all agents signed without complain. He knows PW61-PDP ward collation agent Imafidon but did not see him at the polling unit on the election day.

The witness evidence knocks the bottom off the Petitioners allegation of anomalies.

2RW24: Allan Okpomo – APC party polling unit agent for unit 10 ward 03, Ovia South West L.G.A of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO69(10) and tendered his party agent tag Exhibit 2RO21. Witness under cross examination stated that he was at the polling unit from the beginning to the end of election. He saw all that the presiding officer was doing and after counting and entries in EC8A, he and other agents signed without complain. Witness admitted knowing PW57 but did not see him in the polling unit that day. He was accredited and he was voted and that he was not trained by INEC.

This testimony is unimpeached.

2RW25; Egbe Elegon – Subpoena witness: APC polling unit agent for unit 21 Ward 07, Ikpoba Okha L.G.A. of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO139(20) and tendered the subpoena Exhibit 2RO22 and party agent tag Exhibit 2RO23.

Under cross examination, witness stated that voter's register was used for accreditation. All the polling agents observed the process of accreditation and voting. The presiding officer counted the used and unused ballot papers and recorded in the result sheet Form EC8A. That all the agents signed without complain.

Witness admitted, PW23 was PDP agent but that he was not in his polling unit on the election day. Witness admitted he did not vote.

This witness statement of what happened in his polling unit has not been effectively challenged.

2RW26: Adagbonyin Osazee: A witness on subpoena. APC polling unit agent for Unit 9 ward 07, Ikpoba Okha L.G.A. of Edo State. Witness adopted his deposition, identified Exhibit PO139(1) tendered the subpoena Exhibit 2RO24 and tendered his party agent tag Exhibit 2RO25.

Under cross examination, the witness stated that he observed the process of accreditation and voting from beginning to the end of voting with other agents. INEC adopted continuous accreditation and voting process in the election. All agents at the end witnessed the counting and recording of results in Form EC8A, signed and no objection. Nobody voted without accreditation.

This witness on subpoena has strengthened the Respondent case.

2RW27: Uwota Jude: A witness on subpoena – APC party polling agent for unit 03 ward 10 Ikpoba Okha L.G.A. of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO142(3), tendered the subpoena Exhibit 2RO26 and tendered his party agent tag Exhibit 2RO27.

Under cross examination, the witness stated, he witnessed the accreditation and voting. Stated that the procedure was continuous accreditation and voting. It is not

possible to accreditation and go without voting and also impossible to vote without accreditation.

The presiding officer counted the ballot papers in the agent presence entered into result sheets, they all signed without complain. Witness said he does not know PW26 – PDP ward collation agent and did not see him on that day.

The witness evidence is credible.

2RW28: Juliet Oru: A witness on subpoena. APC polling unit agent for unit 5 ward 10 Ikpoba Okha L.G.A of Edo State. Witness adopted his deposition as his evidence identified Exhibit PO142(5), tendered the subpoena Exhibit 2RO28 and tendered his party agent tag Exhibit 2RO29.

Cross examined witness maintained he was at the polling unit from the beginning till the end of election. Voters were accredited and voting took place at the same time. The presiding officer counted and entered result in the presence of all the agent and the agents signed without complain, Witness knows PW26 PDP agent but did not see him in the polling unit on that day. It is a lie for him to say there was no accreditation.

Witness evidence not impeached under cross examination.

2RW29: Victor Nappier: A witness on subpoena. APC polling unit agent for unit 01 ward 06 Ikpoba Okha L.G.A. of Edo State. Witness adopted his deposition as his evidence, tendered the subpoena as Exhibit 2RO30, identified Exhibit PO138(1) and tendered his party agent tag Exhibit 2RO31.

Cross examined witness stated, INEC adopted the procedure of continuous accreditation and voting. By this procedure it was impossible to vote without accreditation and you cannot accredit without voting. Witness stated that at the end of voting, the presiding officer counted the votes in the presence of all the polling agents, recorded in the result sheet and all agents concerned signed without complain. Witness took the pink copy to his ward collation agent and saw PW28 PDP agent at the collation center.

The witness evidence contradicts the Petitioners allegations.

2RW30: Saturday Aiguedonmwan: APC polling unit agent for unit 21 ward 08 Ikpoba Okha L.G.A. of Edo State. Witness adopted his deposition as his evidence, tendered the subpoena as Exhibit 2RO32, identified Exhibit PO140(20) and tendered his party agent tag Exhibit 2RO33. Witness under cross examination stated, he was at the polling unit from the beginning till the end of election. Accreditation and voting was done like giving birth to twins.

At the end of voting, counting was done in the presence of all the agents, the presiding officer recorded the result and all agents signed without complain. Witness maintained that ticking to the left or right means accreditation and voting.

This witness is competent and credible as a polling unit agent.

2RW31: Okoukoni Pius: APC party polling unit agent for unit 15, Ward 01, Ikpoba Okha L.G.A. of Edo State.

Witness adopted his deposition as his evidence, identified Exhibit PO133(15) and tendered his party agent tag Exhibit 2RO34.

Cross examined, the witness stated that he saw the PDP polling unit agent on the election day. Both of them were together and saw the process of continuous accreditation and voting adopted by INEC. He stated that at the end of the election the presiding officer counted the votes in the presence of the agents, entered with the result sheet and all agent signed. Nobody complained. The PDP agent Osaro congratulated me.

The witness is reliable and his evidence not impeached under cross examination by Petitioners.

2RW32: Dennis Enowan: APC party polling unit agent for unit 01 ward 04, Uhunmwode, L.G.A. of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO367(1) and tendered his party agent tag Exhibit 2RO35.

Cross examined the witness stated that he saw the presiding officer with the voter's register for the polling unit. Accreditation and voting was done using the

voter's register. The election procedure was continuous accreditation and voting. Stated that all the polling unit agents were present including the agent of PDP when the presiding officer counted the votes, recorded in the from EC8A and all agents signed without complain. Tickings were done on the voter's register.

We attach probative value to the testimony of this witness.

2RW33: Ederaro Osahon: APC party polling unit agent for unit 02 ward 04 Uhumwode L.G.A of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO367(2) and tendered his party agent tag Exhibit 2RO36.

Witness stated that he was in his polling unit from the beginning till the end of election.

Witness said he observed the process of accreditation and voting which procedure was continuous accreditation and voting. That at the end of voting, the votes were counted in the presence of all the agents, recorded and all the agents signed without complain. The 8 agent present signed Exhibit PO367(2)

Witness evidence not impeached.

2RW34: Edosa Iyayi: APC party polling unit agent for unit 04 ward 06, Uhumwode L.G.A. of Edo State. Witness adopted his deposition as his evidence, identified. Exhibit PO169(4) tendered the pink copy of the result Exhibit 2R037(PO169(4) and tendered the party agent tag Exhibit 2RO38.

Cross examined witness said he saw the accreditation and voting using the voters register. That the voting process was continuous accreditation and voting. By this process it was impossible to vote without accreditation or accreditation without voting. Witness stated that at the end of voting presiding officer in the presence of all the agents counted, recorded the result and all agents signed without complain. Apart from agents there were security men present at the polling unit.

Witness maintained, he stood by his deposition.

The testimony is credible.

2RW35: Airihenbuwa Iziegbe: APC polling unit agent for unit 05 ward 06, Uhunmwode L.G.A. of Edo State. Witness adopted his deposition as his evidence, identified Exhibit PO169(5) and tendered his party agent tag Exhibit 2RO39.

Under cross examination, the witness stated he monitored the election in his polling unit from the beginning till the end. The process of accreditation and voting was adopted by INEC. At the end of voting, the presiding officer in the presence of all the agent counted entered the result in the form EC8A and all the agents signed without complain. Witness stated he was not trained by INEC but by his party.

The witness evidence is reliable.

2RW36: Hon. Orakhi Uwagboe Amity: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition made on the 15th of November, 2016; and also identified PO165(1-10).

Under cross examination, he stated that as ward collation agent, he proceeded to the ward collation centre after voting. He said that INEC adopted continuous accreditation and voting system; he further stated that he signed Exhibit PO4(154) being the collated result of his ward; and that PW53 who was the PDP agent had also signed without complaint.

No probative value could be attached to this witness because he is a ward collation agent who cannot give direct evidence on the polling units he collated.

Prince Ede Igichon: Page 269 Vol. 2: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition made on the 15th of November, 2016; he also identified Exhibit PO156(5) and PO335(5); he functioned as polling agent at unit 5 ward 10 Uhunmwade L.G.A.

Under cross examination, he stated that, himself and PDP agent were at the polling unit from the beginning to the end and that they observed counting of votes together and signed the result sheet without complaint from the PDP agent; he also said that he tendered his party agent identification card Exhibit 2RO40; he further said

that PW53 was the PDP agent for his unit; he stated that one had to be accredited before voting.

The witness testimony is credible because he was an eye witness and that his evidence is not in conflict with the Exhibit tendered.

2RW38 Page 417 Vol. 2: Benson Osawe: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition dated the 15th day of November, 2016; and identified exhibit PO173(8); he functioned as polling agent for unit 8 ward 10 of Umunmwo L.G.A.

Under cross examination, he stated that all agents including PDP agent were there when the Presiding officer counted aloud the number of accredited voters, the used and the unused ballot papers and entered same into the relevant Form EC8A; and that all agents signed the result without complaint; his identification card was tendered as Exhibit 2RO41.

The witness is credible as he was an eye witness to the happenings in his unit and was not discredited under cross examination.

RW39 Page 360 Vol. 2: Amigbo Stanley Raphael: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition dated the 15th of November, 2016; and identified Exhibit PO170(7) he served as party polling agent at unit 7 of ward 7 in Umunmwade L.G.A.

Under cross examination, he stated that accreditation and voting were done continuously; and that all agents signed the result sheet without any complaint.

The witness was credible as his evidence was not discredited under cross examination.

2RW40 Page 311: Efosa Idahosa E.: The witness sworn on the Holy Bible and speaks English; he also identified and adopted his deposition; and identified Exhibits PO367(1-6) and PO338(1-7). He served as a ward collation agent for ward 4 of Umunmwode L.G.A.

Under cross examination, he only stated what happened during collation and not what happened during election being a ward collation agent.

The witness testimony is credible as his testimony is limited to the collation center.

2RW41: Page 674 Vol. 2: Hon. Eddy Igbinoḡun: The witness sworn on the Holy Bible and speaks English; he identified and adopted his sworn statement made on the 15th of November, 2016; he identified Exhibits PO18(8); he served as a polling agent for unit 8 ward 4 of Eḡor L.G.A.

Under cross examination; he stated that he observed the election in his unit from the beginning to the end; and that agents of at parties including PDP signed the result without complaint. His party agent card was admitted as Exhibit 2RO43.

The witness is credible as his evidence was not discredited under cross examination.

2RW42: Page 680 Vol. 2: Amegor Osariemen: The witness sworn on the Holy Bible and speaks English; he identified and adopted his sworn statement made on the 15th of November, 2016; and identified Exhibits PO19(1); he served as a polling agent at unit 01 of ward 05 of Eḡor L.G.A.

Under cross examination, he stated that he observed accreditation and voting in his unit; and that counting of accredited voters, the used and unused ballot papers, the result were done in the presence of all agents including PDP agent; and that all of them signed the result sheet without complaint; his agent card was tendered as Exhibit 2R044.

The witness testimony is credible as same was not discredited under cross examination.

2RW43: Page 10 Vol. 2: Monday Efurie: The witness sworn on the Holy Bible and speaks English; he identified and adopted his sworn statement made on the 15th of November, 2016; and identified Exhibits PO185(2); and he served as a polling agent at Unit 2 of Ward 2 of Orhionmwon L.G.A.

Under cross examination, he stated that no person voted without accreditation; and that any accredited person voted immediately; and that all entries were made in the presence of all agents including PDP agent Emeka Samuel and all signed the result. His agent card was admitted as Exhibit 2RO45; he further stated that he saw tickings on the voter's register to the right.

The testimony of the witness not discredited under cross examination and therefore worthy to believe.

2RW44 Page 28 Vol. 2: Felicia Amadin: The witness was sworn on the Holy Bible and speaks English; he identified his testimony on oath dated 15th of November, 2016; and further identified Exhibits PO185(10); and he served as a polling agent at unit 10 of ward 2 of Orhionmwon L.G.A.

Under cross examination, he stated that the presiding officer invited the agents when he was to count the accredited voters. The used and unused ballot papers and entered the result in their presence; all agents signed the result without complaint; his agent card was admitted as Exhibit 2R046.

The testimony of this witness is credible as same was discredited under cross examination.

2RW45: Page 38 Vol. 2: Erie Eronmonsele: The witness sworn on the Holy Bible and speaks English; he also identified his deposition dated on the 15th of November, 2016; as he adopted same as his evidence before the Tribunal: he also identified Exhibits PO186(11); he served as a polling agent for unit 11 ward 3 of Orhionmwon L.G.A.

Under cross examination, the witness stated that he was in his unit throughout the election; and at which the presiding officer invited all the agents when he was to count the number of accredited voters, the number of used and unused ballot papers and entries in their presence; and that all the agent signed the result sheet without complaint; his agent card was admitted as Exhibit 2RO47.

The evidence is an eye witness account, therefore worthy to believe as not being discredited under cross examination.

2RW46: Page 1401 Vol. 3: Omonriawo Austine: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition on the 15th of November, 2016; he identified Exhibits PO174(1); he served as a polling unit agent at unit 01 of ward 01 of Esan West L.G.A.

Under cross examination, he stated he was in this unit throughout the election; and the presiding officer invited all agents including PDP agent who witnessed the counting of the number of accredited voters, the used and unused ballot papers and the entries made in the unit result which all the agents signed without complaint. His agent card was admitted as Exhibit 2R048.

The testimony of this witness is credible as same not discredited under cross examination.

2RW47: Page 1404 Vol. 3: Aluede Michael Egbos: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition made on the 15th of November, 2016; and identified Exhibit PO174(8); he served as a polling agent at unit 8 of ward 01 of Esan West L.G.A.

Under cross examination, he stated that he saw the presiding officer accrediting people with voter's register, therefore it is surprising to say there was no accreditation; he said he was with PDP agent Matthew Jones at the unit when counting of accredited voters was done; and that all the agents were there when used and unused ballot papers were entered in the result sheet which all of them signed without complaint.

The witness gave direct testimony and is evidence was not discredited under cross examination.

2RW48: Page 1397 Vol. 3: Ihemhekpen Albert: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 15th of November, 2016; and identified Exhibits PO174(1) and PO4(164); he served as a ward collation agent for Ward 01 of Esan West L.G.A.

Under cross examination, he confirmed that he signed Exhibit PO4(164) as ward collation agent.

The testimony of this witness is indirect therefore not admissible. It is hereby rejected for being hearsay.

2RW49: Page 1473 Vol. 3: Uzor Joseph B.: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition made on the 15th of November, 2016; and identified Exhibit PO182(3); he served as a polling agent at unit 03 of ward 09 of Esan West L.G.A.

Under cross examination, he stated that the presiding officer invited all the agent to his table and counted the number of accredited voters as 193 which he recorded in Form EC8A and also the number of used ballot papers and the unused; he said all the agents signed the result including PDP agent without complaint; the agent card for the witness was admitted as exhibit 2RO50.

The evidence of this witness is credible not having discredited under cross examination for it is a direct evidence from a polling agent.

2RW50: Page 1410 Vol. 3: Odigie Lucky: The witness sworn on the Holy Bible and speaks English; he identified and adopted his written statement on oath and also identified Exhibits PO4(165), PO175(5) and PO146(1-8); he served as a polling agent at unit 5 of ward 2 of Esan West L.G.A.

Under cross examination, the witness stated that it is not correct to say that there was no accreditation in my unit; and that paragraph 695 of the Petition is not correct; and that in the presence of all agents, the accredited voters was counted as 124; and the used and unused ballot papers were counted and same entered in Form EC8A which all the agents signed without complaint. This include PDP agent.

The evidence of this witness is direct and is accepted as same as not impeached under cross examination.

2RW51: Page 2151 Vol. 4: Jolly Sunday Joseph: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 15th

day of November, 2016; and identified Exhibit PO9(1); he served as a polling agent at unit 01 of ward 5 of Akoko Edo L.G.A.

Under cross examination, the witness stated that he was in his unit from the beginning to the end of the election; and that he saw the process of accreditation and voting which was done continuously; and that all entries made regarding his unit were so made in the presence of all agents including PDP agent; and that all of them signed the result sheet without complaint; and that his agent card was admitted in evidence as Exhibit 2RO52.

The testimony of the witness is credible as same was not impeached under cross examination.

2RW52: Page 2202 Vol. 4: Amos Tom Uduhagene: The witness was sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 15th of November, 2016; and also identified Exhibit PO12(2); he served as a polling agent at unit 2 of ward 8 of Akoko Edo L.G.A.

Under cross examination, he stated that, it is not possible to vote without accreditation; and that voters were accredited one after the other; and that all agents were present when the presiding officer counted the number of accredited voters and the number of used and unused ballot papers and entered same into Form EC8A which all of them signed including PDP agent and that his agent card was admitted in evidence as Exhibit 2RO52; and in Exhibit PO203 page 2 of the voter's register, he observed tickings to the left and to the right.

The evidence of this witness is credible as same was not impeached under cross examination; same is also direct by a polling agent who saw everything firsthand.

2RW53: Page 2055 Vol. 4: Edor Bishop: On the 15th of November, 2016; this witness filed his deposition which he identified and adopted after being sworn in before this Tribunal; and he urged the Tribunal to consider same as his evidence; he also identified Exhibit PO14(9); he functioned as a polling agent at unit 9 of ward 10 of Akoko-Edo L.G.A.

Under cross examination, he stated that, at the end of the election the presiding officer invited the agents to witness counting of the number of accredited voters, and that the figure was 231 which was entered in the Form EC8A without any complaint; and that all agents have signed the result sheet so produced by the presiding officer and that the accreditation and voting were done continuously; and that no one voted without accreditation; and that the agent card of the witness was admitted in evidence as Exhibit 2R054.

The evidence of the witness is direct and credible same was not impeached under cross examination.

2RW54: Page 1949 Vol. 4: Aruku Moris: On the 15th of November, 2016; this witness filed his deposition after being sworn in on the Holy Bible and speaks English, he identified and adopted his deposition and also identified Exhibit PO11(15); he also served as a polling agent at unit 15 of ward 7 of Akoko-Edo L.G.A.

Under cross examination, he stated that the PDP agent was with him throughout the accreditation and voting exercise and that the figure of the accredited voters was 447 which himself and the PDP agent signed without any complaint; and that PW8 Awoni Sunday did not tell the truth when he said there was no accreditation because on presenting Exhibit PO202(15) at page 15 Serial No. 415 where his name was identified, there were tickings on it to the left and to the right; and also on serial No. 165 page 12, there were tickings to the left and to the right.

The testimony of this witness is credible as name is direct and not in any impeached under cross examination.

2RW55: Page 2099 Vol. 4: Justina Joseph: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 15th of November, 2016; and identified Exhibit PO13(6); and he served as a polling agent at unit 6 of ward 9 of Akoko-Edo L.G.A.

Under cross examination, he stated that, I was together with one Justina Florunsho – PDP agent for my unit: That they witnessed the accreditation and voting

together; and that the said PDP agent did not dispute the figure of the accredited voters there; and both of them signed the result sheet; and his agent card was admitted as Exhibit 2RO56.

This evidence is direct and its credible was not impeached under cross examination and therefore admissible.

2RW56: Page 2008 Vol. 4: Shekire Clifford: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 15th of November, 2016; and identified Exhibit PO14(2); and he served as a polling agent at unit 2 of ward 10 of Akoko-Edo L.G.A.

Under cross examination, he stated that he witnessed the conclusion of voting in his unit; and polling agents were invited to observe counting of the number of the accredited voters which he entered in Form EC8A and all of them signed without complaint inclusive of PDP agent; the witness agent card was admitted in evidence as Exhibit 2RO57; he maintained that there was proper accreditation and that there was no over voting; and that at the time he voted, his name was ticked and that it was not his business to know whether it is to the left or to the right; he further maintained that PDP agent said Exhibit PO14(2).

The evidence of this witness is credible as it is direct and same could not be impeached under cross examination; and it is not conflict with the exhibits tendered before the Tribunal.

2RW57: Page 2099 Vol. 4: Emmanmuel Macaulay: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 15th of November, 2016; and also identified Exhibit PO9(15); and served as a polling agent at unit 15 of ward 5 of Akoko-Edo L.G.A.

Under cross examination, he stated INEC officials were handy with voter's register in his unit; and that they used same to conduct accreditation and voting in the unit; and that the presiding officer invited all agents to witness the counting of the accredited voters; and according to him, the figure was 292 which was not disputed by

any agent; and that all agents signed the result without complaint; the agent card of the witness was admitted in evidence as Exhibit 2R058; the witness maintained that he was accredited before he voted; and that it is not true that there was no accreditation; and it is also not true that there were over voting; he further maintained that his name was ticked and that there are tickings on the voters register be it to the left or to the right.

The evidence of this witness is direct and credible as same is not impeached under cross examination hence admissible.

2RW58: Page 1657 Vol. 4: Comrade Paul A. Alazi: The witness was sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 15th of November, 2016; and also identified Exhibit PO30(8); and he also functioned as a polling agent at unit 8 of ward 6 of Etsako Central L.G.A.

Under cross examination, he stated that there was accreditation and voting using voters register in his unit; and that Mr. Michael who doubles as PDP agent and PW65 was him; and that the presiding officer counted the number of accredited voters to the hearing of all of us, and a figure 330 was entered into the result sheet which we all signed without any complaint including PW65 – PDP agent; his agent card was admitted in evidence as Exhibit 2R059; he further confirmed that his name was confirmed on the register before he was given a ballot paper to vote but he cannot confirm whether his name was either ticked to the left or right.

The witness is credible as his evidence is direct; and was not impeached under cross examination.

2RW59: Page 1359 Vol. 3: Igbinedion Clifford: The witness was sworn on the Holy Bible and speaks English; he identified and adopted his statement on Oath made on the 15th of November, 2016; and also identified Exhibit PO41(2); and functioned as a polling agent at unit 2 of ward 7 of Igueben L.G.A.

Under cross examination, he stated that there was accreditation and voting in his unit using voter's register; and that same was done continuously; he further said

PDP agent by name Michael Mark was with him when the presiding officer counted the number of accredited voters which was entered in Form EC8A which we all signed without complaint; the witness agent card was admitted in evidence as Exhibit 2R060; he maintained that he was in his unit from the beginning to the end; and that he knew PW46 Andrew but did not see him in his unit on the day of the election; and it is not true that there was no accreditation in my unit; and that in Exhibit PO222(2), there were not ticking to the left to the right.

The witness is credible; his evidence is not impeached under cross-examination; and that it is direct as the witness is a polling agent.

2RW60: Page 1'352 Vol. 3: Ukpebor Osalumhense: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition of 15th of November, 2016; and also identified Exhibit PO40(5); and functioned as a polling unit agent at unit 5 of ward 6 of Igueben L.G.A.

Under cross examination, he stated that he together with the PDP agent at the conclusion of the election when the presiding officer entered the number of accredited voters whose figure was 289 which myself and the PDP agent signed without any complaint; and that there was no accreditation in this unit was not correct because he was accredited and voted; and all those that voted were accredited; and he knew PW47 but he did not notice him in his unit on the day of the election; and that he was in that unit from the beginning to the end of the election; and that paragraph 11 of his deposition does not include ticking to the left or ticking to the right and that his agent card was admitted in evidence as Exhibit 2R060.

The testimony of the witness is credible as same is direct whose credibility was not impeached under cross examination.

2RW61: Page 1362 Vol. 3: Enoghase Emmanmuel: The witness who was polling unit agent at unit 4 ward 7 of Iguebe Local Government Area was sworn on the Holy Bible and speaks English; he identified and adopted his sworn statement made on the 15th of November, 2016; and he also identified Exhibit PO41(4).

Under cross examination, he stated that INEC adopted continuous accreditation and voting system; and by that it is not possible to vote without accreditation and the presiding officer invited all agents to witness the counting of the accredited voters; and that the INEC officer made the counting loudly and publically and thereafter he entered the figure into Form EC8A which we all signed without dispute including PDP agent Ajayi Vincent; and that it is not true that there was no accreditation in his unit because he was accredited and voted there and that name treatment was applicable to all those voted in that unit; that there are tickings on Exhibit PO222(4); and that his agent card was admitted in evidence as Exhibit 2R062.

The witness evidence is credible and therefore admissible being direct and was not contradicted under cross examination.

2RW62: Page 1318 Vol. 3: Felix Orobosa John: The witness who was polling unit agent at unit 5 ward 1 of Igueben Local Government Area was sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 15th of November, 2016; and identified Exhibit PO35(5).

Under cross examination, he stated that himself and the PDP agent observed the process of election together; he further said the presiding officer invited them to witness counting of the accredited voters of that unit; and that nobody faulted the figure counted by the INEC officer; and that all the agents signed the result sheet; he said he did not vote because he missed his voter's card; and he knew PW43 who was a PDP ward collation agent as well; he confirmed that there are tickings on Exhibit PO216(5) to the left only; the agent card of the witness was admitted in evidence as Exhibit 2R063.

The evidence of this witness is admissible because it is direct and it's credibility is not impeached under cross examination.

2RW63: Page 1730 Vol. 4: Mike Awenegieme: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 15th of

November, 2016; and also identified Exhibits PO46(1-6); and PO4(42): he functioned as ward collation agent for ward 2 of Etsako East L.G.A.

Under cross examination, he stated that he was at ward collation centre as result were submitted; he also said that he does not know the contents of the result submitted therefore he cannot answer questions on the said results.

This witness is not credible because his evidence is not direct being a ward collation agent and same is dismissed as hearsay.

2RW64: Page 1723 Vol. 4: Comrade Ogun JIohn Olegie: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition of 15th November, 2016; and also identified Exhibits PO45(1-9) and PO4(41); he functioned as ward collation agent for ward 1 of Etsako East Local Government Area.

Under cross examination, he stated that he was at the ward collation center when returning officer of the INEC started submitting the results; and that he does not know the contents of the result therefore he cannot answer questions on them and that he signed Exhibit PO4(41).

The evidence of this witness is not credible because it is not direct as the witness is a ward collation agent when testimony falls under hearsay evidence. His evidence is inadmissible.

2RW65: Page 1746 Vol. 4: Hon. Ifedayo Eshieshi: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition of 15th November, 2016; and identified Exhibits PO50(1-9) and PO4(46); he functioned as ward collation agent for ward 6 of Etsako East Local Government Area.

Under cross examination, he stated that he was at the ward collation center when Returning Officers started submitting the results; and that he did not receive complaints from his agents; and he does not know the contents of returns to the INEC ward collation officer, he is not in a position to answer questions on the documents.

The testimony of the witness is not credible he is a ward collation agent who cannot give direct evidence. His evidence is dismissed as hearsay.

2RW66: Page 711 Vol. 2: Igbinijesu Noso Cookey: This witness was sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 15th November, 2016; and identified Exhibits PO4 (19) and PO23(1-19); he functioned as a ward collation agent for ward 9 of Egor Local Government Area.

Under cross examination, he stated that he was at the ward collation center at the conclusion of the election wherein he received pink copies result from his agents; and that he signed the collated result o the ward.

The evidence of this witness is not credible as same is not direct. The witness being a ward collation agent.

2RW67: Page 1867 Vol. 4: Hon. Ikheafe Dennis Ighodaro: The witness was sworn on the Holy Bible and speaks English; he identified and adopted his deposition of the 15th November, 2016; and also identified Exhibits PO4(86) and PO97(1-17); he functioned as ward collation agent for ward 8 of Owan East Local Government Area.

Under cross examination, he stated that he was at the ward collation center when presiding officer started returning with voter's register and other electoral materials; they submitted same to the ward collation officer of INEC, not him therefore, he cannot answer questions on the documents submitted to the ward collation officer of INEC; he only received pink copies from agents and received no complaint from his agents.

This testimony is dismissed as hearsay as the witness is a ward collation agent who cannot give direct evidence.

2RW68: Page 1880 Vol. 4: Hon. Hillary Ozogo: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 15th November, 2016; and also identified Exhibits PO4 (87) and PO98(1-17); he functioned as ward collation agent for ward 9 of Owan East Local Government Area.

Under cross examination, he stated that he was at the ward collation center when result started coming; and that his party agent did not report to him any complaints.

The testimony of this witness is not creditable as the witness is a ward collation agent who knew nothing about the happenings he purported to collate. His evidence is dismissed as hearsay.

2RW69: Page 1939 Vol. 4: Mr. Frank David: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition of 15th November, 2016; and identified Exhibits PO4 (101) and PO4(102-111); and he served as ward collation agent for ward Owan West Local Government Area.

Under cross examination, he stated that in relation to ward 4 of the Local Government, no complaints received regarding over voting, lack of voting or non-accreditation, though in further cross examination, he confirmed that he did not go to ward 4 in question.

The evidence of this witness is not credible as he only relied on report of his agents from wards being a Local Government collation agent; and his evidence is dismissed as hearsay.

2RW70: Page 1594 Vol. 4: Adams Ozemede Andrew: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition of 15th November, 2016; and also identified Exhibits PO4 (60) and PO64(1-16); and he functioned as ward collation agent for ward 10 of Etsako West Local Government Area.

Under cross examination, he stated that he was at the ward collation center after voting. The presiding officers submitted results sheets to the ward collation officer of INEC in his presence; he maintained that no complaint received from his ward.

The testimony of this witness is not credible as same emanate from an indirect source as the ward collation agent cannot give direct evidence. His evidence is hereby refused being hearsay.

These witnesses testified to the credibility of the election and we accept their testimonies.

The witnesses of the 3rd Respondent are as follows:

3RW1-3RW15.

3RW1: Adenomo Otesowu Charles: APC ward collation agent in ward 06, Ikpoba Okha Local Government of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO4(127).

Under cross examination witness stated that at the ward collation centre nobody complained about lack of material. He stated he cannot answer any question on INEC materials. He only received a photocopy of Form EC8B for the ward from presiding officer. That the PDP agent, Rev. Martins Ateon PW28 did not make any complaint about lack of accreditation to the ward collation officer. He voted at unit B of ward 6 after accreditation. He was not trained with INEC manual.

The evidence contradicts the Petitioners allegation but no probative value attached.

3RW2: Diamond Ogieriakhi: APC ward collation agent in ward 05, Ikpoba Okha Local Government of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO4(126).

Cross examined witness stated that at the ward collation centre for the collation of result, Witness stated that as the results came in from the polling units, nobody complained of non-compliance. After collation of results, all agent including PDP agent PW29, Godwin Bobori signed the ward result without any complain. He was at the Local Government to submit the result from EC8B and nobody complained. Collation was peaceful and orderly. He was not trained by INEC but by his party.

No probative value is attached because witness is a ward collation agent who should confine his evidence to what happened at the ward collation center.

3RW3: Ughe F. Sunday: APC ward collation agent for ward 10, Ikpoba Okha Local Government of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO4(131).

Cross examined witness stated he was at the ward collation centre at the close of the election. Witness said he voted in Unit 10 Ward 10 after accreditation. The PDP agent for the ward Athur Osakpolor did not complain. The collation was orderly. He said security men were at the collation centre.

The witness testimony as to what happened at the ward collation center is credible.

3RW4: Emmanuel Onwregbe: APC ward collation agent for ward 002, Ovia South West Local Government of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO4(64).

Under cross examination witness stated that he was at the ward collation center with others when the presiding officers brought the results of polling units in the ward. Nobody complained about lack of accreditation using the voter's register. He said the polling unit results are the basis of PO4(64). He said that at the conclusion of collation, the PDP agent Festus Asemota PW56 and other agents signed without complain. He was not trained for the job by INEC but by his party.

To the extent that the testimony of this witness is confined to what happened at the collation centre, he is credible.

3RW5: Rt. Hon. Osadolor Odumamwen: APC ward collation agent for ward 001, Ovia South West Local Government of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO463.

Under cross examination witness stated that he was at the ward collation centre with other agents when the presiding officer accompanied with polling agent brought the ward result. That none of the polling agent complained about non-accreditation and the result of the polling units were used to produce the contents of Form EC8B. That one Festus Asemota signed for PDP without complain. He was trained by his party and not INEC. He voted in that unit 01 ward 01 and was accredited before voting.

The evidence is credible because the witness restricted himself to what happened at the ward collation center.

3RW6: Omoruyi Ebuehi Samuel: APC ward collation agent in ward 003, Ovia South West Local Government Area of Edo State. Witness adopted his deposition as his evidence and identified Exhibit PO4(65).

Under cross examination, witness stated he was at the ward collation center with other agents when results started coming from polling units. None of the agents complained. The results were used to collate Form EC8B. He said PW57, Omoruyi Edonyi, PDP agent signed the result without complain. He stated he went to the Local Government where he handed over the result of the ward to the Local Government collation agent. He said, at the Local Government, none of the agent complained of lack of accreditation. Stated he cannot answer any question relating to INEC document. He confirmed, PO69(1-11) care copies of polling unit results. He said, he voted in unit 001 ward 03 and that he was trained by his party.

Probative value is ascribed to the testimony of this witness.

3RW7: Hon. Osaretin Olaye: APC ward collation agent in ward 04, Egor Local Government Area of Edo State. Witness adopted his deposition and identified Exhibit PO4(14).

Under cross examination the witness stated that when the results were coming in from various polling units, he was at the ward collation center. Nobody complained about non-compliance. The result collated were used to collate PO4(14). He said that at the conclusion of collation PDP agent PW55 signed and did not complain. The collation was orderly and peaceful. He said he voted in unit 7 ward 04 after being accredited. He was trained by his party and not INEC.

The witness' evidence is credible as he limited himself to what happened at the collation center.

3RW8: Page 847 Vol. 4: Noghaghase Johnson: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 8th day

of November, 2016; and identified Exhibit PO4(78); he functioned as ward collation agent for ward 12 of Ovia North Local Government Area.

Under cross examination, he stated that he was at the ward collation centre when the ward collation officer of INEC started bringing result sheets; and that no problem was reported either from the presiding officers or the polling agents of his party; and that himself and one Mrs. Elizabeth, PW73 signed the collated result in Exhibit PO4(78); he further said that he cannot answer questions on INEC materials because same was not returned to him; he said paragraph 13, 16 and 17 were based on his examination of INEC documents.

The testimony of this witness is credible because he testified on what happened at the collation center.

3RW9: Page 1430 Vol. 4: Charles E. Osagiator: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 8th day of November, 2016; he also identified Exhibit PO4(142); he served as ward collation agent for ward 11 of Oredo Local Government Area.

Under cross examination, he stated that he was at the ward collation center to monitor the collation of the results; that the collated result was signed without any complaint as to lack of accreditation, improper accreditation or over voting; he maintained that accreditation and voting were done continuously; and that he deposition on paragraph 17 and 18 were based on the fact there was no complaint.

The testimony of this witness is credible because what he deposed to based on "No complaint" and not within his personal knowledge; thus he has no firsthand information on what transpired at the collation center.

3RW10: Page 255 Vol. 2: Oladele Ebenezer: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 8th day of November, 2016; and identified Exhibit PO4(4); he served as ward collation agent for ward 4 of Akoko-Edo Local Government Area.

Under cross examination, he stated that there was no complaint of lack of accreditation, improper accreditation or over voting from the presiding officer or agents of his party to the ward collation officer of INEC; and his deposition on paragraph 15 and 17 were predicated on the fact there was no complaint from the presiding officer or agents of his party.

The testimony of the witness is credible because his deposition was based on his direct knowledge of what happened at the collation center.

3RW11: Page 263 Vol. 2: Maliki Fatai-Aked 35: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition dated the 8th day of November, 2016; and also identified Exhibit PO4(2); he served as ward collation agent for ward 2 of Akoko-Edo Local Government Area.

Under cross examination, he stated that there was no complaint of lack of accreditation or improper accreditation or over voting from his polling agents; and that he cannot answer questions on voters registers because same were not submitted to him; and his deposition on paragraph 15 and 17 were based on the fact that there was no complaint from the polling agents or the presiding officers of INEC.

The testimony of this witness is credible because same was based on what he saw at the collation center.

3RW12: Page 1736 Vol. 4: Hon. Francis Akpene: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 8th day of November, 2016; and also identified Exhibit PO4(44); and he served as ward collation agent for ward 4 of Etsako East Local Government Area.

Under cross examination, he stated that he received no complaint of lack of accreditation or improper accreditation or over voting from his agent or the presiding officers; and that he cannot answer questions on voters register because same was not submitted to him; and that his deposition on paragraph 15, 16 and 17 of his statement on Oath were based on the fact that there was no complaint about the entries in the result sheets.

The testimony of the witness is credible because he stated what he witnessed at the collation center.

3RW13: Page 1698 Vol. 4: Daniel Ogudo: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 8th day of November, 2016; and identified Exhibit PO4(167); and he served as ward collation agent for ward 4 of Esan West Local Government Area.

Under cross examination, he stated that he was at the ward collation center when results started coming; and that neither the presiding officers nor the agents of his party complained to him of over voting, lack of accreditation or improper accreditation before the Local Government collation officer.

The testimony of this witness is credible because he limited himself to what happened at the ward collation center.

3RW14: Page 251 Vol. 2: Evans O. Alaiya: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 8th day of November, 2016; and identified Exhibit PO9(1-16) and he served as a ward collation agent for ward 5 of Akoko-Edo Local Government Area.

Under cross examination, he stated that he was at the ward collation center awaiting results; and that neither the presiding officer nor the agents complained of over voting, lack of accreditation or improper accreditation at the ward or Local Government's level; and that party ward collation agents signed the results without complaint.

This testimony is also credible because he limited his testimony to what happened at the collation center.

3RW16: Page 127 Vol. 1: Adam Ojezua: The witness sworn on the Holy Bible and speaks English; he identified and adopted his deposition filed on the 8th day of November, 2016; and identified Exhibits PO391(1), 2RO64, 1RO22 and PO300(1-8); he functioned as Edo State Party Chairman.

Under cross examination, he stated that the election was conducted in accordance with the election guideline; and that Exhibit PO391 is meant for training INEC officials while Exhibit PO2R064 and PO1RO22 described how the election could be conducted; and that Exhibit PO1RO22 did not prescribe ticking for accreditation.

The testimony of this witness is not credible because, his depositions were based on reports he received from campaign organizations, collation agents and polling unit agents. This is testified by paragraph 7, 8, 9, 10 and 11 of his deposition. We do not accept his testimony as same is hearsay.

Before we conclude, want to address some salient issues raised by the parties in their written addresses:

1. Petitioners in paragraphs 1.06 and 4.12 of their written address to the 1st Respondent address argued that the 1st Respondent (INEC) failure to call evidence of it's own means that the entire case of the Petitioners against the 1st Respondent stand unchallenged and that the 1st Respondent has abandoned it's pleading.

Learned senior counsel to the Petitioner cited a relied on the following case:

Ebunike vs. ACB Ltd (1995) 2 NWLR (Pt. 375) 34; Hon. Diri vs. INEC CA/AEPT567/2016 unreported delivered on 1st December, 2016; Abacha vs. Spiff (2009) 2-3 SC, 97.

We want to start by making a distinction between calling of witnesses and adducing evidence. A party may not necessarily call witnesses yet he may adduced evidence. Tendering documents from the Bar constitutes evidence and evidence elicited under cross examination by a party which supports his pleading is also evidence.

In the case of Amolefe vs. Guarman Press Ltd (2010) 3 NWLR (Pt. 1181) at 351, the SC, per Ononghen, JSC (as he then ws) held as follows:

"On the issue as to whether both parties called evidence in support of their pleadings as held by the lower court, it is settled law that evidence elicited from a party or his witness(es) under cross examination which goes to support the case of the party cross examining, constitutes evidence in support of the case or defence of their party. If at the end of the day the party cross examining decides not to call any witness, they can rely on the evidence elicited from cross examination in establishing his case or defence. One may however say that the party called not witness in support of his case or defence, not evidence, as the evidence elicited from his opponent under cross examination which are in support of his case or defence constitutes his evidence in the case. There is however a catch to this principle. The exception is that the evidence so elicited under cross examination must be on facts pleaded by the party concerned for it to be relevant to the determination of the question/issue in controversy between the parties."

Similarly, the SC in the case of Omisore vs. Aregbosola (supra) held that

".....it is trite law that the non calling of any evidence by the 3rd Respondent did not affect his case adversely in any way. In other words, by the very act of cross examining the witnesses of the Petitioners, the 3rd Respondent had given evidence. As rightly submitted by the 1st Respondents counsel. It is not in dispute that all the evidence extracted through cross examination from the witnesses of the Appellants and the Respondent are evidence for the 3rd Respondent. The 3rd Respondent also tendered documents as exhibits inclusive of all the CTC of electoral do comments which are evidence in his favour."

From the above 2, Supreme Court authorities, the 1st Respondent cannot be deemed to have abandoned his pleading merely because it has not called witnesses.

The position of law is that a party can establish his case through the witnesses of other parties by eliciting evidence under cross examination.

Evidence elicited during cross examination is as good as evidence given during examination in chief. See Mezu vs. C&B Nig. Plc (2013) 3 NWLR (Pt. 1340) 188 at 291.

The argument of the learned senior counsel for the Petitioners in this regard does not hold water in law. We disagree with him.

The 2nd Respondent at Page 28 paragraph 8.41 of his final written address argued that apart from the subpoena by PW1, all the documents tendered by the Petitioners were tendered by Petitioners' counsel from the Bar.

It is his contention that all the documents were merely dumped on the Tribunal as the Petitioners did not make effort at linking them to the relevant aspect of the case by calling appropriate witnesses to speak to them and demonstrate the applicability to Petitioners case in open court.

Learned senior counsel for the 2nd Respondent cited and relied on the case of Ladojo vs. Ajomobi (supra) in support of his contention. In his reaction, learned senior counsel to Petitioners submitted that PW1 encapsulates, covers and make reference to the electoral documents, so also PW1-91 also linked the documents to various aspect of the petition.

It is instructive to note that, the procedure adopted in the course of trial in this petition is that a party will lead his witness to adopt his written deposition within 5 minutes if the witnesses are to tender document 7 minutes allotted.

All the Petitioners' witnesses were led by their counsel, adopted their statement on oath and were shown the exhibits they referred in their deposition to identify.

We did not come across any witness who after identifying the exhibit made another reference to any particular place in his deposition. The law is that a party relying on documentary evidence in proof of his case has the duty to link the documentary evidence to the particular aspect of his case to which it relates. See Omisore vds. Aregboshola (supra).

The Petitioners claim in their written address that the 1st Petitioners made copious reference to the document before the Tribunal, may be true but he did not in any manner demonstrate the documents tendered. From our record, PW1 did not even

identify the documents he made reference to in his deposition. None of the Petitioners' witnesses demonstrated the document tendered from the bar.

Equally, the submission of the Petitions in paragraph 4.22-4.25 of their reply to the 2nd Respondent final address that having tendered documents from the bar, these documents speak for themselves is not the current position of law. In Tallen & Ors vs. Jang & ors (supra), it was held that:

"...yes it is true that a document once tendered in evidence speaks for itself. This is just for the court to know, prima facie, the contents of the document, but the court will have no competence and power to apply the document to any specific aspect of the party's case when the party that tendered it did not do so. That will amount to embarking on a voyage of discovery and will lead to the break of right to fair hearing of the adversary party who did not have the fore knowledge of the purpose for which the document was tendered in evidence"

On the strength of the above authority we hold that the Petitioners merely dumped the Electoral documents on the Tribunal without taking steps to link them to specific areas of their case thereby rendering the documents valueless as we do not ascribe any value to them.

Another point that needs consideration is the 2nd Respondent's challenge to the Petitioners failure to tender the list of agents which they sent to INEC and agents tag in evidence. Their failure according to him attracts the invocation of Section 167(a) of the Evidence Act.

In reaction to the challenge, the Petitioners submitted in paragraph 4.77 of their reply to the 2nd Respondent address at Page 24 thereof that there is no law which make it mandatory to the Petitioners' witnesses to tender their voter card and list of their agents, especially because the Respondents did not challenge their position as agents of the Petitioners at the polling unit, ward and Local Government Area where they were agents.

It is instructive that the Petitioners in paragraph 750(m) and (q) of the Petition pleaded thus:

"750. Your Petitioner hereby pleads and shall on all documents in support of the averments above these said documents include but are not limited to the following.

(m) Official tags of the 2nd Petitioners polling and collation agent.

(9) List of party agents submitted to INEC for the Edo State Governorship Election.

Section 45(1) of the Electoral Act as well as paragraph 6(a) of the 2015 guidelines provide that a political party may send in writing to INEC name or names of its agent(s) for each polling unit and collation center at list 7 days before the date fixed for the election.

Having pleaded the list of the agents they sent to INEC and the agents Tag in compliance with Section 45(1) Electoral Act and paragraph 6(a) of the Guidelines of 2015. What then stopped the Petitioners from tendering them in evidence? The reason adduced by the Petitioners is not convincing enough to prevent the invocation of Section 167(d) of the Evidence Act against them.

Accordingly, we do not ascribe any probative value to the Petitioners' witnesses.

Specifically, also PWs 8, 9, 17, 18, 19, 20, 21, 25, 54, 62, 64, 65, 66, 67, 75, 76, 77 and 79 who stated in the depositions that they would rely on pink copies but did not produce or tender them. They are caught by the provision of Section 167(d) of the Evidence Act.

The Petitioners led evidence from 92 witnesses who gave evidence in respect of over 2600 polling units. While it is true that quantity of witnesses does matter but quality even if however the testimonies of the 29 polling agents were not discredited, their evidence will not make any impact on the result declared by the 1st Respondent considering the fact that testimonies of remaining 63 witnesses who were ward/Local Government collation officers were rendered hearsay by this Tribunal.

In the Petitioners' attempt to prove their case of non-compliance, they only called witnesses without evidence, this is clearly shown from the testimonies of their witnesses wherein they were clearly discredited under cross examination.

In paragraph 754(11), the Petitioners aver as follows:

"It may be determined that the 1st Petitioner be declared validly elected or returned, having scored the highest number of lawful votes cast at the Governorship election held on the 28th September, 2016.

The Petitioners are challenging the lawfulness of the votes cast for the 2nd Respondent. The law is that the only way the Petitioners can question the lawfulness of or otherwise of some of the votes cast in an election is to tender all the forms used and call witnesses to testified as to the miss application of the votes/scores. See the case of Malum Fashi vs. Yaba (1999) 4 NWLR (Pt. 598) 230 at 237.

The Petitioners in this case did not call witness to testify as to the miss application of votes scored.

None of their witnesses alluded in his deposition to the miss application and none showed to the Tribunal where such miss-application was done in the forms tendered by the Petitioners.

Furthermore, the Petitioners did not plead the score of all the candidates that contested the election in respect of all the units being contested where the miss-application occurred.

Again, it is the duty of the Petitioners to show by credible evidence that they scored the highest number of lawful votes and the 1st Petitioner has satisfied the requirement of law.

From the witness presented by the Petitioners, none of them alluded to the issue of lawful votes and in fact their testimonies were discredited under cross examination.

The Petitioners have not in our view led credible evidence to justify the grant of their reliefs and we so hold.

On the whole, we hold that the Petitioners have not by credible evidence proved their case and have failed to show that they are entitled to their reliefs.

Accordingly,


1. The petition is hereby dismissed.
2. The return of the 2nd Respondent, Godwin Obaseki is hereby upheld.

At this stage, we want to thank the senior counsel of all the parties and their colleagues for their co-operation industry.



HON. JUSTICE A. T. BADAMASI
CHAIRMAN

14/4/17



HON. JUSTICE GILBERT A. NGELE
MEMBER 1

14/4/17



HON. KHADI ADAMU USMAN
MEMBER 11

14/4/17

SECRETARY
ELECTION PETITION TRIBUNAL
Date: 14th Day of April 2017
CERTIFIED TRUE COPY
A. M ALIYU
SECRETARY