

IN THE NATIONAL AND STATE HOUSE OF ASSEMBLY
ELECTION PETITION TRIBUNAL
HOLDEN AT SOKOTO
ON FRIDAY THE 6TH DAY OF SEPTEMBER, 2019
BEFORE:

HON. JUSTICE P.A. AKHIHIRO-----CHAIRMAN
HON. JUSTICE A.N. YAKUBU-----1ST MEMBER
HIS WORSHIP S.T BELLO -----2ND MEMBER

PETITION NO: EPT/SKT/SEN/11/2019

ELECTION TO THE OFFICE OF MEMBERSHIP TO THE SENATE,
REPRESENTING SOKOTO NORTH SENATORIAL DISTRICT HELD
ON THE 23RD DAY OF FEBRUARY, 2019.

BETWEEN:

1. MUHAMMAD AHMED MACCIDO
2. PEOPLES' DEMOCRATIC PARTY (PDP) } PETITIONERS

AND

1. WAMAKO, ALIYU MAGATAKARDA
2. ALL PROGRESSIVES CONGRESS (APC)
3. INDEPENDENT NATIONAL ELECTORAL
COMMISSION } RESPONDENTS

JUDGMENT

DELIVERED BY HON. JUSTICE P.A.AKHIHIERO (CHAIRMAN)

This judgment is in respect of an election conducted on the 23rd of February 2019, by the Independent National Electoral Commission (3rd Respondent) for the office of Senator of the Sokoto North Senatorial District. The 1st Petitioner and the 1st Respondent contested the election with several other candidates. At the end of the poll, the 3rd Respondent declared the 1st Respondent as duly elected and returned.

Aggrieved by the decision of the 3rd Respondent, the Petitioners filed this Petition on the 18th of March, 2019, seeking redress. The petition which was subsequently amended with the leave of this Tribunal is based on the following grounds:

1. The election was invalid by reason of corrupt practices or non – compliance with the provisions of the Electoral Act 2010 (as amended); and
2. The 1st Respondent was not duly elected by majority of lawful votes cast at the said election.

The Petitioners are seeking the following reliefs:

- a. That the election for the office of Senator representing Sokoto North Senatorial District held on the 23rd Day of February, 2019 is invalid by reason of corrupt practices or non - compliance with the provisions of the Electoral Act, 2010 as amended and INEC Manual for Election Officials 2019 as well as the 3rd Respondent’s Regulations and Guidelines for the Conduct of Elections 2019;
- b. That the 1st Respondent, WAMAKO, ALIYU MAGATAKARDA of the All Progressives Congress, (the 2nd Respondent), was not duly elected or returned by majority of lawful votes cast at election for the office of Membership to the Senate, representing Sokoto North Senatorial District held on the 23rd day of February, 2019;
- c. That all the purported valid votes cast for the 1st Respondent recorded by the Returning Officer of the 3rd Respondent at the National Assembly Election for the office of Membership to the Senate, representing Sokoto North Senatorial District held on the 23rd day of February, 2019 are void and wasted votes, same having not been conducted in strict compliance with the provisions of the Electoral Act, 2010 as amended and INEC Manual for Election Officials 2019 as well as the 3rd Respondent’s Regulations and Guidelines for the Conduct of Elections 2019;
- d. That the return of the 1st Respondent as having been duly elected at the National Assembly Election for the office of Membership to the Senate, representing Sokoto North Senatorial District held on the 23rd day of February, 2019 was on the basis of void and invalid votes cast in the 1st Respondent’s favour as a candidate of the 2nd Respondent and was a nullity;
- e. That the Certificate of Return issued to the 1st Respondent, WAMAKO, ALIYU MAGATAKARDA of the All Progressives Congress, (the 2nd Respondent) as member, Senator representing Sokoto North Senatorial District in the elections held on the 23rd day of February, 2019 is null and void and of no effect whatsoever;

- f. That the 1st Petitioner, MUHAMMAD AHMED MACCIDO ought to have been returned and should be returned as member, Senate representing Senatorial District in the elections held on the 23rd day of February, 2019;
- g. That the 3rd Respondent shall forthwith issue the 1st Petitioner, MUHAMMAD AHMED MACCIDO with a certificate of Return as member, Senate representing Senatorial District in the elections held on the 23rd day of February, 2019;

ALTERNATIVELY the Petitioners are praying the Tribunal to hold as follows:

- a. That the National Assembly election for the office of Membership to the Senate, Senate Representing Sokoto North Senatorial District held on the 23rd day of February, 2019 is void on the ground that the election was not conducted substantially in accordance with the provisions of the Electoral Act 2010 as amended, INEC Manual for Election Officials 2019 as well as the 3rd Respondent's Regulations and Guidelines for the Conduct of Elections 2019;
- b. That the said election was vitiated by substantial non - compliance with the mandatory statutory requirements of the Electoral Act 2010 as amended and the INEC Manual for Election Officials 2019 as well as the 3rd Respondent's Regulations and Guidelines for the Conduct of Elections 2019 which substantially affected the validity of the said elections that none of the candidates in the said election can be validly returned as having won the said election;
- c. That the said election be nullified and or cancelled and the 3rd Respondent mandated to conduct fresh elections for the office of Membership to the Senate, Representing Sokoto North Senatorial District; and
- d. An order directing the 3rd Respondent to ALTERNATIVELY cancel the results of all the Polling units and Wards stated in paragraphs 18.9 – 18.124 of this petition and order for a re – run in the affected polling units.

At the trial, the Petitioners called four witnesses and tendered in evidence Exhibits P1, P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4), P3A – P3A(222), P3B – P3B(190), P4A – P4A(20), P4B (1) – P4B(2), P4C – P4C(88), P4D – P4D(33), P4 – P4E(28), P4F – P4F(1), P4G – P4G(1), P4H – P4H(1), P4I – P4I (109), P4J – P4J(1), PK – PK(7), P4L – P4L(5), P4M, P4N, P4O – P4O(22), P4P – P4P(16), P4Q – P4Q(19), P4R – P4R(3), P4S – P4S(17), P4T – P4T(10), P4U, P4V – P4V(1), P4W, P4X, P4AA – P4AA(18), P4BB – P4BB(1), P4CC – P4CC(1), P4DD – P4DD(2), P4EE – P4EE(18), P4FF – P4FF(90), P4GG – P4GG(167), P4HH – P4HH(167), P4II – P4II(167), P4JJ, P4KK, P4LL – P4LL(52), P5A(1) – P5A(12), P5B(1) – P5B(22), P5C(1) – P5C(8), P5E1, P5F(1)

– P5F(24), P5G(1) - P5G(5), P5H(1) – P5H(12) & P5I. Thereafter the Petitioners closed their case.

The 1st Respondent called one witness and the 2nd & 3rd Respondents elected not to testify or call witnesses in support of their reply to the Petition at the trial although their counsel participated actively in the proceedings by cross-examining witnesses called by the Petitioners.

At the close of the trial, the Tribunal directed learned counsel for the parties to file and exchange their written addresses.

The gist of the Petitioners’ case is that the 1st Petitioner who is a member of the Peoples Democratic Party (PDP), 2nd Petitioner, contested the election for the office of Senator Representing Sokoto North Senatorial District in the National Assembly Elections held on the 23rd of February 2019.

After the election, the 1st Respondent who was sponsored for the election by the All Progressives Congress (APC) the 2nd Respondent herein, was returned elected as Senator representing Sokoto North Senatorial District by the 3rd Respondent with a total scores of 172,980 votes.

The scores of the candidates as entered in Form EC8E and announced by the 3rd Respondent are as follows:

NAME OF CANDIDATES	POLITICAL PARTY	TOTAL VOTES RECEIVED BY CANDIDATES/POLITICAL PARTY	
		IN FIGURE	IN WORDS
Umar Hafsatu	A	30	Thirty
Abdulrahman Abubakar	APP	221	Two Hundred and Twenty One
Muhammed Abubakar Labaran	ACPN	49	Forty Nine
Umaru Usman	AD	58	Fifty Eight
Mohammed Bandado Yusuf	ADC	70	Seventy
Ibrahim Salisu	AGA	73	Seventt three
Abubakar Buda	AGAP	121	One Hundred and Twenty One
Saidu S. Gobir	ANDP	81	Eighty One
Umar Abubakar	APA	455	Four Hundred and Fifty five
Wamako, Aliyu Magatakarda	APC	172, 980	One Hundred and Seventy Two Thousand, Nine hundred and Eighty

Yusuf Manir Adamu	APDA	1104	One Thousand, One Hundred and Four
Abubakar Zainab	APGA	209	Two Hundred and Nine
Nasiru Ibrahim	CAP	54	Fifty Four
Maccido Usman	DA	58	Fifty Eight
Abdullahi Buhari	DPC	39	Thity Nine
Sanusi Muhammed Yaro	FRESH	56	Fifty Six
Abdullahi Muazu	GPN	50	Fifty
Umar Usman	ID	40	Forty
Hassan Salihu Sardauna	JMPP	20	Twenty
Umar Abubakar	KP	45	Forty Five
Abubakar Samaila	LP	45	Forty Five
Ahmed Bello	MPN	41	Forty One
Bello Faruku	MRDD	156	One Hundred and Six
Buhari Shafatu	NAC	57	Fifty Seven
Muazu Sidi	NCP	75	Seventy Five
Faruku Ibrahim	NDLP	121	One Hundred and Twenty One
Anas Bello	NEPP	137	One Hundred and Thirty Seven
Abdullahi yYahaya	NPC	205	Two Hundred and Five
Kyashe Saadu	NRM	946	Nine Hundred and Forty Six
Muhammad Ahmed Maccido	PDP	138, 922	One Hundred and Thirty Eight Thousand, Nine Hundred and Twenty two
Muhammed Maryam	PPA	491	Four Hundred and Nine One
Sanusi Abubakar	PPN	109	One Hundred and Nine
Abubakar Bashiru	PPP	105	One Hundred and Five
Isah Mohd	SDP	132	One Hundred and Thirty Two
Abdulrahman Bello	SNP	65	Sixty Five
Aliyu Malami	UPN	111	One Hundred and Eleven
Alkali Muawiyya	YDP	20	Twenty

Mudasiru A. Shehu T	YPP	46	Fourty Six
Usman Jamilu Baba	ZLP	99	Ninety Nine

The Petitioners however maintained that the 1st Petitioner actually scored the highest number of valid votes cast at the election and that the 1st Respondent was not duly elected by majority of the lawful votes cast at the said election.

The Petitioners stated that pursuant to its constitutional and statutory roles, the 3rd Respondent issued a Manual for Election (INEC Manual). That in both the Electoral Act, 2010 (as amended) and the INEC Manual it is mandatory:

- (i) To count the votes loudly and announce the results of elections by
 - a. The presiding officer at the polling unit;
 - b. The ward collation officer at the ward collation; etc
- (ii) For electoral officers including presiding officers to be neutral during elections;
- (iii) For the 3rd Respondent not to appoint persons who have sympathy for a Political party as electoral officers;
- (IV) For the 3rd Respondent, to provide voters with a voting cubicle in such a way that the voter can mark his/her ballot paper(s) in secret;
- (v) For the 3rd Respondent not to allow campaigning at polling units;
- (VI) For the 3rd Respondent to provide adequate polling units to accommodate the registered voters;
- (VII) For the 3rd Respondent or its agents to accredit registered voters at polling units before allowing them to cast their votes;

- (viii) For the 3rd Respondent not to allow non-accredited persons to vote at the 23rd February 2019 elections; and
- (ix) For the Presiding Officers to follow strictly the steps prescribed in the INEC Manual for Election Officials 2019 for the sorting and counting of ballots and allow the Polling Agents, Voters and Observers to watch the process.

They stated that it was the advertised regulation of the 3rd Respondent that accreditation should take place between 8:00 am and 2:00 p.m. and that where either the total number of votes cast at a Polling unit either exceeds the number of registered voters in the Polling unit or exceeds the total number of registered voters at any polling unit, the outcome of the election shall be declared to be null and void and the result(s) shall not be reckoned with in the final computation of the results and the Presiding Officer is enjoined under the extant manual for election officials 2019 to write the words “NULL AND VOID” across the affected form EC. 8A series.

They further stated that the requirements for the accreditation of voters is the foundation for the credibility of the election as well as a buffer against multiple voting, falsification of results and other fraudulent activities and electoral malpractices. That accreditation and voting should be done simultaneously which was an innovation and a departure from the former system of voting. They enumerated the mandatory steps for accreditation under the extant law.

They stated that a due process of election is one that complies with the Electoral Act and the INEC Manual. That the votes allegedly obtained by the 1st Respondent were not votes cast by registered voters duly accredited to vote in accordance with the Electoral Act and the INEC Manual and the exercise was voided by corrupt practices or non-compliance with the Electoral Act and the INEC Manual.

They stated that at MPS Barkeji Polling Unit in Gumbi/Wajeke Ward in Wamakko Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 582 while rejected votes stood at 29 thus bringing the cumulative total of votes cast to be 611 which is far above the total number of accredited voters which stood at 595 contrary to the mandatory provisions of the 3rd Respondent’s manual for election Officials 2019 and the Electoral Act 2010 (as amended) as well as the 3rd respondent’s regulations and Guidelines for the Conduct of elections 2019.

At Shiyar Hakimi Gandu Polling Unit in Gumbi/Wajeke Ward in Wamakko Local Government Area of Sokoto State, they alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 209 while rejected votes stood at 1 thus bringing the cumulative total of votes

cast to be 210 which is far above the total number of accredited voters which stood at 56 as indicated in form EC8A (1).

They alleged that at M.P.S. Yar Abba – YarAbba Polling Unit in Gumbi/Wajeke Ward in Wamakko Local Government Area of Sokoto State, the Presiding Officer distorted the votes of the respective parties and increased the votes margin of the 1st and 2nd respondents when after entering 187 votes for the 1st Respondent and 74 votes for the 2nd Petitioner (PDP) and which was signed by the agents of the respective parties confirming that it reflected the actual votes cast at the election, the presiding officer however subsequently allocated new votes to the parties by allocating 137 votes to the 2nd Petitioner and 369 votes for the 1st Respondent and distorted all the initial entries made in Form EC8A (1).

The Petitioners alleged that at Shiyar Hakimi Yar Abba Polling Unit in Gumbi/Wajeke Ward in Wamakko Local Government Area of Sokoto State, there was over voting in that the cumulative total of votes cast was said to be 754 whereas the total number of accredited voters stood at 655.

At Shiyar Hakimi Runjin Gidado Polling Unit in Bado/Kasarawa Ward in Wamakko Local Government Area of Sokoto State, the total number of valid votes cast stood at 218 while rejected votes stood at 12 bringing the total number of votes cast at the polling unit to be 230 while the total number of accredited voters stood at 300, thus the presiding officer who superintended the elections at the said polling station could not account for 70 votes and or ballot papers.

At MPS Sect. Road II in Arkilla Ward in Wamakko Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 235 while rejected votes stood at 4 thus bringing the cumulative total of votes cast to be 239 which is far above the total number of accredited voters which stood at 229 as indicated in form EC8A (1).

They stated that at Shiyar Hakimi Gidan Gamba Polling Unit in Kalambaina/Girabshi Ward in Wamakko Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 351 while rejected votes stood at 14 thus bringing the cumulative total of votes cast to be 365 which is above the total number of accredited voters which stood at 364 as indicated in form EC8A (1).

At Kwalkwalawa Polling Unit in G/Bubu/Yaro Ward in Wamakko Local Government Area of Sokoto State, they said that there was no accreditation of voters as

the Presiding Officer did not indicate in Form EC8A (1) the total number of accredited voters but allotted votes at the said polling.

At Asari Runji Polling Unit in K/Gimba/Gedewa Ward in Wamakko Local Government Area, there was over voting in that Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 306 while rejected votes stood at 2 thus bringing the cumulative total of votes cast to be 308 which is above the total number of accredited voters which stood at 307 as indicated in form EC8A (1).

At Garkar Amadu Gurzau 1 Polling Unit in R/Dorowa 'B' Ward of Sokoto South Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 236 while rejected vote stood at 1 thus bringing the cumulative total of votes cast to be 237 which is above the total number of accredited voters which stood at 236 as indicated in form EC8A (1).

At Garkar Zubairu Tela Polling Unit in R/Dorowa 'B' Ward of Sokoto South Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 236 while rejected votes stood at 3 thus bringing the cumulative total of votes cast to be 239 which is above the total number of accredited voters which stood at 236 as indicated in form EC8A (1).

At Illela H/Suruwa 1 Polling Unit in R/Dorowa 'B' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 216 while rejected votes stood at 5 thus bringing the cumulative total of votes cast to be 221 which is above the total number of accredited voters which stood at 219 as indicated in form EC8A (1).

At Salihu Anka II Polling Unit in R/Dorowa 'B' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 193 while rejected votes stood at 11 thus bringing the cumulative total of votes cast to be 204 which is above the total number of accredited voters which stood at 193 as indicated in form EC8A (1).

At Orphanage Polling Unit in R/Dorowa 'B' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 151 while rejected votes stood at 2 thus bringing the cumulative total of votes cast to be 153 which

is above the total number of accredited voters which stood at 146 as indicated in form EC8A (1).

At Tunau Marafa II Polling Unit in R/Dorowa 'B' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 228 while rejected votes stood at 1 thus bringing the cumulative total of votes cast to be 229 which is above the total number of accredited voters which stood at 228 as indicated in form EC8A (1).

Again at Isah Na Mallando 1 Polling Unit in T/Wada 'A' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 406 while rejected votes stood at 14 thus bringing the cumulative total of votes cast to be 420 which is above the total number of accredited voters which stood at 413 as indicated in form EC8A (1).

At Garkar Magaji Polling Unit in T/Wada 'A' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 573 while rejected votes stood at 19 thus bringing the cumulative total of votes cast to be 602 which is above the total number of accredited voters which stood at 583 as indicated in form EC8A (1).

At Kotun Gulma 1 Polling Unit in T/Wada 'A' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 275 while rejected votes stood at 7 thus bringing the cumulative total of votes cast to be 282 which is above the total number of accredited voters which stood at 281 as indicated in form EC8A (1).

At Wurin Yan Susu Polling Unit in S/Zamfara 'A' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 305 while rejected votes stood at 20 thus bringing the cumulative total of votes cast to be 325 which is above the total number of accredited voters which stood at 316 as indicated in form EC8A (1).

At Balarbaba Gwamna II Polling Unit in S/Zamfara 'A' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 300 while rejected votes stood at 10 thus bringing the cumulative total of votes cast to

be 310 which is above the total number of accredited voters which stood at 303 as indicated in form EC8A (1).

At Kofar Atiku Mai Unguwa 1 Polling Unit in S/Zamfara 'A' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 264 while rejected votes stood at 1 thus bringing the cumulative total of votes cast to be 265 which is above the total number of accredited voters which stood at 264 as indicated in form EC8A (1).

At Unguwar Malamai 1 Polling Unit in S/Zamfara 'A' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 268 while rejected votes stood at 18 thus bringing the cumulative total of votes cast to be 286 which is above the total number of accredited voters which stood at 285 as indicated in form EC8A (1).

At Tamaje Polling Unit in Gagi 'A' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 240 while rejected votes stood at 7 thus bringing the cumulative total of votes cast to be 247 which is above the total number of accredited voters which stood at 245 as indicated in form EC8A (1).

At Gagi Garka Marafa Polling Unit in Gagi 'A' Ward of Sokoto South Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 541 while rejected votes stood at 18 thus bringing the cumulative total of votes cast to be 559 which is above the total number of accredited voters which stood at 541 as indicated in form EC8A (1).

At Gagi 'A' Polling Unit 'B' in Gagi 'A' Ward of Sokoto South Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 541 while rejected votes stood at 18 thus bringing the cumulative total of votes cast to be 559 which is above the total number of accredited voters which stood at 541 as indicated in form EC8A (1).

At Gagi 'A' Polling Unit 'A' in Gagi 'A' Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 541 while rejected votes stood at 9 thus bringing the cumulative total of votes cast to be 550 which

is above the total number of accredited voters which stood at 541 as indicated in form EC8A (1).

At Mana Babba Polling Unit 'A' in Gagi 'A' Ward of Sokoto South Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 306 while rejected votes stood at 7 thus bringing the cumulative total of votes cast to be 313 which is above the total number of accredited voters which stood at 312 as indicated in form EC8A (1).

At Yahaya Gusau MPS 1 Polling Unit 'A' in Gagi 'B' Ward of Sokoto South Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 136 while rejected votes stood at 15 thus bringing the cumulative total of votes cast to be 151 which is above the total number of accredited voters which stood at 79 as indicated in form EC8A (1).

At Garka Jelani II (B) Polling Unit in Tafida Aminu Ward of Sokoto South Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 183 while rejected votes stood at 8 thus bringing the cumulative total of votes cast to be 191 which is above the total number of accredited voters which stood at 184 as indicated in form EC8A (1).

At Sarkin Adar Garkar Shehu Narama II Polling Unit in S/A/K/Atiku Ward of Sokoto South Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 498 while rejected votes stood at 1 thus bringing the cumulative total of votes cast to be 499 which is above the total number of accredited voters which stood at 205 as indicated in form EC8A (1).

At SH/ Isah Tsalibawa 1 Polling Unit in Waziri 'A' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 538 while rejected votes stood at 7 thus bringing the cumulative total of votes cast to be 539 which is above the total number of accredited voters which stood at 184 as indicated in form EC8A (1).

At Illela Garage Polling Unit in Waziri 'C' Ward of Sokoto North Local Government Area, it was alleged that there over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 277 while rejected votes stood at 15 thus bringing the cumulative total of votes cast to be 292

which is above the total number of accredited voters which stood at 202 as indicated in form EC8A (1).

At Gidan Marafan Kwanna II Polling Unit in Waziri 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 127 while rejected votes stood at 8 thus bringing the cumulative total of votes cast to be 135 which is above the total number of accredited voters which stood at 131 as indicated in form EC8A (1).

At Gidan Hassan Store Polling Unit in Waziri 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 282 while rejected votes stood at 6 thus bringing the cumulative total of votes cast to be 288 which is above the total number of accredited voters which stood at 286 as indicated in form EC8A (1).

At Garkar Nawadu Polling Unit in Waziri 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 346 while rejected votes stood at 11 thus bringing the cumulative total of votes cast to be 357 which is above the total number of accredited voters which stood at 356 as indicated in form EC8A (1).

At SH/Dan Farijo B Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 282 while rejected votes stood at 30 thus bringing the cumulative total of votes cast to be 312 which is above the total number of accredited voters which stood at 285 as indicated in form EC8A (1).

At SH/Alh. Dahiru Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 273 while rejected votes stood at 27 thus bringing the cumulative total of votes cast to be 301 which is above the total number of accredited voters which stood at 216 as indicated in form EC8A (1).

In Magajin Gari 'B' ward of Sokoto North Local Government Area, it was alleged that there was over voting in one of the polling units, in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 268 while rejected votes stood at 68 thus bringing the cumulative total of votes cast to be 336

which is above the total number of accredited voters which stood at 216 as indicated in form EC8A (1).

At S.H. S/Adar Maikusa Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 429 while rejected votes stood at 52 thus bringing the cumulative total of votes cast to be 481 which is above the total number of accredited voters which stood at 429 as indicated in form EC8A (1).

At S.H. Sharu Maikusa Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 211 while rejected votes stood at 30 thus bringing the cumulative total of votes cast to be 241 which is above the total number of accredited voters which stood at 210 as indicated in form EC8A (1).

At S.H. Sule Mainama Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 156 while rejected votes stood at 9 thus bringing the cumulative total of votes cast to be 165 which is above the total number of accredited voters which stood at 429 as indicated in form EC8A (1).

At Gidan Marafan Kwanna II Polling Unit in Waziri 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 127 while rejected votes stood at 8 thus bringing the cumulative total of votes cast to be 135 which is above the total number of accredited voters which stood at 131 as indicated in form EC8A (1).

At Gidan Hassan Store Polling Unit in Waziri 'B' Ward of Sokoto North Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 282 while rejected votes stood at 6 thus bringing the cumulative total of votes cast to be 288 which is above the total number of accredited voters which stood at 286 as indicated in form EC8A (1).

At Illela Garage II Polling Unit in Waziri 'C' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 325 while rejected votes stood at 9 thus bringing the cumulative total of votes cast to be 334 which

is above the total number of accredited voters which stood at 333 as indicated in form EC8A(1).

At Illela Garage I Polling Unit in Waziri 'C' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 277 while rejected votes stood at 15 thus bringing the cumulative total of votes cast to be 292 which is above the total number of accredited voters which stood at 202 as indicated in form EC8A (1).

At Magajin Gari 'A' Magajin Polling Unit in Magaji Gari 'A' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 234 while rejected votes stood at 10 thus bringing the cumulative total of votes cast to be 244 which is above the total number of accredited voters which stood at 237 as indicated in form EC8A (1).

At Garkar Mairiga Polling Unit in Magaji Gari 'A' Ward of Sokoto North Local Government Area of Sokoto State, the Presiding Officer indicated zero for accreditation but allegedly allocated votes to the respective parties.

At Garkar Sidi Mamman Polling Unit in Magaji Gari 'A' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 152 while rejected votes stood at 10 thus bringing the cumulative total of votes cast to be 162 which is above the total number of accredited voters which stood at 161 as indicated in form EC8A (1).

At Magajin Gari 'B' Polling Unit in Magaji Gari 'A' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 264 while rejected votes stood at 14 thus bringing the cumulative total of votes cast to be 278 which is above the total number of accredited voters which stood at 250 as indicated in form EC8A (1).

At SH/Dan Farijo B Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 282 while rejected votes stood at 30 thus bringing the cumulative total of votes cast to be 312 which is above the total number of accredited voters which stood at 285 as indicated in form EC8A (1).

At SH/Alh Dahiru Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 273 while rejected votes stood at 27 thus bringing the cumulative total of votes cast to be 301 which is above the total number of accredited voters which stood at 216 as indicated in form EC8A (1).

In Form EC 8 A (I) No. 162676 of Magajin Gari 'B' Ward of Sokoto North Local Government Area, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 268 while rejected votes stood at 68 thus bringing the cumulative total of votes cast to be 336 which is above the total number of accredited voters which stood at 216 as indicated in form EC8A (1).

At Dan Fili Nufawa 1 Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 206 while rejected votes stood at 9 thus bringing the cumulative total of votes cast to be 215 which is above the total number of accredited voters which stood at 214 as indicated in form EC8A (1).

At SH/Mai Nuhu B Gidan Arzika Polling Unit in Magajin Rafi 'A' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 679 while rejected votes stood at 12 thus bringing the cumulative total of votes cast to be 689 which is above the total number of accredited voters which stood at 224 as indicated in form EC8A(1).

At SH/Alh. Dahiru Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 273 while rejected votes stood at 27 thus bringing the cumulative total of votes cast to be 300 which is above the total number of accredited voters which stood at 216 as indicated in form EC8A (1).

At G/ Ladan Local Govt II Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 466 while rejected votes stood at 4 thus bringing the cumulative total of vote cast to be 470 which is above the total number of accredited voters which stood at 440 as indicated in form EC8A (1) contrary to the mandatory provisions of the 3rd Respondent's manual for election Officials 2019 and the Electoral Act 2010 (as

amended) as well as the 3rd respondent's regulations and Guidelines for the Conduct of elections 2019.

At SH/Abdu Maiwelda 1 Polling Unit in Waziri 'C' Ward of Sokoto North Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 310 while rejected votes stood at 5 thus bringing the cumulative total of votes cast to be 315 which is above the total number of accredited voters which stood at 313 as indicated in form EC8A (1).

At SH/Isah Tsalibawa Polling Unit in Waziri 'C' Ward of Sokoto North Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 538 while rejected votes stood at 7 thus bringing the cumulative total of votes cast to be 545 which is above the total number of accredited voters which stood at 184 as indicated in form EC8A (1).

At Dan Fili Nufawa 1 Polling Unit in Waziri 'C' Ward of Sokoto North Local Government Area, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 206 while rejected votes stood at 9 thus bringing the cumulative total of votes cast to be 215 which is above the total number of accredited voters which stood at 214 as indicated in form EC8A (1).

At S/Abdu Mai Gawai Polling Unit in Magajin Gari B' Ward of Sokoto North Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 168 while rejected votes stood at 8 thus bringing the cumulative total of votes cast to be 226 which is above the total number of accredited voters which stood at 130 as indicated in form EC8A (1).

At Offishin Hakimi Tsoho Polling Unit in Magajin Rafi 'A' Ward of Sokoto North Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 344 while rejected votes stood at 19 thus bringing the cumulative total of votes cast to be 363 which is above the total number of accredited voters which stood at 348 as indicated in form EC8A (1).

At SH/mal. Nuhu B. Gidan Arzika Polling Unit in Magajin Rafi 'A' Ward of Sokoto North Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 679 while rejected votes stood at 12 thus bringing

the cumulative total of votes cast to be 391 which is above the total number of accredited voters which stood at 224 as indicated in form EC8A (1).

At Aliyu Maigishiri II Polling Unit in S/Adar Gandu Ward of Sokoto North Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 370 while rejected votes stood at 18 thus bringing the cumulative total of votes cast to be 388 which is above the total number of accredited voters which stood at 387 as indicated in form EC8A (1).

At Prison Yard Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 217 which is above the total number of accredited voters which stood at 211 as indicated in form EC8A (1).

At Shiyar Abduwa Taki Polling Unit in Magajin Gari 'B' Ward of Sokoto North Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 399 while rejected votes stood at 6 thus bringing the cumulative total of votes cast to be 405 which is above the total number of accredited voters which stood at 403 as indicated in form EC8A (1).

At Yardewu Polling Unit in Gawazzai Ward of Binji Local Government Area of Sokoto State, it was alleged that there was no accreditation as the Presiding Officer did not indicate the total number of accredited voters before the allocation of votes to parties.

At Yardewu Polling Unit in Gawazzai Ward of Binji Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 289 while rejected votes stood at 21 thus bringing the cumulative total of votes cast to be 689 which is above the total number of accredited voters which stood at 224 as indicated in form EC8A (1).

At Tumuni Maiyaki, Maiyaki Pri Sch Polling Unit in Soro Gabas Ward of Binji Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 240 while rejected votes stood at 4 thus bringing the cumulative total of votes cast to be 244 which is above the total number of accredited voters which stood at 241 as indicated in form EC8A (1).

At Soro Garkar Hakima Polling Unit in Soro Gabas Ward of Binji Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 198 while rejected votes stood at 22 thus bringing the cumulative total of votes cast to be 220 which is above the total number of accredited voters which stood at 216 as indicated in form EC8A (1).

In S/Birni/G. Karma Ward of Kware Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 203 which is above the total number of accredited voters which stood at 189 as indicated in form EC8A (1).

At Mamda Barnawa Pry. Sch Polling Unit in Tsaki Walake'e Ward of Kware Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 108 while rejected votes stood at 6 thus bringing the cumulative total of votes cast to be 114 which is above the total number of accredited voters which stood at 108 as indicated in form EC8A (1).

At Bagga 'A' Shiyar Hakimi Polling Unit in Tsaki Walake'e Ward of Kware Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 280 while rejected votes stood at 21 thus bringing the cumulative total of votes cast to be 301 which is above the total number of accredited voters which stood at 280 as indicated in form EC8A (1).

At Gidan dan Rabi Shiyar Hakimi Polling Unit in G/Moddibbo/G. Akwara Ward of Kware Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 132 while rejected votes stood at 2 thus bringing the cumulative total of votes cast to be 134 which is above the total number of accredited voters which stood at 132 as indicated in form EC8A (1).

At Ruggar Giwa Primary School II Polling Unit in G/Moddibbo/G. Akwara Ward of Kware Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 214 while rejected votes stood at 17 thus bringing the cumulative total of votes cast to be 231 which is above the total number of accredited voters which stood at 227 as indicated in form EC8A (1).

At Gidan Kulodo, Gidan Kulodo Polling Unit in Durbawa Ward of Kware Local Government Area of Sokoto State, it was alleged that there was over voting in that the

Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 314 while rejected votes stood at 14 thus bringing the cumulative total of votes cast to be 325 which is above the total number of accredited voters which stood at 227 as indicated in form EC8A (1).

At Shiyar Maiunguwa Dan Fili 003 Polling Unit in Gidan Madi Ward of Tangaza Local Government Area of Sokoto State, the Presiding officer allegedly distorted the results and created another result in which increased the votes margin in favour of the 1st & 2nd Respondents by crediting them with 282 votes as against 126 votes and the Petitioners with 176 votes instead of 86 votes.

At Sarma Kwalluwa/Shiyar Hakimi Polling Unit in Ruwa Wuri Ward of Tangaza Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 229 while rejected votes stood at 44 thus bringing the cumulative total of votes cast to be 273 which is above the total number of accredited voters which stood at 222 as indicated in form EC8A (1).

At Kalanjeni Maiburgame Polling Unit in Kalanjeni Ward of Tangaza Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 411 while rejected votes stood at 40 thus bringing the cumulative total of votes cast to be 451 which is above the total number of accredited voters which stood at 430 as indicated in form EC8A (1).

At Shiyar Dangaladima Primary School IV Polling Unit in Tangaza Ward of Tangaza Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 374 while rejected votes stood at 4 thus bringing the cumulative total of votes cast to be 378 which is above the total number of accredited voters which stood at 374 as indicated in form EC8A (1).

At Labsani/Pri. School Polling Unit in Tangaza Ward of Tangaza Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 385 while rejected votes stood at 57 thus bringing the cumulative total of votes cast to be 435 which is above the total number of accredited voters which stood at 372 as indicated in form EC8A (1).

At Labsani/Pri. School Polling Unit in Tangaza Ward of Tangaza Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast

stood at 145 while rejected votes stood at 19 thus bringing the cumulative total of votes cast to be 164 which is above the total number of accredited voters which stood at 151 as indicated in form EC8A (1).

At Baidi/Danfili Polling Unit in Tangaza Ward of Tangaza Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 481 while rejected votes stood at 72 thus bringing the cumulative total of votes cast to be 554 which is above the total number of accredited voters which stood at 551 as indicated in form EC8A (1).

At Baidi/Danfili Polling Unit in Tangaza Ward of Tangaza Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 292 while rejected votes stood at 48 thus bringing the cumulative total of votes cast to be 340 which is above the total number of accredited voters which stood at 328 as indicated in form EC8A (1).

At Filin Na Akkah Polling Unit in Katami North Ward of Silame Local Government Area of Sokoto State, it was alleged that there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 261 while rejected votes stood at 5 thus bringing the cumulative total of votes cast to be 271 which is above the total number of accredited voters which stood at 235 as indicated in form EC8A (1).

At Rumbuki/Town field Polling Unit in Labani Ward of Silame Local Government Area of Sokoto State, there was over voting in that the Presiding Officer indicated in Form EC8A (1) that the total number of valid votes cast stood at 256 which is above the total number of accredited voters which stood at 235 as indicated in form EC8A (1).

In Sokoto South Local Government Area, a summation of the cumulative total scores for PDP at T/wada 'A' Ward was 2148 votes but the collation officer of the 3rd Respondent allegedly suppressed the votes to read 2138 making a deduction of 10 valid votes.

At R/Dorowa 'B' Ward in Sokoto South Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 6, 827 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 6281 total votes cast and thence 546 votes were unaccounted for.

At Gagi 'B' Ward in Sokoto South Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 5, 386 voters but in the collation

that was made, the collation officer of the 3rd Respondent was only able to account for a total of 5219 total votes cast and thence 167 votes were unaccounted for.

At S/ Zamfara 'B' Ward in Sokoto South Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 6, 375 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 6,433 (sic) total votes cast and thence 57 votes were unaccounted for.

At S/ Tudun Wada 'A' Ward in Sokoto South Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 7, 829 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 7,698 total votes cast and thence 131 votes were unaccounted for.

At S/ Tudun Wada 'B' Ward in Sokoto South Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 8, 835 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 8,744 total votes cast and thence 91 votes were unaccounted for.

At Gagi 'C' Ward in Sokoto South Local Government Area, the total number of accredited voters as reflected in Form EC8B(1) was 7, 945 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 7,795 total votes cast and thence 150 votes were unaccounted for.

At S/ Zamfara 'A' Ward in Sokoto South Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 4, 061 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 3,985 total votes cast and thence 76 votes were unaccounted for.

At Rijiya Dorowa 'A' Ward in Sokoto South Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 5, 488 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 5,398 total votes cast and thence 90 votes were unaccounted for.

At Gagi 'A' Ward in Sokoto South Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 5, 842 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 5,743 total votes cast and thence 99 votes were unaccounted for.

At Sarkin Adar/Kwanni Ward in Sokoto South Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 7, 742 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 7,460 total votes cast and thence 282 votes were unaccounted for.

At S/A/K/Atiku Ward in Sokoto South Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 6, 176 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 6,109 total votes cast and thence 67 votes were unaccounted for.

At Kurdula Ward in Gudu Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 4, 702 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 4,655 total votes cast and thence 47 votes were unaccounted for.

At Karfen Chika Ward in Gudu Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 2, 088 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 1,968 total votes cast and thence 120 votes were unaccounted for.

At Tulun Doya Ward in Gudu Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 1, 586 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 1,580 total votes cast and thence 6 votes were unaccounted for.

At Arkilla Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 16, 289 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 15,626 total votes cast and thence 663 votes were unaccounted for.

At Bado/Kasarawa Ward in Wamakko Local Government Area, the same problem sufficed.

At Gumbi/Wajeke Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 3, 942 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 3,969 (sic) total votes cast and thence 27 votes were unaccounted for.

At Kalambaina/Girabshi Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 4, 421 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 4,230 total votes cast and thence 191 votes were unaccounted for.

At G/hamidu G/Kaya Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 3, 134 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 3,073 total votes cast and thence 61 votes were unaccounted for.

At G/Bubu/G/Yaro Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 3, 508 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 3,433 total votes cast and thence 75 votes were unaccounted for.

At Wammako Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 3, 081 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 3,040 total votes cast and thence 41 votes were unaccounted for.

At Dundaye/Gumburawa Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 6, 482 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 6,400 total votes cast and thence 82 votes were unaccounted for.

At K/Kimba/Gedewa Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 4, 711 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 4,572 total votes cast and thence 139 votes were unaccounted for.

At Gwamatse Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 3, 738 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 3,664 total votes cast and thence 74 votes were unaccounted for.

At Kammata Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 3, 863 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 3,726 total votes cast and thence 137 votes were unaccounted for.

At Soro Gabas Ward in Binji Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 2, 379 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 2,360 total votes cast and thence 19 votes were unaccounted for.

At T/Kose Ward in Binji Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 1, 839 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 1,808 total votes cast and thence 31 votes were unaccounted for.

At Soro Yamma Ward in Binji Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 2, 900 voters but in the collation

that was made, the collation officer of the 3rd Respondent was only able to account for a total of 2,861 total votes cast and thence 39 votes were unaccounted for.

At Bunkari Ward in Binji Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 2, 984 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 2,912 total votes cast and thence 72 votes were unaccounted for.

At Gawazzai Ward in Binji Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 1, 562 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 1,550 total votes cast and thence 19 votes were unaccounted for.

They stated that the Presiding officers of sundry polling units failed and or refused and or neglected to stamp form EC8A(1) for sundry polling units certifying that the information's contained thereat are true contrary to the mandatory provisions of the 3rd Respondent manual for election Officials 2019 and the Electoral Act 2010 (as amended) as well as the 3rd respondent's Regulations and Guidelines for the Conduct of Elections 2019.

That the scores recorded on the result sheets are not the product of votes cast by duly accredited registered voters in the course of a due electoral process.

That the scores recorded on the result sheets are inconsistent with the number of accredited voters at the various Polling units complained off in this petition which were not declared as null and void as required by the both the 3rd Respondent's manual for Election Officials 2019, the Electoral Act 2010 (as amended) as well as the 3rd respondent's Regulations and Guidelines for the Conduct of Elections 2019.

That the entries in electoral forms were doctored, altered or mutilated to suppress the tracking of irregularities and juggled to fit the purported number of accredited voters and ballot papers supposedly released to the polling units.

That there were no elections in the polling units complained of and scores were cooked and arbitrarily allocated to the 1st – 2nd Respondents in Form EC 8A in the Polling units complained of in the respective Local Government Areas of Sokoto State where they took place.

That the votes recorded and /or returned in all the Local Governments areas comprising Sokoto North Senatorial District does not represent lawful votes cast for the 1st – 2nd Respondents having been obtained in substantial non-compliance with the mandatory provisions of the Electoral Act, 2010 (as amended) and the INEC Manual.

That the Electoral Forms purported to have been used in the election are glaringly inconsistent with themselves and some were not stamped and/or signed and thereby vitiating the scores or votes entered thereon.

That the purported scores entered for the 1st & 2nd Respondents in Forms EC 8A (i) or EC 8A (ii) & EC 8 (B) for the various polling units and wards in the Local Government areas of Sokoto State herein complained of comprising Sokoto North Senatorial District were arbitrarily awarded and not a product of a due election in accordance with the Electoral Act, 2010 (as amended) and the INEC Manual for Election Officials 2019 as well as the 3rd respondent's Regulations and Guidelines for the Conduct of Elections 2019.

On the 1st day of July, 2019, the 1st Respondent called one witness and during cross examination the 2nd Respondents tendered Form EC8D and the Receipt of the certification issued by the 3rd Respondent through the witness which were admitted in evidence and marked as Exhibits R and R1 respectively. During cross-examination of the 1st Respondent's witness, the Petitioners also tendered 31 copies of Forms EC8As of Sokoto south Local Government which were admitted and marked as Exhibits RA1 – RA31.

In his evidence, the 1st respondent admitted that the 1st petitioner was a candidate at the election to the office of member of the Senate for Sokoto North Senatorial District at the election held on the 23rd of February, 2019. He however denied the fact that the 1st petitioner voted at the said election and that the 1st petitioner had the right to be returned or elected.

The 1st respondent also stated that the result of the said election was declared by the 3rd respondent on the 23rd of February, 2019 as clearly stated on Form EC.8E (II) and not on the 25th of February, 2019 and that the 3rd respondent's Returning Officer for Sokoto North Senatorial District did not make any mistake in the entries made on the said Form EC.8E (II).

The 1st respondent maintained that it was the 1st and 2nd respondents who polled majority of the lawful votes cast at the said election. That the 1st respondent scored a total of 172,980 valid votes at the said election while the 1st petitioner scored 138,922 votes thereby creating in favour of the 1st respondent 34,058 margin of votes between the votes of the 1st respondent and that of the 1st petitioner.

The 1st respondent maintained that the result of the said election as declared by the 3rd respondent on the 23rd of February, 2019 on Form EC.8E (II) represents the actual number of lawful votes garnered by the 1st respondent.

The 1st respondent stated that the election did not witness any corrupt practice on the part of the respondents. That the election was conducted in substantial compliance with the provisions of the Electoral Act 2010 (as amended) and INEC Guidelines/Manual for the conduct of 2019 General Elections and that even where incidence of non-compliance existed, such incidence of non – compliance did not substantially affect the result of the said election.

The 1st respondent stated that the votes cast in the Senatorial District were votes cast by registered voters in Sokoto North Senatorial District by registered voters who were duly accredited to vote at the said election.

The 1st respondent denied incidents of over voting at MPS Barkeji polling unit in Gumbi/Wajeke ward of Wamakko Local Government Area, Shiyar Hakimi Gandu polling unit in Gumbi/Wajeke ward of Wamakko Local Government Area and Shiyar Hakimi Yar Abba polling unit in Gumbi/Wajeke ward of Wamakko Local Government Area.

The 1st respondent also stated that the votes cast by registered/accredited voters at MPS Yar Abba polling unit in Gumbi/Wajeke ward in Wamakko Local Government Area were never distorted by the officials of the 3rd respondent who conducted the said election or by any other person or persons.

The 1st respondent stated that no votes were suppressed by the 3rd respondent's Presiding Officer at Shiyar Hakimi Runjin Gidado polling unit in Bado/Kasarawa ward of Wamakko Local Government Area.

He also denied the allegations of over voting made by the petitioners in the several polling units. He denied the allegation of non-accreditation of voters made by the petitioners and asserted that accreditation of voters was made by the Presiding Officer or agents of the 3rd respondent with the use of Smart Card Reader at Kwalkwalawa polling unit in G/Bubu/Yaro ward of Wamakko Local Government Area of Sokoto State on the date and time of the conduct of the said election.

The 1st respondent denied the allegation of distortion of votes cast at Shiyar Maiunguwa Danfili 003 polling unit in Gidan Madi ward of Tangaza Local Government Area.

He also denied the allegations of reduction of voters or of suppression of votes in the various wards of Sokoto North Senatorial District mentioned by the petitioners. He said that the manner of collation of the result of the election on Form EC.8B (1) at the various wards in the Sokoto North Senatorial District did not substantially affect the overall result of the said election of the Senatorial District.

The 1st respondent denied the allegation of non-stamping of Form EC.8A (1) in various polling units in the Sokoto North Senatorial District as alleged by the petitioners. He stated further that the alleged irregularities even if they occurred, did not in any way substantially affect the result of the said election in the Senatorial District.

The 1st respondent maintained that the result of the said election declared in all the polling units in the Sokoto North Senatorial District was free and fair and that the outcome of the said election reflected the actual intention of the registered voters in the said constituency in substantial compliance with the provisions of the Electoral Act, 2010 (as amended) as well as the provisions of the INEC Guidelines/Manual for the conduct of the 2019 General Elections. He denied that the election conducted in the Sokoto North Senatorial District was inconclusive.

The 2nd and 3rd respondents did not call any witness. However, the 3rd respondent's counsel tendered from the bar INEC Form EC.8D (1) and same was admitted in evidence and marked as Exhibit RB.

At the close of evidence, the learned counsel for the Petitioners and the 1st, 2nd and 3rd Respondents filed their Written Addresses.

In his Final Written Address, the learned counsel for the 1st Respondent, **Dr. Hassan M. Liman, SAN** identified the three Issues for Determination as formulated at the Pre-Hearing Session as follows:

- a) Whether having regards to S9 (5) of the Constitution of the Federal Republic of Nigeria (Second Alteration) Act 2010 and the facts of the Petition, the Petition is not Statute Barred having been filed outside the 21 days stipulated by Electoral Act 2010 (as amended);*
- b) Whether the Petitioners have led sufficient and credible evidence to prove that the 1st Respondent was not duly elected or returned by majority of lawful votes cast at the election held on 23rd day of February, 2019 for the office of Senator Representing Sokoto North Senatorial District, Sokoto State;*
- c) Whether the election of the 1st Respondent to the office of Senator Representing Sokoto North Senatorial District Sokoto State was in strict Compliance with the*

***provisions of the Electoral Act 2010 as amended and
INEC guidelines for 2019 General Election.***

Thereafter, the learned silk argued issues two and three together and relied on his arguments in respect of Issue One on statute bar as earlier canvassed in a motion at the Pre-Hearing Session taken on the 7th day of May, 2019 which ruling was reserved by the Tribunal.

For the avoidance of doubts, in the aforesaid arguments as contained in his Written Address which learned counsel adopted on the said 7th May, 2019, he submitted that Election petitions are *sui generis* in nature and in filing them, care must be taken to ensure that the laws governing their presentation are strictly complied with as failure to do so will be fatal to the petition.

He said that failure to comply with the law renders the petition incompetent and once the petition is incompetent, the Tribunal would of necessity lack the jurisdiction to entertain same. See: *DAPLANGLONG v DARIYE (2007) 8 NWLR (Pt. 1036) 332*; and *MADUKOLU V NKEMDILIM (1962) ALL NLR 587*; *MAGAJI V MATARI (2000) 12 S.C (Pt I) 99*.

He posited that in the instant case, election was conducted by the 3rd respondent on the 23rd February 2019 and the declaration made on the same day. That *Section 9(5) of the Constitution of the Federal Republic of Nigeria (Second Alteration) Act 2010* provides:

9(5) ***“An election petition under this Act shall be presented within twenty one (21) days from the date the result of the election is declared”.***

Learned counsel submitted that where a statute provides for the institution of an action within a prescribed time, the proceedings cannot be brought outside that period. Any action, like the instant petition, brought outside that period is statute barred and the tribunal would lack the jurisdiction to entertain same.

He submitted that for an election petition to be validly filed, it must be presented any time before the expiration of 21 days or not later than 21 days from the date the result is declared. He said that the operative word is ***“from the date the result of the election is declared”***

Learned counsel contended that in resolving the issue of when the result was declared, Form EC. 8E (11) is the best evidence. See: *UGOCHUKWU V NWOKE & ANOR (2001) 5 WRN 93 @ 105* where the Court of Appeal, *per Sanusi, JCA* said:

“Form EC.8E (1) (the declaration of result form) clearly shows that the result of the disputed election was signed and issued on the 14th day of April 2007.... The said form (exhibit) has been certified by INEC, the 2nd respondent,

herein. That exhibit is therefore the best and most reliable evidence to be reckoned with when trying to ascertain the date the results were declared.”

He said that in the instant petition despite the fact that exhibit “A”, the declaration form for the election conducted by the 3rd respondent on the 23rd February, 2019 shows that the result was declared on the 23rd February 2019, the petitioners in paragraph 2 of their petition acknowledged this fact but were still insisting that the result was declared on the 25th February 2019 (which is not conceded). He submitted that parole evidence cannot alter the content of a written document signed and certified by its maker. See: ***ARJAY LTD. V. AIRLINE MGT. SUPPORT LTD. (2003) 15 WRN 101 S.C.; UNION BANK OF NIG LTD V. OZIGI (1994) 3 NWLR (Pt. 333) 385.*** See also section 128 of the Evidence Act.

Learned counsel submitted that the time limited by law for the petitioners to file their petition expired on the 15th of March 2019 while the petition was filed on the 18th of March 2019. That the petition is therefore incompetent and this tribunal lacks the jurisdiction to entertain same. See: ***JIBRILU V. JIBRIL & ORS (2010) LPELR-3554(CA).***

Learned counsel further submitted that in calculating the 21 days, the day of the declaration of the result is included because the law says from the date of the declaration. He said that Section 15 (2) (a) of the Interpretation Act Cap. 192 will not apply. See: ***Okechukwu vs Independent National Electoral Commission (2014) 17 NWLR (Pt 1436) 255 at 284; DANIEL DONALD ONJEH & 1OR VS DAVID MARK & 2 ORS IN APPEAL NO. CA/MK/EPT/SEN/01/2016 unreported judgment of the Court of Appeal, Makurdi delivered on the 22/07/2016.***

Learned counsel submitted that even if the result was declared on the 25th February 2019 (which is not conceded), the petition filed on the 18th March 2019 is still statute barred because reckoning from the 25th February 2019, the last day for filling the petition would be the 17th March 2019 which is a Sunday and yet would not be excluded. See: ***SENATOR IYIOLA OMISORE & ANOR v. OGBENI RAUF ADESOJI AREGBEOLA & ORS (2015) LPELR-25820(CA).***

He submitted that in the circumstance, no matter how one looks at it, this petition is statute barred and this tribunal has no jurisdiction to entertain same. Learned therefore urged the Tribunal to resolve Issue 1 in favour of the 1st Respondent.

ISSUES 2 & 3:

Opening his arguments on issues 2 and 3 learned counsel submitted that the instant Petition, having been premised on over-voting on the basis of accreditation, it would be

convenient to commence by stating the accreditation and voting procedure as provided under the Regulations and Guidelines for the conduct of Election 2019.

ACCREDITATION AND VOTING PROCEDURE AT ELECTIONS

He submitted that it is trite that Electoral Officers are bound to uphold, observe and adhere strictly to the Provisions of the Electoral Act (2010 (as amended) and the Regulations and Guidelines for the conduct of Elections, 2019 issued by INEC for the conduct of all elections in Nigeria.

That it is also trite that, no election can be said to have been conducted without proper accreditation, as accreditation is the foundation of every free and fair election. He said that a valid election must observe the following accreditation process:

- “10(a) In accordance with Section 49 (2) of the Electoral Act, a person intending to vote shall be verified to be the same person on the Register of Voters by use of the Smart Card Reader (SCR) in the manner prescribed in these Regulations and Guidelines.**
- (b) Any poll official who violates the provision of Clause 10(a) shall be deemed to be guilty of an offence and shall be liable to prosecution.**
- (c) Accreditation and voting shall commence at 8.00am and close at 2:00pm, provided that all voters already on the queue by 2;00pm shall be allowed for accreditation and voting.**
- (d) The accreditation process shall comprise reading of the Permanent Voter’s Card (PVC) and authentication of the fingerprint using the SCR; checking of the Register of Voters and inking of the cuticle of the specified finger of the voter.**
- (e) The voter shall present himself/herself to the APO (III) for the polling unit, Voting Point Settlement or Voting Point who shall:**
 - i. determine that he/she is at the correct polling unit or voting point Settlement or Voting Point;**
 - ii. confirm that the Voter has not voted anywhere by inspection of the cuticle of the fingernails, and if satisfied direct the voter to the APO I; and**
 - iii. Upon inspection of the PVC held by the Voter, if the APO III discovers that the PVC is not for the Polling Unit, the APO III will advise the voter to proceed to the**

appropriate Polling Unit or Voting Point Settlement or Voting Point.

The APO I shall:

- i. Request for the PVC from the voter;
- ii. Read the PVC using the Smart Card Reader to ascertain that the photograph on the permanent voter's card is that of the voter and that the polling unit details correspond with those of that polling unit;
- iii. Request the voter to place the appropriate finger in the place provided on the Smart Card Reader for authentication; and if the finger print matches, request the voter to proceed to APO II.

(f) The verified voter shall present himself/herself to the APO II who shall:

- i. Request for the permanent voter's card
 - ii. Check the Register of Voters to confirm that the voter's name, details, and Voter Identification Number (VIN) are as contained on the Register of Voters;
 - iii. Tick the appropriate box of the horizontal boxes on the right margin beside the voter's details on the Register, showing the category of election, if the person's name is on the Register of Voters;
 - iv. Tick the appropriate box at the left margin of the Voter details in the case of SCR failure to read (FR) or failure to authenticate (FA);
 - v. Document the status of the voter; if the voter is a PWD by completing the PWD Form EC 40h as prescribed; AND
 - vi. Apply indelible ink to the cuticle of the specified finger on the left hand to indicate that the voter has been accredited to vote in that election.
 - vii. Advise the voter to leave the polling unit/voting point area and to be available by 1:30pm for commencement of voting at the conclusion of accreditation.
- 11 (a) The Accredited voter shall proceed to the PO who shall:
- i. Check the cuticle of the appropriate finger/thumb-nail of the voter to confirm that he/she has been accredited;
 - ii. On being satisfied that the person before him/her has been duly accredited, stamp, sign and write the date on

- the back of the ballot paper(s) for the respective categories of elections;
- iii. Pre-fold the endorsed ballot paper(s) using the roll and flatten method;
 - iv. Issue the pre-folded and endorsed ballot paper(s) to the voter;
 - v. Request the voter to remove his/her cell phone or any photographic device before proceeding to voting cubicle;
 - vi. Direct the voter to the voting cubicle to mark his/her choice on the ballot paper; and
 - vii. Ensure that the voter deposit the marked ballot paper in the appropriate ballot box.
- (b) Where a voter's PVC is read but his/her fingerprint is not authenticated, the APO I shall refer the voter to the APO II who shall:
 - (i) request the voter to thumbprint the appropriate box in the Register of Voter;
 - (ii) request the voter to provide his/her phone number in the appropriate box in the Register of Voters;
 - (iii) continue with the accreditation of the voter; and
 - (iv) Refer the voter to the PO or APO(VP) for issuance of ballot paper(s)
 - (c) Where a voter's PVC is read but the name of the voter is not on the Register of Voters, APO II shall refer the voter to the PO or APO (VP) who shall politely request the voter to leave the Polling Unit.
 - (d) In the event that the PVC fails to be read by the smart Card Reader, the APO I shall refer the Voter to PO or APO(VP) who shall politely request the Voter to leave the Polling Unit.
 - (e) Where a voter's PVC is read and the SCR shows the details of another person, rather than the details of the Cardholder as printed on the PVC the APO I shall:
 - (i) Refer the voter to APO II to confirm that the details of the voter in the Register of Voters correspond to those on the PVC;
 - (ii) APO II is satisfied that the holder of the card is on the Register of Voters, shall record the phone number of the voter in the appropriate box on the Register of Voters and

- (iii) **Proceed with the accreditation of the voter.**
 - (f) **In all the case from 11(b) to 11(e) the Presiding Officer shall fill the appropriate forms in the PU booklet and make a report, Affected voters in 11(b) and 11(c) qualify to be issued ballot papers after consultation with Polling Agents.**
- 12(a) Where the Permanent Voters' Card (PVC) presented by the voter is not for the Polling Unit, the APO1 shall politely inform the voter and advise him/her to proceed to the appropriate Polling Unit”.**

Learned counsel submitted that the only deduction from the above is that accreditation of voters is a process that involves the use of both Smart Card Reader and Voters Register with the Smart Card reader used to read PVCs and authenticate voters.

He submitted that the Election held on the 23rd day of February, 2019 for the Sokoto North Senatorial District in all the Polling Units and wards complained of in this Petition was in substantial compliance with the above accreditation procedure.

He said that is trite Law that he who asserts must prove and relied on **Section 136 of the Evidence Act, 2011** which provides thus:

“The burden of proof as to any particular fact lies on that person who wishes the court to believe in its existence unless it is provided by any law that the proof of that fact shall lie on any particular person, but the burden may in the course of a case be shifted from one side to the other”

He said that since it is the contention of the Petitioners that the Election held on the 23rd day of February, 2019 for the Sokoto North Senatorial District was characterized by over-voting, vote buying, dis-enfranchisement of voters and that it was not in substantial compliance with the Electoral Act as well as the Guidelines issued by the 3rd Respondent for the conduct of the 2019 General election, the burden of proof rests squarely on them. See the cases of: **OKOYE V. NWANKWO (2003) FWLR. (pt.156) @1005; and OYEBODE V. GABRIEL (2013) All FWLR (pt.669) 1043 @ 1104.**

Learned counsel submitted that when issues are joined on the pleadings as in the instant case, it is the person upon whom the burden of establishing an issue or issues lies that must adduce satisfactory evidence and that is the Petitioners in the

instant case. That when there is no such Evidence, the issue must be resolved against them and the consequences of that, is that the Petition will be dismissed for being unmeritorious.

PETITIONERS' PETITION BOUND TO FAIL FOR FAILURE TO LEAD DIRECT EVIDENCE (HEARSAY EVIDENCE)

Learned counsel submitted that in a futile attempt to prove their allegation on the over voting and non-compliance, the Petitioners deliberately refused to call any Polling Unit Agent(s) as witness, who saw and participated in the Election at the Polling Unit, but rather called the 1st Petitioner, a Local Government Returning Agent and the District Returning Agent, who were all not at the Polling Units as at when the Election was conducted and entries made in the appropriate INEC Forms. He said that this fact was confirmed by PW1, PW3 and PW4. That they also deliberately refused to make any reference to the voters Register of the challenged polling units, which he said, is a mandatory requirement of the Law.

He further submitted that the significance of Polling Agents in electoral dispute cannot be over-emphasized if the petitioners must prove their case. That the best evidence to prove over voting in compliance with Section 53 (2) of the Electoral Act 2010 (as amended) is that of the Polling Unit Agents who were physically on ground and in true position to testify as to what transpired at the election and the failure of the Petitioners to call such crucial, indispensable Polling Unit Agents is fatal to their case. See the case of: *GUNDIRI V. NYAKO (2014) 2 NWLR (pt.1391) 211 pg. 245 para C-D*.

Counsel posited that the Petitioners did not give any reason why those Polling Units Agents of the 2nd Petitioner who saw and participated in all actions and inactions at the polling units could not be called to testify on their behalf as required by law. See: *UCHA V. ELECHI (Supra)*.

Again, he submitted that it is trite law that where a petitioner complains of non-compliance with the provisions of the Electoral Act, he has a duty to prove the non-compliance Polling Unit by Polling Unit through the direct testimony of Polling Unit agents. He maintained that the failure of the Petitioners to prove their allegations through the agents of the political party that were physically on ground is enough to determine this Petition against the Petitioners and affirm the declaration and return of the 1st Respondent. See the cases of: *ACN V. NYAKO (2012) 11 MJSC 1Page 66; IGWEBUIKE Vs EZEONWUKA (2015) LPELR-40675; and GUNDIRI V. NYAKO (2014) 2 NWLR (pt.1391) 211 @245 para C-D; and EMERENGWA & ANOR V INEC & ORS (2017) LPELR-43226*.

Learned counsel further contended that the complete and absolute reliance by the Petitioners on the evidence of PW1, PW3 and PW4 in proof of their Petition deliberately overlooked the point that these three (3) witnesses were not in the field where the results being challenged were counted and entered in the relevant Forms. The evidence relied on by PW1, PW3 and PW4 was what they were told not even by the Petitioners' Polling Unit Agents who were not called by the Petitioners' as witnesses. He referred us to the case of: ***IBRAHIM V OGUNLEYE (2010) LPELR-4556***, where the Court of Appeal *per ADUMEIN, J.C.A at pp. 16-21, paras. E-A* held thus:

"In all the provisions of the Electoral Act, 2006 and the Manual for Elections Officials, it is nowhere stated the rights and responsibilities of a Ward Supervisor nor does a Ward Supervisor fall into the class of persons allowed full access to the Polling Stations, except where he is a voter at a Polling Station. His evidence therefore as it relates to the events at the Polling Units is inadmissible. It is the responsibility of the 17 Party Agents at the 17 Polling Units in the Ward to have given evidence as to the thumb printing of ballot papers by PDP thugs, none counting of votes, none announcement of results, and none collation of same at the Ward level and Local Government Collation Centre. His evidence is hearsay and inadmissible."

He submitted that this makes the Petitioners' case worse because apart from their failure to call the Polling Unit Agents of the polling units in question, there is no direct link or nexus between the witnesses (PW1, PW3 & PW4) and the Polling Unit Agents that were on the field. That there is a serious gap between the polling agents and the 1st Petitioner who told this court that he was in Kan-Wuri Polling Unit where he voted between the hours of 08:00am-302:00pm on the Election Day; thus he cannot testify for the event and entries of Polling Units other than where he cast his vote. He said that the PW4 who was the Local Government Returning Agent also had no direct link with the Polling Unit Agents since all information with respect to the Polling Units must pass through the Ward Agents first who serves as an intermediary before reaching him. He said the case of PW3 is worse because he was stationed at the final collation center therefore been the first on the ladder of agents, he cannot see or receive any information directly from the Polling Unit Agent nor the Ward Agents whose position is 3rd & 4th respectively below the ladder.

Learned counsel maintained that the correct evidence in this respect ought to have come from the Polling Agents who received the Forms from INEC Polling Officials and in whose presence the INEC officials prepared and signed the forms on which the disputed figures as alleged by the Petitioners in their Petition were written. See: *HASHIDU V. GOJE (2003) 15 NWLR (pt.843) @393 paras. B-E*. He referred to the decision of the apex Court in the case of: *ANDREW V. INEC (2018) 9 NWLR (PT1625) 507 at pp. 557-558, Paras. H-A* where they held thus;

“Where a public document is tendered just to show the existence of such document only, though not tendered by the maker, it would not ordinarily be termed hearsay. But where a witness who did not participate in the making of the document ventures to give evidence on the contents of the document and tries to persuade the court on the truth of its content, as was done in the instant case, it becomes hearsay and shorn of the exception granted by section 52 of the Evidence Act, 2011. (Pp. 557-558, paras H-A)”.

He submitted that the entire evidence of the witnesses called by the petitioners not been the makers of the documents will best be described as nothing short of documentary hearsay which this Honourable Tribunal will not rely or act on and he urged us to so hold.

Counsel therefore submitted that the entire testimony of the four (4) Petitioners’ witnesses who were not Polling Unit agents of the 2nd Petitioner amounts to hearsay and as such inadmissible in law. See the case of: *BUHARI V. INEC (2008) 36 (pt.1) NSCQR 475 pg.693* where the Supreme Court held thus:

“An agent is the representative of the candidate in the Polling Station. He sees all the activities; he hears every talk in the station. He also sees all actions and inaction in the station. Any evidence given by a person who was not present at the Polling Units or Polling booth like the Appellant is certainly hearsay. After all, he was not there. He was given the information by the agents. The million question is why these Agents did not make statements as witnesses.” See also S.37 of the Evidence Act 2011. (Underlined by counsel for emphasis)

He posited that the PW1, PW3 and PW4 under cross examination admitted that the Petitioners had agents who signed the Results in the Polling units being challenged. He therefore submitted that the reasonable thing the Petitioners would have done was to call those polling unit agents who saw and even participated in the election in line with the provision of **S 126 (a) of the Evidence Act 2011** which states that:

“Subject to the provisions of part III, oral evidence shall, in all cases whatever, be direct if it refers to a fact which could be seen, it must be the evidence of a witness who says he saw that fact”

ALLEGATION OF OVER-VOTING

Learned counsel posited that the Petitioners’ contention with respect to over voting in some polling units can be seen in Paragraphs 18 of their Petition. He said that one striking feature that is prevalent in all the witness statements was that the over-voting will be seen on EC8A without making any comparison to the Register of voters which he said is the only way of proving over-voting. He maintained that any Petition where recourse is not made to the number ticked in the voters Register is bound to fail.

Furthermore, he pointed out that the Petitioners highlighted cases of over-voting in some polling units in contention as can be seen in paragraphs 18 of the Petition. He said that over-voting cannot be established by a comparison between Polling Unit result (EC8A) and Ward results EC8 (B). He said this is clear from the definition of over-voting in section 53 of the Electoral Act and Paragraph 23(a) & (b) of the Regulations and Guidelines for the conduct of Election which both provides that over-voting occurs in the Polling units. He referred to the said **Paragraph 23 (a) & (b)** which provides thus:

“(a) where the total number of votes cast at a polling unit exceeds the number of registered voters in the polling unit, the result of the election for that polling unit shall be declared null and void, and a report in that regard shall be made to the collation officer.

(b) Similarly, where the total number of votes cast at a polling unit exceeds the total number of accredited voters, the outcome of the election shall be null and void, and a report in that regard shall be made to the collation officer”

He contended that the Petitioners have failed to establish their allegation of over-voting. That the evidence of PW1-PW4 was never linked to any figure of the results to figures contained in the voters' register to prove their case. He said that none of the witnesses had any resort to the voters Registers in a bid to prove any form of over-voting as alleged. He urged us to hold that there was no over-voting and referred to the decision of the Supreme Court in the case of: **LADOJA V. AJIMOBİ (2016) 10 NWLR (Pt. 1519) pages 87 at 147-148 para H-E** while elucidating on how to prove allegation of over-voting, they held as follows:

“It goes without saying that there are crucial electoral documents which must be tendered by a petitioner in proof of over-voting and how such must be tendered. The most important of such are the voters register used in the challenged election, and forms EC8A. These are the documents which the appellant through its witness PW1, admitted they did not tender and thus an admission against interest. See Ipinlaye II v. Olukotun (1996) 6 NWLR (Pt 453) 140 at 165. Also in the recent decision of this Court in SC. 907/2015 - Mahmud Aliyu Shinkafi & Anor. V. A. Abdulazeez Abubakar Yari & 2 Ors (unreported) delivered on 8th January, 2016, it was held that:- "To prove over-voting, the law is trite that the petitioner must do the following:- 1 Tender the voters register. 2. Tender the statement of results in the appropriate forms which would show the number of accredited voters and number of actual votes. 3. Relate each of the documents to the specific area of his case in respect of which the documents are tendered. 4. Show that the figure representing the over voting, if removed would result in victory for the petitioner... “(Underlining is counsel’s)

He also referred us to the cases of: **EMERHOR & ANOR OKOWA & 5 ORS (2016) 2 S.C. (Pt Iii) 2 at 27 - 28 Paras 10-20; and NYESOM V PETERSIDE & ORS (2016) LPELR-40036. SC.**

On the complaint of over voting he posited that the contention of the Petitioners assuming they are correct is that they want the election to be declared inconclusive, not that it would result in victory for them. He submitted that it will amount to an invitation for a voyage of discovery which this Honourable Tribunal should decline.

ALLEGATION THAT THE 1ST RESPONDENT WAS NOT DULY ELECTED BY MAJORITY OF LAWFUL VOTES CAST AT THE ELECTION.

Here, learned counsel submitted that it is trite law that, a complaint that a candidate did not score the majority of lawful votes in the election as alleged by the petitioners' in the instant petition, is an invitation to compare and contrast figures. He said that to sustain a petition under this ground, there must be specific pleadings of the existence of two sets of result emanating from the same election. See: *ABUBAKAR V. YAR'ADUA (2008) 19 NWLR (pt.1120) 1 @ 155.*

He therefore submitted that in view of the absolute failure of the Petitioners to lead credible evidence to disprove the result declared by the 3rd Respondent, the reasonable conclusion that can be safely drawn is that the result so declared is regular and that the 1st Respondent so declared winner pulled majority of the lawful votes cast at the said election.

DUMPING OF DOCUMENTS

Learned counsel submitted that it is settled law that a Petitioner has the duty to tender and link the documents tendered to the aspect of his case that he wishes the Court to predicate his reliefs on. He said that in the instant case, the Petitioners simply brought documents, tendered same from the bar in bulk and made no effort to demonstrate and link the documents so dumped to their case before this Court. He said that this is a fatal blunder beyond remedy which goes to the root of the failure of this petition. He submitted that the Supreme Court has stated in a plethora of authorities that the Tribunal cannot consider the documents not linked in its judgment and such dumping of documents is enough to determine the Petition against the Petitioners as the Court has no material to rely on in granting the Petitioners' Prayers.

To support his submission, learned counsel relied on the decisions of the Supreme Court in the following cases: *ANDREW V. INEC (2018) 9 NWLR (PT1625) 507 at pp. 558-559, Paras. G-C; Okereke v. Umahi (2016) 2-3 S.C (Pt.1); and APGA v Al-Makura (2016) 1 S.C (Pt. IV) 66.*

He submitted that none of the four witnesses identified and linked or demonstrated in his deposition any voters' Register. He said that objection was taken on the 13th day of June, 2019 wherein this Honourable tribunal ruled and declared as "dumped documents" all the register of voters tendered by the Petitioners and further made an Order expunging from the records of proceedings anywhere reference of it was made for the Petitioners failure to demonstrate or/and link it to the relevant Paragraphs of

the Petition. He said that this is fatal to the Petition and therefore bound to fail and he urged us to so hold.

Learned counsel submitted that the record of this Honourable Tribunal is clear that apart from certain Polling Units results that the witnesses identified even though they are not the makers, all other documents tendered by the Petitioners were dumped before this Tribunal and this Tribunal cannot inspect those bundles of document not demonstrated in the open Court and he urged us so to hold.

THE RESPONDENTS' DEFENCE

Learned counsel submitted that despite the manifest failure of the Petitioners to prove their Petition, the 1st Respondent, *ex abundant cuetella* still led credible evidence to show the weakness of the Petitioners case and the futility of the court granting the said reliefs sought. He said that the 1st Respondent called one witness and demonstrated that the election was peaceful and conducted in accordance with the Electoral Act, 2010 and the Regulations and Guidelines for the conduct of election 2019. He said that the evidence of the Respondents' Witnesses was not impugned in any way nor was it controverted during cross-examination.

He commended to us, the 3rd Respondent's **Approved Regulations and Guidelines for the conduct of Elections 2019** and urged us to hold that the election was held in strict compliance with the Electoral Act and the Guidelines issued by the 3rd Respondent, that it is only the register of voters that can determine the total numbers of accredited voters in a Polling Unit as the Result Sheet cannot show successful authentication and number of accredited voters.

He said that on the whole, a summation of the entire exhibits tendered by the Petitioners will show clearly that the 1st Respondent won the election overwhelmingly and was rightly declared and that the Petitioners have not been able to disprove this fact.

He urged us to dismiss the Petition in its entirety and uphold the declaration and return of the 1st Respondent and on the following grounds;

- a) The Petition was filed out of the constitutional required period of 21 days;
- b) The facts and evidence placed before this Honourable Tribunal are not in support of the grounds upon which the election is been questioned;
- c) All the Exhibits are inadmissible having not been tendered through the makers so as to cross-examine the witnesses as to the content of the documents;
- d) The Petitioners did not present any Polling Unit Agent as witness;

- e) The evidence of PW1, PW3 and PW4 are manifest hearsay;
- f) The Petitioners failed to present any contrary result apart from the one declared by the 3rd Respondent to establish the allegation that the results have been cooked; and
- g) None of the witnesses presented by the Petitioners said he saw when votes were allocated to the 1st and 2nd Respondents.

In his Final Written Address, the learned counsel for the 2nd Respondent, **Chief J.E.Ochidi** also identified the three Issues for Determination as formulated at the Pre-Hearing Session and articulated his arguments on them.

ARGUMENTS ON ISSUE ONE

Learned counsel submitted that issue one formulated for determination by this Honourable Tribunal is whether having regards to Section 9(5) of the Constitution of the Federal Republic of Nigeria (Second Alteration) Act, 2010 and the facts of the petition, the petition is not statute barred having been filed outside the 21 days stipulated by the Electoral Act, 2010 (as amended) for filing an election petition.

He submitted that by Section 285(5) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) which is the same as Section 9 (5) of the Constitution of the Federal Republic of Nigeria (Second Alteration) Act 2010, an election petition shall be filed within 21 days after the date of the declaration of result of the election.

He said that in the instant petition, the declaration of the result of the said election on INEC Form EC 8E (1) has been admitted in evidence as **EXHIBIT R**. That on the face of the said Exhibit R it has been shown that the 3rd respondent's Returning Officer for Sokoto North Senatorial District declared the said result on the 23rd day of February 2019.

He submitted that it is settled law that there is a presumption of correctness of results declared by INEC and that until that presumption is successfully rebutted; the declared result stands correct and valid for all intents and purposes. He referred us to the decision of the Supreme Court in the case of: ***NYESOM V. PETERSIDE (2016) ALLFWLR (PT 842) 1573 AT 1647*** where Kekere – Ekun JSC held thus:-

“The Law is trite that the results declared by INEC

enjoy a presumption of regularity. In other words, they are prima facie correct. The onus is on the petitioner to prove the contrary.”

He posited that in the instant petition, no evidence was presented before this Honourable Tribunal by the petitioners to prove that the result of the said election was not declared on the 23rd of February 2019 as shown on Exhibit R.

He said that the petitioners who are alleging that the result of the said election was declared on the 25th of February 2019 ought to have called the 3rd respondent's Returning Officer for the said Sokoto North Senatorial District as a witness. That the said 3rd respondent's Returning Officer for the Senatorial District for Sokoto North Senatorial District is the rightful person to intimate this Honourable Tribunal that the 23rd day of February 2019 reflected on Exhibit R as the date he declared the result of the said election was by mistake and that the correct date he declared the said result was on 25th of February 2019.

He further submitted that in view of the fact that no such evidence has been presented by the petitioners before this tribunal, they have failed to rebut the presumption of correctness and regularity of the contents of Exhibit R (INEC Form EC8E (1) for Sokoto North Senatorial District. He therefore submitted that the result of the said election was declared on the 23rd of February 2019 by the 3rd respondent.

He posited that all parties to this petition are in consensus that this instant Petition was filed on the 18th day of March, 2019 and referred to the endorsement made by the Secretary of the tribunal on the said petition at page 1 of the original petition filed by the petitioners before this tribunal. He submitted that the 21 day period limited by Section 285(5) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) within which to file an election petition began to run from the 23rd day of February 2019 when the result of the said election was declared and ended on the 15th day of March, 2019.

He further submitted that since the petition was filed on the 18th day of March 2019, it was filed outside the 21 day period limited by Section 285(5) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) for filing the said petition. Accordingly, he submitted that the said petition is incompetent and this tribunal has no jurisdiction to entertain same. He also submitted that even if the petition was filed on the 25th day of February 2019 as contended by the petitioners (but which is not herein conceded by the 2nd respondent), yet the said petition will still have been filed out of time by one day on the 18th of March 2019 when the said petition was filed before this tribunal. He therefore submitted that whether the result of the said election was declared on the 23rd day of February, 2019 or on the 25th day of February 2019, the said petition which was filed on the 18th day of March, 2019 was filed outside the 21 day period prescribed by Section 285 (5) of the Constitution

of the Federal Republic of Nigeria 1999 for presentation of an election petition before an election petition tribunal.

Learned counsel submitted that it is settled law that in election matters, time is of essence and any slightest infraction of the rules relating to time to take steps is fatal to the petition. See the decision of the Supreme Court in **YAKI V. BAGUDU (2015) ALL FWLR (PT 810) 1026 AT 1052** where *Ngwuta JSC* held thus:

“In a purely civil matter, the filing of a process a day after the period prescribed for the filing can be regularized on the application of the defaulting party. But in election matters, even a slight infraction of the rules, particularly those relating to time is fatal to the process filed.”

He further submitted that the jurisdiction vested on an election tribunal to hear and determine an election petition is only exercisable by the tribunal when a petition is filed within the statutory period prescribed for its presentation. See: **IBRAHIM V. SHEMA (2010) ALL FWLR (PT 510) 1203 AT 1213** where the Court of Appeal (Kaduna Division) held thus:

“In election petitions, jurisdiction is conferred on the tribunal where the petition is presented within the time prescribed by statute from the date the result is declared.”

See also the case of **TSUMBA V. ITYOMYIMA (2010) ALL FWLR (PT 505) 1637 AT 1647 – 1648**.

Learned counsel submitted that as the result of the election was declared on the 23rd day of February 2019 or on the 25th day of February 2019, the time limited by Section 285(5) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) for the petitioners to file the petition started to run from the said date i.e. on the 23rd day of February 2019 or on the 25th day of February 2019 notwithstanding the language of the said Section 285(5) of the Constitution which states that:

“An election petition shall be filed within 21 days after the date of the declaration of result of the elections.”

He referred to the case of: **IKECHUKWU V. INEC (2014) 17 NWLR (PT 1436) 255 AT 284**, where *Ariwoola JSC* held as follows: -

“...However, being aware of the sui generis nature of election and election related matters in which time is of essence, and the stand of this court on the interpretation of the Practice Directions vis-à-vis the Interpretation Act, I hold no hesitation in concluding that the provisions of

Interpretation Act on computation of time shall not apply to the requirement of time by the Practice Directions. Time shall run, in the peculiarity of our Electoral Act, Practice Directions and the 1999 Constitution of the Federal Republic of Nigeria 1999 (as amended), from the day of the act and the day shall not be excluded.”

He also relied on the judgment of the Court of Appeal (Markudi Division) in: ***ONJE V. MARK (unreported) Appeal No. CA/MK/SEN/01/2016*** delivered by the Court of Appeal (Markudi Division) on 22nd July 2018 where ***Obande JCA*** held thus:

“It can be gleaned from the magisterial pronouncement, especially the utilized portion that in calculating time in prescriptions relating to election matters in the Constitution, the day of the event must be included. To my mind, this hallowed principle of law encompasses computation of time regarding the provisions of Section 285(5) of the Constitution as amended, which is the point of controversy in this appeal....”

Again, he relied on the recent decision of the Supreme Court in the case of: ***BELLO V. YUSUF & ORS (2019) LPELR – 47918(SC)*** delivered on the 24th day of May 2018, where the said Court ***per Mary – Odili JSC*** held as follows:

“It is to be noted that in the computation of time in an election action including the pre-election one such as the present in the light of the constitutional alteration referred to as 4th Alteration, the computation includes the very date on which the results were declared.”

He therefore submitted that this petition is incompetent as same is statute barred and urged us to strike it out with substantial costs in favour of the 2nd respondent while resolving this issue in favour of the 2nd respondent.

ARGUMENTS ON ISSUES TWO AND THREE

Learned counsel said that *issue two* is *whether the petitioners have led sufficient and credible evidence to prove that the 1st respondent was not duly elected or returned by majority of lawful votes cast at the election held on 23rd day of February, 2019 for the office of Senator representing Sokoto North Senatorial District of Sokoto State* and *issue three* is *whether the election of the 1st respondent to the office of Senator representing Sokoto North Senatorial District of Sokoto State was in strict compliance with the provisions of the*

Electoral Act, 2010 (as amended) and INEC Guidelines for 2019 general election.

He said that the two issues are interwoven hence he was arguing them together. He however noted that the said two issues are argued together only in the ALTERNATIVE that issue one argued above is resolved by this tribunal against the 2nd respondent.

He posited that a careful perusal of the allegations of the petitioners in challenge of the said election as particularized by the petitioners in paragraphs 18.9 – 18.124 of the amended petition of the petition shows that the major complaint of the petitioners therein is the allegations of over voting in 93 polling units mentioned in the petition.

He said that in an attempt to prove the said allegations, the petitioners called 4 witnesses before this Honourable Tribunal. He said surprisingly however, none of the said 4 witnesses was a polling agent for the petitioners at any of the said 93 polling units where the petitioners are alleging occurrence of over voting. He said that allegation of over voting is an allegation bothering on commission of electoral malpractices and the law is settled that it is only polling agents that are material and competent witnesses to prove allegation of commission of electoral malpractices at polling units. See: ***AJIMOBİ V. INEC (2009) ALL FWLR (PT 477) 91 AT 102*** where *Omaga JCA* held thus: -

“It is settled that only polling agents are material witnesses to establish and prove allegations of malpractices. This was further confirmed in the case of Yusuf v. Obasanjo (2005) 10 NWLR (Pt 956) 98 at 118.”

See also the case of ***ANDREW V. INEC (2018) 9 NWLR (PT 1625) 507 AT 575 – 576*** where *Okoro JSC* held thus: -

“The functions of polling agents are defined in Section 45 of Electoral Act, 2010 (as amended). Polling agents represent the respective political parties at the numerous polling units in obvious recognition of the enormity of the task of those monitoring the election in all the polling units of a state. A polling agent, being human, can only be physically present at only one polling unit at a given time and so cannot perform in the other polling units. Therefore, when evidence is to be provided as to what happened in disputed units other than the one he was physically available at, then, he is not qualified to testify thereto. This

is because Section 45(2) of the Electoral Act, expects evidence directly from the relevant field officer at the required polling unit.”

Furthermore, at page 558 paragraph B of the same decision, *Okoro JSC* also held as follows: -

“A court or tribunal has no business to entertain, consider or rely on the evidence of persons who did not have a first hand, direct, actual and positive interaction with the facts in issue, and in the unlikely event that the testimony of such person is received in evidence, the court is under a bounden duty to expunge the testimony of such witness from its judgment.”

Learned counsel therefore submitted that the testimonies of the 4 witnesses that testified for the petitioners in this petition respecting the alleged over voting in the said 93 polling units in the Senatorial District in issue are deficient in proving the said allegations of over voting. He urged this Honourable Tribunal to discountenance the said testimonies of all the 4 witnesses called by the petitioners on the said issue of over voting.

He further submitted that in law, a petitioner who seeks to prove over voting at a polling unit has to take the several steps outlined by his lordship, *Okoro JSC* in *EMERHOR V. OKOWA (2010) ALL FWLR (PT 896) 1868 AT 1905* where the learned jurist held thus: -

“In a plethora of decisions of this court, we have made it abundantly clear that a petitioner seeking to prove over voting in an election must do the following:

- 1. Tender the voters register to show the total number of registered voters in each unit;***
- 2. Tender the statement of result in the appropriate forms which would show the total number of votes cast;***
- 3. Relate each of the documents to the specific area of his case in respect of which the documents are tendered;***
- 4. Show that the figure representing the over voting if removed would result in victory for the petitioner; and***
- 5. In view of the introduction of card reader machines in elections, I will add that the petitioner should tender the card reader report if it did not fail to function.”***

He posited that in the instant petition, the petitioners who made an allegation of over voting as one of the heads of non-compliance with the provisions of the Electoral Act in this petition did not follow the procedure in proving the said

allegation as enunciated by the Supreme Court in the case of *Okowa supra*. He submitted that even though the petitioners purported to have tendered before this tribunal several registers of voters in respect of the polling units complained of, yet no attempt was made by the petitioners to link the said register of voters to any specific area of the case of the petitioners as pleaded in the amended petition. He submitted that the said registers of voters were dumped on this tribunal by the petitioners – an act which is prohibited in legal proceedings. For this view, he relied on the decision of the Supreme Court in: *UCHA V. ELECHI (2012) ALL FWLR (PT 625) 237 AT 258* where *Rhodes – Vivour JSC* held as follows:-

“When a party decides to rely on documents to prove his case, there must be a link between the document and the specific area of the petition. He must relate each document to the specific area of his case for which the document was tendered. On no account must counsel dump documents on a trial court. No court will spend precious judicial time linking documents to specific areas of a party’s case.”

He also relied on the case of: *MAKU V. AL-MAKURA (2017) ALL FWLR (PT 909) 1 AT 77* where *Agube JCA* held thus:-

“The Tribunal rightly relied on the case of *Obasi Brothers Merchant Co. Ltd v. Merchant Bank of Africa Securities Ltd (2005) 2 SC (Pt. 1) 51 at Page 68 (2005), ALL FLWR (Pt. 261) 216, to unassailably hold that the position of the law on dumping of documents on courts is that the party is under an obligation to tie his documents to the facts or evidence or admitted facts in the open court and not through counsel’s oral or written address. As for the contention of the learned counsel for the appellants that no barrier was on the way of the tribunal to evaluate the documents tendered, the tribunal also was on very strong wicket when it held that from plethora of authorities, it is not the duty of a court or tribunal to embark on inquiry outside the court, not even by examination of documents which were in evidence when the documents had not been examined or analyzed as in the instant case by the party who tendered them.”*

Again, he submitted that where an allegation of over voting is made in an election, it is not enough for the petitioner to rely on the information provided in the polling unit result (Form EC.8A) to prove the said allegation of over voting as the petitioners have done in this petition. See the case of *ACN V. ADELOWU &*

ORS (2012) LPELR – 19718 (CA), where the Court of Appeal held *inter alia* as follows:

“... to establish that the voters allegedly disenfranchised are registered voters in the unit and, evidence of their registration in the polling unit must be proved by the tendering in evidence of their voter’s cards and evidence that they presented themselves to vote in their polling units at the election, but were denied the right to vote by non-accreditation or non ticking of their names in the voters’ register of the unit; while allegation of over voting would be determined by checking the number of registered voters in the voter’s register of the polling unit against the number of voters that voted in the unit to show that the latter was in excess of the former.” In the present case, the voters register of the units and wards complained of were not tendered in evidence. The allegedly disenfranchised voters were not called to testify in proof of the allegations.”

Learned counsel therefore submitted that the petitioners failed to prove the allegation of over voting in the 93 polling units in Sokoto North Senatorial District Election complained of.

Counsel said that the petitioners also made various unfounded allegations of corrupt practices and non – compliance to the provisions of the Electoral Act and INEC Guidelines in the conduct of the said election. He submitted that whenever a petitioner contends in an election petition that the election was invalid by reason of corrupt practices or non-compliance with the provisions of the Electoral Act, 2010 (as amended), such a petitioner must prove before the tribunal that the corrupt practices or non-compliance complained of actually took place and also that same substantially affected the result of the said election. He said these two conditions must be satisfied by the petitioner cumulatively before such a petitioner can succeed on an allegation of this nature and relied on the case of: *OGBORU V. ARTHUR (2016) ALL FWLR (PT 833) 1805 AT 1855* where *Ogunbiyi JSC* held thus: -

“Where however the petitioner contends that an election or return in an election should be invalidated by reason of corrupt practices or non-compliance, the proof must be shown forth:

- (i) That the corrupt practice or non-compliance took place; and***
- (ii) That the corrupt practice or non-compliance substantially***

*affected the result of the election.
The quantum of measurement and consideration is not to show that there was a proof of non-compliance, as it is almost impossible to have a perfect election anywhere in the world. The measurement however, is whether the degree of non-compliance is sufficient enough so as to vitiate the credibility of the election held.”*

See also the decision of the Supreme Court in the case of: *NYESOM V. PETERSIDE (2016) ALL FWLR (PT 842) 1573 AT 1635.*

He submitted that to establish the substantiality of the corrupt practice and or non-compliance, the petitioner must prove the effect of such acts polling unit by polling unit while the required standard of proof is not on a minimal proof but on the balance of probabilities. See the decision of the Supreme Court in *EMERHOR V. OKOWA (supra) at Page 1927* where Peter – Odili JSC held thus:-

“On the importance of establishing the substantiality of the non-compliance, the appellants are further expected to prove the effect of the alleged non-compliance polling unit by polling unit and the standard of proof is on the balance of probabilities and not just on minimal proof. If the appellants are able to meet up with that required standard, then would the respondents be asked to lead evidence in rebuttal.”

See also the case of the *UCHA V. ELECHI (2012) ALL FWLR (PT 625) 237 AT 256.*

Learned counsel further submitted that an allegation of corrupt practices in an election petition being an allegation that is criminal in nature, must be proved beyond reasonable doubt. See the case of *IKPEAZU V. OTTI (2016) ALL FWLR (PT 833) 1946 AT 1974.*

He submitted that in the instant case, the petitioners have not proved any act of corrupt practices or of non – compliance with the provisions of the Electoral Act 2010 (as amended) and INEC Guidelines in the conduct of the said election and *a fortiori*, the petitioners have not proved that the alleged acts of corrupt practices and non – compliance substantially affected the result of the said election. He therefore urged this Tribunal to resolve issue two and issue three in favour of the 2nd respondent.

In conclusion, the learned counsel urged the Tribunal to dismiss this petition with substantial costs awarded against the petitioners in favour of the 2nd respondent.

On behalf of the 3rd Respondent, *P.I.N. Ikwueto, SAN* filed a Final Written Address which was adopted by *Henry K.Eni-Otu Esq.*

In his written address, the learned Senior Advocate identified the three issues for determination and argued them *seriatim*.

ISSUE 1:

Whether having regards to Section 9(5) of the Constitution of the Federal Republic of Nigeria (Second Alteration) Act 2010 and the facts of the petition, the petition is not statute barred having been filed outside the 21 days stipulated by the Electoral Act 2010 (as amended).

The leaned silk submitted straight away that this Petition is statute-barred because it is long established that election petitions are *sui generis* in nature; hence, caution and care must be exercised to ensure that the laws regulating its presentation and determination are strictly complied with as any failure to comply, could prove catastrophic.

He submitted that the time for taking any step in election petitions are regulated by law; and total compliance is mandatory and of utmost importance and relied on the case of: *Yaki v. Bagudu (2015) All FWLR (Pt. 810) 1026 at 1052*.

He said that in the instant case, a painstaking perusal of **Exhibit R**, which is entitled “Independent National Electoral Commission Declaration of Result of Election” (otherwise, known as Form EC 8E(I) tendered by the Respondents, would glaringly show that the declaration of the result of the election in question was done on the **23rd of February, 2019**. That in his evidence-in-chief and under cross-examination, RW1 gave evidence that the result of the election was indeed declared on 23rd February 2019. He testified that he personally collected Exhibit R (Form EC8E1) on behalf of the 2nd Respondent after the declaration of result.

He said that the Petitioners did not challenge nor controvert this evidence although they testified that the elections were held and concluded on the 23rd of February 2019; they testified, in another breadth, that the returning officer made a mistake by reflecting otherwise on **Form EC8E(II)**.

Learned counsel posited that the Petitioners’ pleadings and evidence to the effect that the result of the election was declared in Form EC8E (II) is irrelevant to these proceedings. That it can be seen that Exhibit R tendered by the Respondents, *ex facie*, bears **Form EC 8E (I)** which the 3rd Respondent deployed for the Senatorial Elections; and not EC 8E (II) which was deployed for the House of Representatives elections. He referred to the case of: *AJAO v. ALAO (1986) 12 S.C. (Reprint) 134 at 148*, where the Supreme Court reiterated through *Karibi-Whyte, J.S.C.* that:

“It is well settled that where the evidence adduced does not support the case of the party and is irrelevant to the issues or issue joined in the case, as this clearly was, such evidence goes to no issue and could be properly ignored – see Ochonma v. Unosi (1969) NMLR 325; Ogiamen v. Ogiamen (1967) NMLR 245.”

He said that it follows, therefore, that this Honourable Tribunal can safely proceed to act on Exhibit R, RB (Form EC8D) and the evidence of RW1 and hold that the declaration of the result for Sokoto North Senatorial District was done on the 23rd of February, 2019. He referred to the case of: ***DICKSON v. SYLVA (2016) 7 S.C. (Pt. VI) 165 at 223***, where the Supreme Court reiterated the well-established principle that:

“An exhibit, documentary evidence is a thing relied on by the party producing it for the sole purpose of strengthening his case. Once such evidence supports oral testimony such oral testimony becomes more credible. See *Omogbe v. Lawani (1980) 3–4 (Reprint) 70; Kimdey and Ors. v. Mil. Gov. of Gongola State (1988) 5 S.C. (Reprint) 41.*” Per RHODES-VIVOUR, J.S.C.

See also: ***ODUTOLA v. MABOGUNJE (2013) 7 NWLR (Pt. 1354) 522 SC.***

He posited that in the instant case, Exhibit R enjoys the presumption of regularity of official acts codified in ***Section 168 of the Evidence Act 2011*** that is: ***Omnia presumuntur, rite esse acta.*** He said that the date in Exhibit R is presumed to be regular, until proved otherwise and relied on ***Section 157 of the Evidence Act (supra)*** which provides for the presumption as to date of documents thus:

“When any document bearing a date has been proved, it is presumed to have been made on the date it bears and if more documents than one bear date on the same date, they are presumed to have been executed in the order necessary to effect the object for which they were executed, but independent proof of the correctness of the date will be required if the circumstances are such that collusion as to date might be practiced, and would, if practiced, injure any person or defeat the objects of the law.”

Counsel submitted that in the instant case, since the Petitioners have failed to rebut the presumptions cited above the presumption therefore inures in favour of the 3rd Respondent.

He said that having established the date of the declaration and return of the 1st and 2nd Respondents, he referred to ***Section 285(5) of the 1999 Constitution (as amended by Section 9(5) of the Second Alteration Act 2010)*** and articulated the same arguments earlier canvassed by the 1st and 2nd Respondents to try to convince the Tribunal that the petition is statute barred.

On the facts and authorities referred to in his address he urged us to resolve this issue in favour of the 3rd Respondent and dismiss this Petition for being statute-barred.

ISSUE 2:

Whether the Petitioners have led sufficient and credible evidence to prove that the 1st Respondent was not duly elected or returned by majority of lawful for the office of Senator Representing Sokoto North Senatorial District, Sokoto State.

Opening his arguments on this issue, learned counsel submitted that it is settled law that the results declared by the 3rd Respondent enjoys the presumption of correctness and genuineness until proved otherwise. He relied on the decisions in: ***HASHIDU v. GOJE (2003) 15 NWLR (Pt. 843) 352 at 386-387;*** and ***NWOBODO v. ONOH (1983) LPELR 804; (1984) 1 SCNLR 1.***

He said that in the instant case, the Petitioners attempted to rebut this presumption by calling three (3) witnesses, inclusive of the 1st Petitioner himself but none of these witnesses was a Polling Agent or Ward Agent in any of the polling units and wards where the irregularities alleged in the Petition allegedly occurred.

He submitted that on the authorities, all the evidences adduced by the Petitioners' witnesses were not as a result of their direct observation of the alleged irregularities and amount to hearsay evidence, which is inadmissible. He relied on ***Sections 37 and 38 of the Evidence Act 2011*** and the case of: ***UKPO v. IMOKE (2009) 1 NWLR (Pt. 1121) 90 at 147.***

Furthermore, learned counsel pointed out that the Petitioners' complaints against the return of the 1st Respondent such as allegations of ***corrupt practices, over-voting, vote reduction and addition of votes, collusion and connivance by the officers of the 3rd Respondents in favour of the 1st Respondent through unsubstantiated votes, unaccounted votes, mutilations etc.*** are criminal in nature.

He submitted that by the salient provisions of *Sections 135 (1) of the Evidence Act 2011*, it is clear that when the commission of a crime by a party to any proceeding is directly in issue in any proceeding civil or criminal, it must be proved beyond reasonable doubt. See: *P.D.P v. INEC (2014) 17 NWLR (Pt. 1437) 525 at 561; Nwobodo v. Onoh (1983) LPELR 804; (1984) 1 SCNLR 1; Omoboriowo v. Ajasin (1984) LPELR 264; (1984) 1 SCNLR 108 and Abubakar v. Yar'adua 92009) All FWLR (Pt.457) 1; (2008) NWLR (Pt.1078) 465.*

He maintained that on the state of the evidence adduced by the Petitioners, the criminal allegations were not proved beyond reasonable doubt.

Furthermore, counsel said that the Petitioners tendered several documents ranging from the EC 8 A (1), Voters Registers, unused ballot paper stacks, etc. in proof of their case but only the Forms EC8A(1) were in some circumstances linked or tied to the pleadings and evidence of the Petitioners'. He submitted straightaway that save the Forms EC8A, every other document was dumped on the Honourable Tribunal and ought to be discountenanced by this Honourable Tribunal. To support this view, he relied on the Supreme Court decision in the case of: *ONIBUDO v. AKIBU (1982) 7 S.C. (Reprint) 26* and that of: *UCHA v. ELECHI (2012) 3 S.C (Pt. 1) 26 at 60*

Furthermore, he submitted that for a Petitioner to prove an allegation of over-voting in an election, he must prove that the number of votes cast supersedes the number of registered voters in the unit complained of. Also that a Petitioner is expected to prove over-voting by tendering and tying to specific aspects of their complaints the registers of voters, ballot boxes containing ballot papers and statements of results from the affected polling stations/units. To this end, he referred to the case of: *AUDU v. INEC (2010) 13 NWLR (Pt. 1212) 456 at 547.*

He maintained that in the instant case, the Petitioners not only dumped most of the exhibits and Voters Registers on the Honourable Tribunal; they also failed to tender the ballot boxes and ballot papers which would have enabled the Tribunal resolve the several allegations of over-voting. He said that the Exhibits dumped on the Honourable Tribunal include but are not limited to: *Exhibits P3a-P3a222, P4a-P4a21, P4d-P4d33, P4f-P4f1, P4L-P4L5, P4AA-P4AA18, P4HH-P4HH167, P4SS and P4TT.*

On the prohibition of dumping exhibits learned counsel referred to the following additional authorities: *OKEREKE v. UMAHI (2016) 2 – 3 S.C. (Pt. I) 1 at 49; TERAB v. LAWAN (1992) 3 N.W.L.R. (Pt. 231) 569 at 590.*

Following the authorities cited, he urged the Tribunal to disregard all the said documents as they have no probative value, having being dumped on the Honourable Court – that is, *Exhibits P3a-P3a222, P4a-P4a21, P4d-P4d33, P4f-P4f1, P4L-P4L5, P4AA-P4AA18, P4HH-P4HH167, P4SS and P4TT.*

Learned counsel submitted that it is clear from the records that despite claiming that the “1st Respondent was not duly elected by majority of lawful votes cast at the said election”, and despite seeking reliefs in paragraph 26(f) of the Petition that “the 1st Petitioner...ought to have been returned and should be returned” as the winner of the election, *the Petitioners did not plead nor state the number of “lawful” votes with which they want this Honourable Tribunal to return the 1st Petitioner as the winner of the election.*

He maintained that it is settled law that in order to prove falsification of result of an election, two sets of results must be tendered, one authentic and the other fake. See: *ODUN v. OSUNDE (supra) at pages 672 – 673.*

He said that all of the Petitioners’ witnesses admitted under cross-examination that they did not have or show any contrary result, save those declared by the 3rd Respondent which is already before this Honourable Tribunal as exhibits. He said that having not pleaded two different result sheets as mandatorily required of them, he urged us to follow the doctrine of *stare decisis* and hold that there is no basis for determining whether or not the declared result was falsified or inflated with non-existent votes. He said that having not met the requirements of the law in this regard, the presumption of the results declared by INEC in the Form EC8E (I) (*Exhibit R*) stands. See: *KAKIH v. PDP (2014) 15 NWLR (Pt. 1430) 374 at 422^{A-B} SC; UDUMA v. ARUNSI (2012) 7 NWLR (Pt. 1298) 55 at 107^{A-E} and 142.*

Learned counsel observed that the exhibits which the Petitioners subtly attempted to relate to their oral evidence during the examination-in-chief of PW1, PW3, and PW4, were majorly the Forms EC8A (1) series which the 3rd Respondent produced before the Tribunal, in obedience to the order of this Tribunal. He said that none of these documents was specifically related to any of the supposed 93 polling units the Petitioners are complaining about.

He therefore urged us to resolve this issue against the Petitioners and in favour of the Respondents.

ISSUE 3:

Whether the election of the 1st Respondent to the office of Senator representing Sokoto North Senatorial District Sokoto State was in strict compliance with the provisions of the Electoral Act 2010 as amended and INEC guidelines for 2019 General Elections. .

Learned counsel submitted that the principle of substantial compliance is deeply and firmly rooted in the jurisprudence of election petitions in Nigeria. That Section 139 (1) of the Electoral Act, 2010 (as amended) stipulates thus:

“An Election shall not be liable to be invalidated by reason of non-compliance with the provisions of this Act if it appears to the Election Tribunal or Court that the election was conducted substantially in accordance with the principles of this Act and that the non-compliance did not affect substantially the result of the election.”

Learned counsel referred to the case of: *NGIGE v. INEC (2015) 1 NWLR (Pt. 1440) 281 at 329* where the Supreme Court stated thus:

“Based on Section 139(1) of the Act [that is, Electoral Act], I am of the view that invalidation of an election is not automatic on mere proof if in fact there was proof, of non-compliance with the provisions of the Electoral Act. No matter the gravity of the non-compliance, the appellant [like the present Petitioner] has to prove same and show it substantially affected the result of the election. In effect, the appellant has to show that if the non-compliance had not occurred the result of the election would have been in his favour.” (Underlining for emphasis.)

Counsel submitted that the failure/omission by the Petitioners to tender or produce any contrary result or figure to the one declared and published by INEC in **Exhibit R** implies that their allegations of non-compliance are unsubstantiated for any Court to act on same, particularly in determining an issue as this which deals with the votes cast by the people of the said Senatorial district, after an election which he maintained was conducted under substantial compliance of the relevant laws.

He referred to the case of: *AUDU v. INEC (supra) at 519 paras C-E*, where the court explicated on the burden on a petitioner who alleges non-compliance as in this case thus:

“In an election petition, a petitioner who alleges non-compliance with the electoral rules or Electoral Act has two-fold burden on him to prove and satisfy the tribunal, namely:

***(a) That the alleged non-compliance occurred or took place;
and***

***(b) That the non-compliance affected the result of the election.
The burden of proving the invalidity of an election by reason of
non-compliance with the provisions of the Electoral Act is on
the Petitioners.”***

Counsel pointed out that out of the over 500 polling units that comprise Sokoto North Senatorial District and over 60 Wards, the Petitioners only called four (4) witnesses. He emphasised that the courts have consistently held that where a petitioner alleges non-compliance with the provisions of the Electoral Act, 2010 (as amended), he has a duty to prove it polling unit by polling unit, ward by ward. See the following cases: *OKE v. MIMIKO (2014) 1 NWLR (Pt. 1388) 332; (2013) LPELR – 21368 (SC) 1 at 46-47; P.D.P. v. INEC (supra) at 525 at 569; Ucha v. Elechi (2012) 3 SC (Pt. 1) 26 at 59; (2012) 13 NWLR (Pt. 1317) 330 at p. 359 paras. E–G.*

Learned counsel posited that there is nothing like a perfect election anywhere in the world. That this is the very essence of ***Section 139(1) of the Electoral Act (supra)***. He maintained that in the instant Petition, the Petitioners failed to show any non-compliance with the principles of the Electoral Act. That they also failed to show that the non-compliance *substantially* affected the outcome of the election.

Consequently, he urged the Tribunal to resolve this issue against the Petitioners and hold that the return of the 1st Respondent was substantially in compliance with the Electoral Act and INEC Guidelines for the 2019 General Elections.

In his Final Written Address ***Ibrahim Abdullahi Esq.***, learned counsel for the Petitioners filed a Final Written Address of 46 pages without leave of the Tribunal. This is contrary to the provisions of Paragraph 5(a) of the ***Election Tribunal and Court Practice Directions, 2011*** which clearly stipulates thus:

“5. (a) Except where the Tribunal directs otherwise, every written submission or reply to be filed in the Tribunal shall not exceed forty pages.”

Ordinarily in an election petition there is strict compliance with the rules of the Tribunal. However, we observed that the Respondents did not object to

the said inordinate length of the Address. Consequently, we will regard it as a mere irregularity which can be waived pursuant to the provisions of *Paragraph 53(1) of the 1st Schedule to the Electoral Act, 2010 (as amended)* which stipulates thus:

“53 (1) Non-compliance with any of the provisions of this Schedule, or with a rule of practice for the time being operative, except otherwise stated or implied, shall not render any proceeding void, unless the Tribunal or Court so directs, but the proceeding may be set aside wholly or in part as irregular, or amended or otherwise dealt with in such manner and on such terms as the Tribunal or Court may deem fit and just.”

In his Written Address, the learned counsel for the Petitioner argued some preliminary points for consideration before arguing the Issues for Determination *seriatim*.

PRELIMINARY POINTS FOR CONSIDERATION

Learned counsel posited that since the 2nd & 3rd Respondents respectively filed their Replies to the Petition and elected not to call any evidence, they are deemed to have abandoned their respective replies to the petition. He referred to the case of: *BRAWAL SHIPPING NIG LTD VS OMETRACO INT’L LTD (2011) 10 NWLR (PT 1255) P. 291 AT 303 PARA E*, where *MUKTAR JCA* held thus:

“The trite position of the law is that averment in pleadings is not evidence. Even if it was duly pleaded, it would have been deemed abandoned, therefore being no evidence led to prove such averment, unless it was admitted or denied”.

He said that by their failure to lead evidence in defence, the 2nd & 3rd Respondents are deemed to have accepted the case of the Petitioners and all the allegations made against the 2nd & 3rd Respondents. For this view, he relied on the cases of: *AONDO v. BENUE LINKS (NIG) LTD (2019) LPELR-46876(CA)*; *HAMEED A. TORIOLA & ORS. V. MRS. OLUSHOLA WILLIAMS (1982) 7 S.C. 27*; and *LAURIE V. RAGLAN BUILDING CO. LTD. (1942) 1 K.B. 152 AT P.156*; *YUIL V. YUIL (1945) ALL E.R. 183 AT P.185*.

He further submitted that since the 2nd & 3rd Respondents did not call any witness at the trial, it would too late in the day for them to raise any preliminary

objection to the petition of the Petitioners even if it is on points of law since by paragraph 12(5) of the 1st Schedule to the Election Act, 2010 (as amended), all preliminary objections must be embedded in the reply of the 2nd & 3rd Respondents and thereafter argued and then a ruling on the issue of jurisdiction would be reserved and taken alongside the consideration of the substantive petition but which is not the case here.

He contended that since 2nd and 3rd Respondents chose not to do same, this Tribunal does not have the requisite jurisdiction to consider any form of objection at the address stage by the Respondents.

Learned counsel submitted that since the 2nd & 3rd Respondents did not raise any objection on points of law at the pre – trial session (save for the preliminary objection relating to the competence of the petition which had been argued and a ruling reserved), it is now too late in the day for the 1st – 3rd Respondents to canvass arguments by way of any form of additional objections in an address or at address stage when same was not canvassed by the 1st – 3rd Respondents at the pre – trial stage of the proceedings where the Respondents are enjoined by the rules of this Honourable Tribunal to bring a formal application at the pre-trial stage where every application relating to the petition including those challenging the competency of any process or grounds are to be taken.

He contended that by the provisions of paragraph 18 (6) (d) of the 1st Schedule to the Electoral Act 2010 (as amended), it is only at the pre – trial session that hearing and objections on points of law can be taken and not at the address stage. He referred to *paragraph 18 (6) (d) of the 1st Schedule to the Electoral Act 2010 (as amended)* which provides thus:

18(6) “At the Pre – hearing session, the Tribunal or Court shall enter a scheduling Order to.....;

(d) Hearing and determination of objections on points of law”

He posited that the 1st – 3rd Respondents have therefore waived their rights to raise the objections.

Again, learned counsel submitted that all the irregularities complained of by the Petitioners particularly as adumbrated in paragraphs 18.9 – 21 of the petition and which are clearly visible in Exhibits P1, P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4), P3A – P3A(222), P3B – P3B(190), P4A – P4A(20), P4B (1) – P4B(2), P4C – P4C(88), P4D – P4D(33), P4 – P4E(28), P4F – P4F(1), P4G –

P4G(1), P4H – P4H(1), P4I – P4I (109), P4J – P4J(1), PK – PK(7), P4L – P4L(5), P4M, P4N, P4O – P4O(22), P4P – P4P(16), P4Q – P4Q(19), P4R – P4R(3), P4S – P4S(17), P4T – P4T(10), P4U, P4V – P4V(1), P4W, P4X, P4AA – P4AA(18), P4BB – P4BB(1), P4CC – P4CC(1), P4DD – P4DD(2), P4EE – P4EE(18), P4FF – P4FF(90), P4GG – P4GG(167), P4HH – P4HH(167), P4II – P4II(167), P4JJ, P4KK, P4LL – P4LL(52), P5A(1) – P5A(12), P5B(1) – P5B(22), P5C(1) – P5C(8), P5E1, P5F(1) – P5F(24), P5G(1) - P5G(5), P5H(1) – P5H(12) & P5I are deemed as proved in line with the above judicial pronouncement.

He contended that the effect of the 2nd – 3rd Respondents resting their case on that of the petitioners is equally that this Tribunal has little or no choice but to accept the unchallenged and uncontroverted evidence placed before it by the Petitioners. See the cases of: *INTERDRILL (NIG.) LTD & ANOR v. U.B.A. PLC (2017) LPELR-41907 (SC)*, Pp. 26-27, *PARAS. F*; *LAU v. P.D.P. & ORS (2017) LPELR-42800(SC)*; *MUSA & ANOR v. IBRAHIM (2017) LPELR-43101 (CA)*; and *U.B.A. PLC v. PATKAN VENTURES LTD (2017) LPELR-42392(CA)*; and *RAUF ADESOJI AREGBESOLA & 2 ORS v. OLAGUNSOYE OYINLOLA & 2 ORS (2010) LPELR-3805(CA)*.

Counsel posited that by the 2nd & 3rd Respondents electing not to call any evidence in defence of the petition, only a minimal proof is required to enable the petitioners to succeed as far as the allegations pertaining to the 2nd & 3rd respondents are concerned. He relied on the case of: *SKYPOWER EXPRESS AIRWAYS LTD V AJUMA OLIMA & ANOR (2005) LPELR - 7548 (CA)*.

After making some marathon submissions on the identified preliminary points, the learned counsel articulated his arguments on the three issues for determination in this petition.

ISSUE 1:

Whether having regards to Section 9(5) of the Constitution of the Federal Republic of Nigeria (Second Alteration) Act 2010 and facts of the facts of the Petition, the Petition is not Statute barred having been filed outside the 21 days stipulated by Electoral Act 2010 (as amended)?

On issue one, learned counsel submitted that this issue was argued as a Preliminary Objection at the Pre-Hearing Session on the 7th of May 2019 and adjourned for ruling. According to him, having canvassed arguments on the objection, issue 1 formulated by the Tribunal was in recognition of the fact that a ruling on the objection was so reserved and is to be dealt with and taking along

with the substantive matter. Therefore he posited that Issue 1 is not a further avenue for the 2nd – 3rd Respondents to reopen arguments on an issue that was reserved for ruling. He submitted that the best the 2nd – 3rd Respondents can do is to adopt their arguments taken on the 7th of May 2019 and if need be, to submit lists of additional authorities to the Tribunal and avail counsel to the Petitioners a copy of same and not to reopen further arguments under the guise that they are arguing an issue formulated by the Tribunal. He maintained that this is the acceptable practice enjoined by the courts or Tribunal and referred to the case of: *JAMES v. INEC & ORS (2013) LPELR-20322(CA)*, ONYEMENAM J.C.A. at Pp. 44-45.

Learned counsel commended the approach adopted by the 1st Respondent counsel wherein he merely relied on the arguments taken on the 7th of May 2019 and adopted same. He therefore urged us to discountenance the further arguments advanced by the 2nd & 3rd Respondents while purportedly arguing issue 1.

On his part, he said that he was relying on his arguments taken on the 7th of May 2019 and the list of additional authorities that was duly filed in opposition to the preliminary objection raised by the 1st Respondent and all the Respondents availed with copies of same at the earliest possible time.

For the avoidance of doubt, in his Written Address in respect of this issue of statute bar which the learned counsel for the Petitioners adopted on the said 7th of May, 2019 he seriously canvassed his arguments to try to convince the Tribunal that the Petition is not statute barred.

In his address, he submitted that the fundamental nature and paramount importance of the jurisdiction of a court and the devastating consequences of its absence in the realm of the administration of justice has been emphasized and re-emphasized ad-nauseam in a plethora of decisions. The *locus classicus* being the case of: *GABRIEL MADUKOLU & ORS VS JOHNSON NKEMDILIM (1962) 1 ANLR 587 at 595; or (1962) 2 SCNLR 341 at 348*.

He emphasised that any defect on competence is fatal, for the proceedings are a nullity however well conducted and decided.

He said that the preliminary objection is based on the fact that the declaration of result form bears the date of 23th of February 2019 (the date of the election) as opposed to the actual date of the declaration of the results of the election. He urged the Tribunal to take judicial notice of all the processes filed by parties to this petition by virtue of *section 122(m) of the Evidence Act 2011*. He

maintained that in paragraph 2 of the substantive petition, the Petitioners/Respondents raised the issue that the declaration of results form was mistakenly dated the 23rd of February 2019 but that the actual declaration took place on the 25th of February 2011. He said that the umpire (the 3rd Respondent) admitted paragraph 2 of the substantive petition. He said that if the 3rd Respondent admitted paragraph 2 of the substantive petition, one wonders why the 1st Respondent/Applicant should be crying more than the bereaved.

Furthermore, he contended that Exhibits M, M1, M2, M3, M4 & M5 all showed the results from polling units as well as wards that constitutes Sokoto North Senatorial District where results were dated, announced and collated at the ward levels on the 24th of February 2019. That the 3rd Respondent (INEC) also frontloaded results of elections dated the 24th of February 2019 in its reply to the petition.

He said that from the foregoing therefore, it only stands to reason that the 3rd Respondent could not have declared results for Sokoto North senatorial District when as at 24th of February 2019, there were polling units where elections were only concluded on that date i.e. 24/2/2019 and where some Local Government Areas such as Tangaza and Kware Local Government Areas of Sokoto State, had wards that concluded their collation on the 24th of February 2019. He maintained that this is proof of the mistake on the part of the returning officer in stating the date of the declaration of results as conceded by the 3rd Respondent.

After adopting his written address on the said 7th of May, 2019, the learned counsel for the Petitioners made some further oral submissions in adumbration. He submitted that *section 285 (5) of the 2nd Alteration to the Constitution* provides that an election Petition shall be filed within 21 days after the date of the declaration of result. He contended that the new section was introduced to cure the mischief which was hitherto in the Electoral Acts of 2005 and 2006. That if you calculate the time after 25/2/19, the date of filing (18/3/19) will be the last day and he urged the Tribunal to so hold.

He therefore urged the Tribunal to resolve Issue 1 in favour of the Petitioners.

ARGUMENTS ON ISSUE 2 & 3

Learned counsel explained that he was arguing Issues 2 & 3 together owing to fact that this Tribunal must first determine whether the elections that saw the 1st Respondent emerging as the purported winner of the said election for the disputed

office was conducted in substantial compliance with the Electoral Act 2010 (as amended) as well as the extant regulations of the 3rd Respondent before the determination of whether the 1st Respondent scored the majority of the lawful votes cast at the said election.

He posited that in paragraphs 17.1 & 17.2 of the petition, the Petitioners' grounds are that the disputed election *was invalid by reasons of corrupt practices or non-compliance with the provisions of the Electoral Act 2010 (as amended) as well as that the 1st Respondent was not duly elected by majority of lawful votes cast at the said election.*

He said that the facts in support of the said ground are actually those of non-compliance with the provisions of the Electoral Act (2010) as amended and the 3rd Respondent's Manual for INEC officials 2019 as well as the 3rd Respondent's extant Guidelines for the conduct of Election as are glaringly stated in paragraphs 18:1 – 18:135 of the petition at pages 7 - 39 of the petition for which evidence was adduced through PW's1, PW3 & PW4 as well as DW1 under cross examination respectively as well as the bundle of documents tendered before this Honourable Tribunal and more particularly, Exhibits: P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4) as well as Exhibits P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4), Exhibits P5A (1) – P5A(12), P5B (1) – P5B(22) , P5C (1) – P5C(5) , P5E (1) , P5F (1) – P5F(24), P5G (1) – P5G (5), P5H (1) – P5H(12), P2G (2), P2C (7), P2A(22) and P2H(4) respectively.

While DW1 made reference apart to Exhibits RA (1) – RA (31), Exhibits P4A (1) – P4A (20), as well as Exhibits P5B(1) – P5B(22) respectively.

COMPLAINTS RELATING TO OVER VOTING IN SELECTED POLLING UNITS

Learned counsel submitted that in paragraphs 18.9 – 18: 93 of the petition, the Petitioners contended that at the aforementioned polling Units in Sokoto North Senatorial District, there were over voting and the results were reckoned with in favour of the 1st & 2nd Respondents in the final collation of results. He said that the polling units under reference are as depicted in Exhibits P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4) as well as Exhibits P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4).

He said that these paragraphs having not been denied by the 2nd & 3rd Respondents and having led no evidence in its reply, the 2nd & 3rd Respondents are deemed to have admitted same and require no further proof. See the case of *OGUNOLA VS EIYEKOLU (1990) 4 NWLR (PT 146) 632 at 646* where the Supreme Court per *OLATAWURA JSC* said:

“Material averment not specifically denied by the defendant in the statement of defence is taken as admitted”

He posited that notwithstanding the above, the evidence of PWs 1,3 and 4 as well as Exhibits P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4) as well as Exhibits P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4) together with the register of voters duly tendered still substantiated the allegations made in respect of over voting in the respective polling units complained of and yet the results of the affected polling units were included in the collation of results for the affected Local Government Areas.

He maintained that the evidence of PW1, PW3 & PW4 relates to the analysis and observations they made relating to the entries made by the officers of the 3rd Respondent duly certified as a true copy and which results and or entries in Exhibits P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4) as well as Exhibits P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4) as it relates to the incidence of over voting amongst others. He said that this formed the basis of the return of the 1st Respondent by the 3rd Respondent as the purported winner of the said election.

He maintained that PW1, PW3 & PW4 therefore gave direct evidence of what they did in relation to the said exhibits and they specifically demonstrated same in their witnesses depositions wherein they linked these exhibits with the polling units complained of in the petition.

Learned counsel submitted that the position of the law is that PW1, PW3 & PW4 need not participate in the conduct of the election or the preparation of the electoral documents before they can make observations or analysis on the electoral materials used. He said that the Tribunal can make use of their evidence as direct evidence of what they did in relation to the election result and more especially

even under cross examination, PW1's evidence remained unimpeached to the effect that the observations and or analysis they made in relation to the various electoral forms tendered before this Tribunal arose solely from their analysis and or observations and not what they were informed by polling agents. He referred to the case of: *AREGBESOLA & ORS v. OYINLOLA & ORS (2010) LPELR-3805(CA), OGUNBIYI, J.C.A at Pp. 165-166, paras. E-B* where the court stated as follows:

We do not agree with the tribunal's reasoning that the witness should have participated in the conduct of the election or the preparation of the electoral documents before he could make observations on the electoral materials used. On the other hand, we take the view that his evidence was rather direct as to the observations he made on the electoral materials. This is consistent with the direct evidence rule enshrined in section 77 of the Evidence Act. In *Ajiboye v State (1984) 8 NWLR (Pt.364) 593, 600, it was held that "a witness in a case is supposed to give evidence of what he personally said, did or discovered... see, also, per Onu JSC in *Kala v. Potiskum (1998) 1 KLR (pt 57) 231, 248. What is more, the witness deposed that his organisation worked in conjunction with twenty other persons. He identified the reports which were tendered in evidence. We see no reason why the tribunal failed to accord weight to his evidence and the exhibits tendered.**

Counsel posited that by the adoption of the witness depositions on oath of PW1, PW3 & PW4 under the front loading system, it becomes effective as their evidence in chief and this Tribunal is under a duty to evaluate same and not to be treated as mere allegation requiring additional proof as deemed needed by the Tribunal and as wrongly contended by the Respondents. He again referred to the case of *AREGBESOLA & ORS v. OYINLOLA & ORS (2010) LPELR-3805(CA), per OGUNBIYI, J.C.A at Pp. Pp. 89-90, paras. D - C and 157 paras. E-F.*

He posited that the INEC Manual for election officials 2019 as well as the 3rd Respondents Guidelines 2019 are subsidiary legislations that this Honourable

Tribunal by virtue of *section 122 (m) of the Evidence Act 2011* can take judicial notice of but which nonetheless was tendered before the Tribunal. That by virtue of these subsidiary legislations, for there to be voter accreditation of any candidate, there must be an election properly so called and in accordance with the Electoral Act (2010) as amended.

He maintained that The INEC Manual and Guidelines all have statutory backing just like the rules of court made by a Chief Judge of a State or the President of the Court of Appeal and are meant to be obeyed. That it is a handmaid for giving effect to the provisions of the Electoral Act 2010 (as amended) and due administration thereof must therefore be strictly construed and followed by election officials in the process and procedure for election and referred to the case of: *CHIEF SULEIMAN AJADI VS CHIEF SIMEON AJIBRA & ORS (2004) 16 NWLR (PT 598) 91 AT 170.*

He submitted that the 3rd Respondent cannot conduct a valid election without strict adherence to its own rules. He then referred to page 35 of the Manual for Election Officials 2019, on when it can be said that there is over voting and the responsibilities on the 3rd Respondent's officials when there is over voting. He said that it provides two situations when over voting can arise and that is:

- a. Where the total number of votes cast at a polling Unit exceeds the number of registered voters at a polling unit; and*
- b. Where the total number of votes cast at a polling unit exceeds the total number of accredited voters.*

He said that at the same page, the effect of over voting in any polling unit is for the results of the polling unit to be declared as null and void. See the cases of: *UMEZULIKE vs OLISAH (1999) 6 NWLR (PT. 607) 376 at 379; and LOUIS V. INEC (2010) LPELR-4442(CA); and KOFA & ANOR v. KAITA & ORS (2011) LPELR-8952(CA).*

Learned counsel also referred to the case of *NEC VS SULEIMAN (1999) 2 LREC 97; MALUMFASHI VS YABA (1999) 4 NWLR (PT 598) AT 230* and *Paragraphs 23(a) & 23(b) of the Regulations and Guidelines for the Conduct of Elections 2019* issued by the 3rd Respondent and duly tendered before this Tribunal.

He submitted that by the evidence of PW1, PW3 & PW4 in their witnesses statement on oath, when balanced with the Exhibits tendered before this

Honourable Tribunal, it becomes glaring that there was over voting in the said polling units complained of in paragraphs 18.9 – 18.135 of the petition.

He said that regrettably, all the complaints relating to over voting in the affected polling units above were condoned by the 3rd Respondent and used in the final collation of results for Sokoto North Senatorial District and the 3rd Respondent failed and or refused to declare the results of the affected polling units null and void and a corresponding duty is now vested on this Tribunal to cancel the results of the affected polling units by declaring same to be null and void *ab initio* and he urged us to do so.

Learned counsel submitted that documentary evidence are hangers for oral evidence of witnesses. See the case of: *AGAGU VS MIMIKO (2009) 7 NWLR (PT 1140) AT 424 E – H to 425A*,

He said that the evidence relating to over voting is documentary in nature and the documents tendered ties these documents to the specific aspect of the petition in compliance with the law and the PW1, PW3 & PW4 analysed them and gave evidence that these acts of over voting substantially affected the results of the election.

Learned counsel submitted that the exhibits tendered in proof of the allegations of over voting are statutory forms/documents complete on their own as to their source and purport and therefore cannot be equated with ordinary exhibits that needs to be read again and again as the Respondents would seem to contend. He referred to the case of *TEREB VS LAWAN (1992) 3 NWLR (PT 236) P. 569 AT 592 PARAS D – E*, where the Court of Appeal per *Aikawa JCA* held as follows:

“But we have to bear in mind the nature of Forms EC8(A) and Form EC8(B) as exposed in Decree No 50 of 1991. The two forms are to show the polling station, the code number, the ward and the Local Government Area they relate to. They are statutory forms and when tendered give full information’s needed for a polling unit. A petitioner who tendered them in proceedings by so tendering them given all the relevant evidence which is discernable from the forms. Is it reasonable for the

Tribunal to expect that when Form EC8(A) or Form EC8(B) is tendered that the party tendering either will have to read the contents of each form to the court as further evidence? I think not. The forms themselves carry bold information's to the polling units to which they relate. They can therefore be easily be linked with the particular areas and facts pleaded. It is a misapplication of the principle in Duminiya Vs C.O.P (Supra) to expect the petitioner to come and read afresh to the court the same evidence already contained in the exhibits which where tendered and received without objection. The Tribunal erred seriously by failing to see that form EC8A and EC8B are statutory forms complete on their own as to their source and purport and which cannot therefore be equated with ordinary exhibits. I am firmly of the view that exhibits 5 to 9 ought to have been fully considered by the Tribunal since the fact to which they relate were pleaded by the petitioners. I shall now consider each of these forms...

He submitted that under cross examination the PW1 gave evidence in relation to the total number of registered voters affected by the said over voting complained about. This evidence is relevant as it relates the question of substantial non – compliance and the figures of affected registered voters outweighs the gap between the 1st Petitioner and the 1st Respondent.

He said that in the determination of irregularities arising at any particular polling units relating to votes or entries made therein, recourse must be had to forms EC8A's and nothing more. He referred to the case of *KURFI VS MUHAMMED (1993) 2 NWLR (PT 277) P602* where it was held that:

Forms EC8A(I) or form EC8B(I) (summary of result from polling stations) which are applicable in

the case may be used to determine how votes or entries are made and that where there is a conflict between entries made in form EC8A and entries made in form EC8B, form EC8(A)(II) is to be preferred since it represents the total number of votes cast in a unit, is also the basis of EC8B.

He said that the cases of: *MAKU VS AL MAKURA (2017) ALL FWLR (PT 909) 1 AT 77*; and *ACN VS ADELOWU (supra)* cited by the 2nd Respondent at pages 19 – 21 of their written address are quite distinguishable from the facts and circumstance of the instant petition. He said that specifically, in *ACN VS ADELOWU (supra)*, no voters register was tendered before the Tribunal and the dicta relates to the question of disenfranchisement of voters quite distinct from the case of over voting arising from the total votes cast outnumbering the total number of accredited voters as reflected by the 3rd Respondent in the polling results and not the total number of registered voters in the voters register.

NON - SIGNING, DATING AND STAMPING OF ELECTION RESULTS

Learned counsel posited that there is evidence before this Tribunal from the PW3 to show Polling Units and wards in which officers of the 3rd Respondent refused to either state the name of the presiding officer, sign, date and or stamp the elections results which formed the basis of the return of the 1st Respondent contrary to Paragraph 22 (c) (i) of the 3rd Respondent’s Regulations and Guidelines for the Conduct of Elections 2019 made pursuant to the Electoral Act 2010 (as amended). He referred to the following exhibits: *Exhibits P2G (2), P2C (7), P2A(22) and P2H(4)* which relate to specific polling units and whole ward/s in dispute. See also: *Exhibits P2G (2) and P2H (4)*. He said that other affected results are as tabulated as follows:

S/N	LOCAL GOVERNMENT	POLLING UNITS	REMARKS
1.	Wammako	1.M.P.S Polling Unit	Result not Stamped.
		2. Shiyar Hakimi Gidan Gandu.	Result not Stamped
		3.Kwalkwalawa	No name of

		Polling Unit	presiding officer, signed, and stamped	not dated
2	Binji	1. Yardewu Polling Unit.	No name of presiding officer.	
		2. Mandar Barnawa Pry. Sch Polling Unit.	Result stamped	not
3.	Sokoto South	1. Salihu Anka II, Polling Unit.	Results stamped	not
		2. Tunau Marafa 1, Polling Unit.	Result stamped.	not
		3. Kofar Atiku Maianguwa I, Polling Unit.	Result stamped.	not
		4. Yahaya Gusau MPS I, Polling Unit	Result stamped.	not
		5. Garkar Magaji Polling Unit.	No name of Presiding officer on the result.	
		6. Sarkin Adar Garkar Shehu Narama II	No name of Presiding officer	
4	Sokoto North	1. Gidan Marafa Kwanna II.	Result stamped.	not
		2. Gidan Hassan Shoe Polling Unit.	Result stamped.	not
		3. Dan Fili Nufawa I, Polling Unit.	Result stamped.	not
			Result	not

		4. S/Abu Mai Gawai.	stamped.
		5. Sh/Sharu Maikusa	No name of presiding officer and the Result not stamped.
5	Tangaza	Sarma Kawliwa/Shiyar Hakimi.	Result not stamped.
6.	Silame	Rumbuk Town Field	Result not stamped, absence of signature, date and stamped

Counsel submitted that presiding officers of the 3rd Respondent in law performs such function as can be found in sections 43 - 67 and 74 of the Electoral Act 2010 (as amended) including the admission of voters, counting of votes, entering of the votes scored by each candidate to the election in the appropriate prescribed INEC form. He said that the INEC Manual and Guidelines for election officials 2019 also spells out the functions of the presiding officers of the 3rd Respondent under the Electoral Act 2010 (as amended). That these include that the completed forms shall be signed and stamped by the presiding officer before delivering copies to party agents and the police. That it is for him to certify the results by signing them after writing his name and stamping it.

He maintained that under section 63(2) of the Electoral Act 2010 (as amended), the election result from the polling unit SHALL BE SIGNED AND STAMPED by the presiding officer and counter signed by the candidates or their polling agents where available by the Commission as the case maybe but in the above polling units, the presiding officers did not comply with the provisions of the Electoral Act 2010.

He said that the use of the word shall in the said section connote compulsion. He said that the mandatory nature of the signing, stamping and dating of every

result of an election has received judicial backing in the case of *SOWEMIMO VS AWOBAJO (1999) 3 NWLR (PT 595) 387*.

He submitted that any results not signed and or stamped must attract sanctions of being declared null and void and relied on the case of: *PDP & ANOR v. INEC & ANOR (2011) LPELR-9236(CA), per OGUNBIYI, J.C.A.at p. 13, paras. A-C* where they stated thus:

“On the 1st issue raised, it is pertinent to state that the provision of the Manual for Election Officials 2011 lays down that requirement of signing and stamping of election results is mandatory. It is trite therefore that where there is the failure to comply with a provision which is mandatory same would anticipate and be followed by sanction.”

Learned counsel said that the 3rd Respondent has made it obligatory in the forms EC8A’s by specifically stating that the presiding officer(s) must certify by writing his names, signing, dating and stamping the said results authenticating that it represents the accurate account of votes at the said polling unit(s). He said that is the only way the results can be validated and accepted by the 3rd Respondent and it has thus been judicially determined in a host of cases that an unsigned document which purports to confer rights, benefits and duties, etc. is a worthless document. See: *KWARA INVESTMENT CO LTD VS GARUBA (2000) 10 NWLR (PT 674) 25AT 39*, where Onnoghen JCA (as he was then) posited thus;

“... It is therefore my considered opinion that Exhibit A being an unsigned document is entitled to no weight at all in law...”

He also relied on the case of: *ALIKI VS IDOWU (2006) 9 NWLR (PT 984) 47 AT 65 PARAS G – H*, where *Alagoa JCA* (as he then was) reiterated the position of the law as follows;

“... Where a document which ought to be signed is not, its authenticity is in doubt...”

UNACCOUNTED BALLOTS/VOTES

Learned counsel submitted that there is evidence before this Tribunal from the PW1, PW3 & PW4 to show votes suppression by the officers of the 3rd Respondent in the following wards to wit; Arkilla Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8

B (1) was 16, 289 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 15,626 total votes cast and thence 663 votes were unaccounted for. He said that in Bado/Kasarawa Ward in Wamakko Local Government Area, the same problem surfaced. That in Gumbi/Wajeke Ward in Wamakko Local Government Area, the total number of accredited voters as reflected in Form EC 8 B (1) was 3, 942 voters but in the collation that was made, the collation officer of the 3rd Respondent was only able to account for a total of 3,969 total votes cast and thence 27 votes were unaccounted for.

Learned counsel listed several areas where the votes were unaccounted for and posited that the cumulative unaccounted votes is 3,551(Three Thousand, Five Hundred and Fifty One) votes.

REJECTED BALLOTS

Learned counsel posited that the 3rd Respondent produced before the Tribunal rejected ballot papers which were admitted as Exhibits P5A (1) – P5A(12) (rejected votes for Kware Local Government Area), Exhibits P5B (1) – P5B(22) (rejected votes for Sokoto North Local Government Area), Exhibits P5C (1) – P5C(5) (rejected votes for Binji Local Government Area), Exhibits P5E (1) (rejected votes for Binji Local Government Area), Exhibits P5F (1) – P5F(24) (rejected votes for Sokoto South Local Government Area), Exhibits P5G (1) – P5G (5) (rejected votes for Wamakko Local Government Area), Exhibits P5H (1) – P5H(12) (rejected votes for Gudu Local Government Area), Exhibits P2G (2), P2C (7), P2A(22) and P2H(4) respectively.

He said that the rejected ballots are less than the total number of rejected ballots indicated in forms EC8B (1) for the respective Local Government Areas to which they relate and all the purported rejected ballots were neither signed at the back nor dated by the officers of the 3rd Respondent.

He submitted that the Petitioners have also to a large extent demonstrated to the Tribunal that the defects x-rayed in the impugned results are substantial enough to affect the election in the questioned polling units as provided by Section 139 (1) of the Electoral Act, 2010 so the 1st Respondent cannot be said to have been elected by majority of lawful votes cast. That by the admission of DW1, there were results that were not considered by the 3rd Respondent in the final collation of results at the constituency level. He pointed out that DW1 admitted under cross examination that any result for the constituency dated the 24th of February 2019 were not considered at the Constituency centre and therefore did not form part and parcel of the results

collated for Sokoto North Local Government Area which is one of the Local Government Areas in the Constituency. He said that this admission by DW1 under cross examination is admission against the 3rd Respondent's interest as well as the interest of the 1st & 2nd Respondents and it is evidence that carries sufficient weight which cannot be ignored even if it is contended that it did not form part of the pleadings. Counsel submitted that DW1's evidence proves that the said election was not conducted in substantial compliance with the Electoral act 2010 (as amended). That Election Petitions are *sui generis*, and unlike the normal cases, certain evidence though not pleaded are capable of being acted upon. He referred to the case of: **RAUF ADESOJI AREGBESOLA & 2 ORS v. OLAGUNSOYE OYINLOLA & 2 ORS (2010) LPELR-3805(CA), OGUNBIYI, J.C.A at Pp. 195-196, paras. E-A** stated thus;

RW22 and RW9 were witnesses called by the Respondents/Cross Appellants and they made admission against the Cross Appellants interest. This is evidence that carries sufficient weight. The admission of these witnesses under cross examination that the election in these two units was not conducted in substantial compliance with the Electoral Act 2006 cannot be ignored because same did not form part of the pleadings. Election Petitions are sui generis, and unlike the normal cases, certain evidence though not pleaded are capable of being acted upon. For example, where there is a proven case that a ballot box in a polling unit was snatched and taken away, it will be preposterous for a tribunal to accept a result from that polling unit because it was not pleaded that the ballot box in that unit was snatched and taken to an unknown destination.

Counsel reiterated that the 3rd Respondent failed to call any witness who worked with the polling materials including the results of the various polling units complained of in this petition which authenticity is now challenged and impugned, to support, explain or justify the impugned documents. He said having not called evidence to support their pleadings or challenge the evidence of the Petitioners, on the authority of: **IMANA V. ROBINSON (1979) 3-4 SC 1 AT 8**, the Respondents have accepted the facts as adduced by the Petitioners unchallenged.

He maintained that the overwhelming evidence of non-compliance and the manifest anomalies in forms EC8A's series and EC8B series show grave irregularities in the conduct of the election and that the presumption of regularity and correctness of the result were rebutted by the compelling documentary evidence falsifying their authenticity.

He submitted that since the Petitioners have led evidence to show the various malpractices alleged, the burden is on the Respondents to lead evidence to show that such malpractice could not have affected the results of the elections and this was not forthcoming from any of the Respondents. He referred to the case of: ***SORUNKE VS ODEBUNMI (1960) SCNLR 414***, where the Supreme Court affirmed the decision of the lower court nullifying the election for similar reasons.

Learned counsel submitted that this Honourable Tribunal has the jurisdiction to collate votes, establish charts and declare its correct remittance in any election and cited the following decisions: ***NGIGE VS OBI (2008) 18 WRN 33; SAM VS EKPELU (2000) 1 NWLR (PT 847) 596, ADUWA VS OSUNDE (2003) 16 NWLR (PT 547) 647.***

He said that if the Tribunal cancels the results of the polling units herein complained of, the election of the 1st Respondent would stand inconclusive. He urged the Tribunal to hold that the Petitioners have established substantial non-compliance which justifies the nullification of the election and the irresistible conclusion that the 1st Respondent was never returned by majority of lawful votes cast at the election. He therefore urged us to resolve this issue in favour of the Petitioners and grant the reliefs of the Petitioners.

Upon receipt of the Petitioners Final Written Address, the learned counsel for the 1st Respondent filed a ***Reply to the Petitioners' Written Final Address*** which he also adopted as part of his final arguments in this petition.

In the said Reply, learned counsel contended that the Petitioners' Final Address is defective because since all the Respondents in this Petition filed their respective Final Addresses separately, the Petitioners cannot by way of response bring the argument in a single process by making a haphazard response.

However in response to paragraphs 2.20, 5.38 and 5.39 of the Petitioners' Closing Address, he stated that the records of this Tribunal will bear us witness that DW1 did not make such admission. He said assuming without conceding that he made such an admission, it will still not take away the evidential burden of proof placed on the Petitioners in law, more so that the relief which the Petitioners

are praying are by nature declaratory. He referred to the case of: ***KWAJAFFA V B.O.N LTD (2004) LPELR – 1727 (SC)*** where the Supreme Court held that a declaratory relief cannot be granted merely on default of defence or even on admission. He said assuming DW1 said the results were not collated, the Petitioners must go further to tender Form EC8B to show that those result were actually not collated. He said that this fact was not pleaded by the Petitioners so it goes to no issue.

In response to paragraphs 2.28, 2.29, 2.30, 2.31, 2.36, 5.8, 5.9, 5.10 and 5.20 he submitted that the case of ***AREGBESOLA V OYINLOLA supra*** cited by the Petitioners in paragraph 2.27 is inapposite to the fact of this case because it has nothing to do with tendering of electoral forms, rather an observation based on report of the inspection of which he was part of the team. Furthermore, he said that it is a Court of Appeal decision which cannot outweigh all the Supreme Court cases cited by the 1st Respondent on this issue.

He said that a Petitioner can only prove non-compliance if he can tender in evidence the documents in which the non-compliance took place and call eye witnesses to testify in each of the Polling Units where the non-compliance has taken place and relied on the case of: ***ABUBAKAR V. YAR’ADUA (2008) 19 NWLR (pt.1120) 1 at 155.***

He submitted that the position of the law as regards tendering and admission of a document through a person other than the maker of such a document had long been settled in the decided case of ***HASHIDU & ANOR V GOJE & ORS (2003) LPELR 10310 Per ONNOGHEN, J.S.C*** (as he then was) Pp. 62-64, paras. E-A.

"apart from the fact that the documents relied upon by the appellants in attempt to prove their case were not pleaded as found by the lower Court, they were not tendered by those who made them - the party agents, who signed them and the INEC officials who completed and signed them. These are the proper persons to tender the documents in law because they are the makers. If they had tendered the documents one would have said that the documents are evidence of what they state. But they were tendered by a person who never made them nor was present when they were made. In law the documents are, at best, pieces of documentary hearsay and it is trite law that hearsay evidence is inadmissible in proof of any cause. That apart, PW2 who computed the figures cannot vouch for the authenticity of the

documents he used in his computations. He did not make them i.e. collect the data. His evidence, for whatever it is worth, is nothing but hearsay upon hearsay. In short, what we have in this case is allegations made by the appellants without an iota of legally acceptable evidence in proof. "

He further referred to the case of: ***CHUKA V IKECHUKWU & ORS (2015) LPELR-40443*** where the Court of Appeal relied on the Supreme Court decision of ***Buhari v Obasanjo*** on the position of the law on hearsay evidence in relation to documents, per ***AGIM ,J.C.A*** (Pp. 22-23, paras. A-C) thus:

"This Court in Hashidu v. Goje (supra) described such documents tendered through a person who is not the maker or privy to the circumstances it was made as documentary hearsay"

In response to paragraphs 5.23 and 5.24 of the Petitioners Address, learned counsel submitted that the 1992 case of ***TEREB V LAWAN*** cited by the Petitioners which was decided based on ***Decree No 50 of 1991*** is not apposite and cannot take the place of more recent authorities of ***MAKU V ALMAKURA (2017), BUHARI V OBASANJO (2005), ACN V NYAKO (2014), EMERENGWA V INEC (2017) and ANDREW V INEC (2018)*** among others cited by the 1st Respondent.

In response to paragraphs 5.28, 5.36, 5.37 and 5.38 of the Petitioners Final Address, he submitted that this Tribunal cannot rely on it as well as the table thereunder because since it is not contained in the deposition of a witness, it is not in evidence. That the law is that address of counsel no matter how brilliantly prepared cannot take the place of evidence. See: ***ADEGBEITE & ANOR V AMOSU (2016) LPELR – 40655.***

In response to paragraphs 5.53, 5.54, 5.56 & 5.57 of the Petitioners Address he submitted that the Tribunal can only have the power to collate votes, establish charts and declare its correctness when the Petitioners succeed in proving their case by tendering the required evidence, linking and demonstrating such evidence to his pleadings and show the Court by computation of the number of votes if cancelled and/or added from the total scores of parties that can give them victory and have the 1st Petitioner declared and returned as the winner of the election. He said that in this case the Petitioners failed so this Tribunal cannot conduct the case of the Petitioner for them. That all the Petitioners are asking the Court to do is to declare the election inconclusive and not to return the 1st Petitioner as winner.

We have carefully considered all the processes filed in respect of this Petition together with the arguments of learned counsel for the parties on all the issues formulated together with the preliminary objection and other ancillary issues.

The essence of a preliminary objection is to terminate at infancy, or to nip in the bud, without dissipating unnecessary energies in considering an unworthy or fruitless matter in a court's proceedings. In other words, it forecloses hearing of the matter in order to save time. See: *Efet vs. I.N.E.C. (2011) 7 NWLR (Pt.1247) 423; and A.P.C. vs. I.N.E.C. (2015) 8 NWLR (Pt.1462) 531 at 541.*

Furthermore, where there is a preliminary objection, that objection should be determined first before going into the substantive matter. See: *A.P.C. vs. I.N.E.C. (2015) 8 NWLR (Pt.1462) 531 at 541.*

Incidentally in this Petition the issue raised in the preliminary objection is the same issue that was captured as Issue 1 in the Issues for Determination adopted for trial at the Pre-Hearing Session. However, the Petitioner posited that since the 2nd & 3rd Respondents did not call any witness at all at the trial, it would be too late in the day for them to raise any preliminary objection to the petition since by paragraph 12(5) of the 1st Schedule to the Electoral Act, 2010 (as amended), all preliminary objections must be embedded in the reply of the 2nd & 3rd Respondents and thereafter argued and then a ruling on the issue of jurisdiction would be reserved and taken alongside the consideration of the substantive petition. He said that since the 2nd & 3rd Respondents chose not to do same, this Tribunal cannot entertain any such preliminary objection from them at this stage.

Taking a cue from the procedure in brief writing in appellate courts, it is settled law that where a respondent does not file a notice of preliminary objection or raise a preliminary objection in his brief of arguments, but goes ahead to raise arguments in the respondents brief of arguments as in the instant case, it has been held that it is proper for the Court to consider such arguments. See: *C S S Bookshops Ltd Vs The Registered Trustees of the Muslim Community in Rivers State (2006) 11 NWLR (Pt 992) 530* where *Muhammad, JSC (as he then was) dealt with it at pages 556 to 557.*

Moreover in the instant case, the same issue of statute bar which was raised in the Preliminary Objection of the 1st Respondent was adopted as Issue 1 in the substantive petition. On that basis, it is evident that the 2nd and 3rd Respondents are entitled to be heard on the preliminary objection of statute bar which has now crystallised as Issue 1 in the main case. Consequently, we will consider all the arguments of counsel on this issue of statute bar under Issue 1.

ISSUE 1:

Essentially, the preliminary objection is predicated on the ground that the Petition was filed outside the mandatory statutory period of 21 days prescribed for filing an election petition.

The issue to be determined in this preliminary objection is: *whether this petition was filed within 21 days after the date of declaration of result of the election?*

On this fundamental issue, the amended Section 285 (5) of the 1999 Constitution provides thus:

"An election petition shall be filed within 21 days after the date of declaration of result of the election."

The controversial aspect of the amendment is in relation to the word '*after*' which the Petitioners insist excludes the day of the declaration of the result. They have relied heavily on the provisions of the Interpretation Act and some decisions of the Court of Appeal and the Supreme Court which authoritatively stated that in the computation of time for filing an election petition, the day of declaration of the result is excluded.

It is evident that a plain interpretation of the words "*after the date of declaration of result of the election*" should exclude the day of declaration. That is quite in tandem with the provisions of *section 15 (2) (a) of the Interpretation Act* which stipulates as follows:

"15. (2) A reference in an enactment to a period of days shall be construed- (a) Where the period is reckoned from a particular event, as excluding the day on which the event occurs;" (underlining for emphasis). That was the simple interpretation given by the earlier decisions in consonance with the provisions of the Interpretation Act.

But the law has since changed. Sometime in 2014, the Supreme Court introduced a radical departure in their interpretation of such provisions in statutes relating to election petitions. In the case of: *Okechukwu v. INEC (2014) 17 NWLR (Pt.1436) 255*, the apex Court categorically stated that not only in Practice Directions, but in the 1999 Constitution as amended and in the peculiarity of our Electoral Act: ***"Time shall run..... from the day of the act and the day shall not be excluded."***

Also in the case of: *AKPAN & ANOR v. LUKE & ORS (2015) LPELR-41651(CA)* the Supreme Court re-emphasised the position when they stated thus: ***"So, whether the 1999 Constitution, the Electoral Act 2010 or the Practice Directions state that an event shall be done, 'after, or of or from' in election or election-related matters, the day of the event is to be included, not excluded."***

Incidentally, in the very recent case of: *BELLO v. YUSUF & ORS (2019)*

LPELR-47918(SC) which most of the learned counsel for the Respondents relied upon, the Supreme Court restated the position thus:

“This Court has also held in decisions too numerous to call that time begins to run against a plaintiff, for the purpose of limitation, from the date the cause of action accrues which, generally, is the date on which the incident or event giving rise to the cause of action occurs. See: JOHN EBOIGBE V.NNPC (1994) LPELR 992 (SC) and ACTION CONGRESS OF NIGERIA & ANOR V. INEC (2013) LPELR 20300 (SC).”

We wish to emphasise that the facts in the cases of: *AKPAN & ANOR v. LUKE & ORS (2015) supra* and *BELLO v. YUSUF & ORS (2019) supra* are almost on all fours with the present one. So the matter has been settled by the more superior Courts. It does not lie in our mouths to question their decisions. In the light of the foregoing authorities, this Tribunal is constitutionally bound to follow and apply the current decisions of the more superior courts on the computation of time in election petition matters.

In the instant Petition, there is a dispute on the actual date of declaration of the result. While the Petitioners insist that the result of the election was declared on the 25th of February, 2019, the Respondents maintain that the result was declared on the 23rd of February, 2019 as stated in the declaration of the result INEC Form EC8E (1) admitted in evidence as *Exhibit R*.

However, it is an undisputed fact that this Petition was filed on the 18th of March, 2019. We may not need to make any specific finding on the actual date the result was declared because assuming the result was declared on the 25th of February 2019, by simple arithmetical calculation, the 21 days stipulated by Section 285 (5) of the 1999 Constitution as amended, which includes the 25th of February, 2019 actually expired on the 17th of March, 2019. Since the petition was filed on the 18th of March 2019 which was on the 22nd day, it was therefore filed out of time by one day.

For the instant petition to be maintainable, it ought to have been filed latest on the 17th of March, 2019. It is therefore statute-barred and the Tribunal has no jurisdiction to entertain it because a Court is not competent to entertain an action and determine it if the case was initiated by the process of law *without fulfilling a condition precedent for the exercise of the court’s jurisdiction*. See: *MADUKOLU vs. NKEMDILIM (1962) 2 SCNLR 341; and OHAKIM vs. AGBASO (2010)19 NWLR (Pt. 1226) 172*.

We will therefore uphold the preliminary objection and resolve Issue 1 in favour of the Respondents.

Since the matter is statute barred we are tempted to strike out the petition at this stage without going into the merits. However, in the very unlikely

event that we are wrong in our decision on the matter being statute barred, to be on the safe side, we will still proceed to determine the petition on the merits. We will therefore proceed to determine Issues 2 and 3.

ISSUE 2:

Whether the Petitioners have led sufficient and credible evidence to prove that the 1st Respondent was not duly elected or returned by majority of lawful votes cast at the election held on 23rd day of February, 2019 for the office of Senator Representing Sokoto North Senatorial District, Sokoto State

It is settled law that in election petition matters, the petitioner who filed the petition has the burden to prove the grounds. This is because he is the party alleging the grounds and he has a duty to prove the affirmative. He is the party who will lose if no evidence is given on the grounds. If the petitioner does not prove his case, the petition will be dismissed.

In the case of: ***Buhari V. INEC (2008) 19 NWLR (Pt. 1120)246 at 350 para. E, Tobi, J.S.C*** enunciated and restated the time honoured legal principle on the fixation of the burden of proof in election petitions when he exposted thus:

“The petitioner who files a petition under Section 145 (1) of the Electoral Act has the burden to prove the grounds. This is because he is the party alleging the grounds and he has a duty to prove the affirmative. He is the party who will lose if no evidence is given on the grounds. If the petitioner does not prove his case under Section 145 (1) of the Act, the action fails.”

Where as in the instant case, the Petitioners are alleging that the 1st respondent was not duly elected or returned by majority of lawful votes cast at the election, the onus is on them to prove the allegations on the balance of probability, otherwise their petition would be dismissed.

Thus, the burden is on the Petitioners to adduce evidence to establish their case before the Respondents can become obliged to call any evidence in rebuttal of the evidence adduced by the Petitioners.

The question now is whether the Petitioners have adduced sufficient evidence before this Tribunal to prove that the 1st respondent did not obtain the majority of lawful votes cast at the election.

In order to ascertain whether the Petitioners discharged the burden on them it will be expedient to carefully examine the evidence adduced in that regard.

In proof of their case, the Petitioners called three witnesses and tendered in evidence Exhibits P1, P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4), P3A – P3A(222), P3B – P3B(190), P4A – P4A(20), P4B (1) – P4B(2), P4C – P4C(88), P4D – P4D(33), P4 – P4E(28), P4F – P4F(1), P4G – P4G(1), P4H – P4H(1), P4I – P4I (109), P4J – P4J(1), PK – PK(7), P4L – P4L(5), P4M, P4N, P4O – P4O(22), P4P – P4P(16), P4Q – P4Q(19), P4R – P4R(3), P4S – P4S(17), P4T – P4T(10), P4U, P4V – P4V(1), P4W, P4X, P4AA – P4AA(18), P4BB – P4BB(1), P4CC – P4CC(1), P4DD – P4DD(2), P4EE – P4EE(18), P4FF – P4FF(90), P4GG – P4GG(167), P4HH – P4HH(167), P4II – P4II(167), P4JJ, P4KK, P4LL – P4LL(52), P5A(1) – P5A(12), P5B(1) – P5B(22), P5C(1) – P5C(8), P5E1, P5F(1) – P5F(24), P5G(1) - P5G(5), P5H(1) – P5H(12) & P5I.

It is settled law that where a ground of petition is that the respondent was not elected by majority of lawful votes, the *petitioner ought to plead and prove the votes cast at the various polling stations, the votes illegally credited to the “winner”, the votes which ought to have been credited to him and also the votes which should be deducted from that of the supposed winner* in order to see if it will affect the result of the election. Where this is not done, it will be difficult for the Court to address the issue. See: *Awolowo vs. Shagari (1976) 6-9 S.C.51; and Nadabo vs. Dubai (2011) 7 NWLR (Pt.1245) 155 at 177.*

Furthermore, it is settled law that in order to prove the aforementioned salient factors; the proof is largely based on documentary evidence. In the reported case of: *IKPONMWOSA V. EGHAREVBA & ORS (2009) LPELR-4685(CA)*, the Court opined thus:

“It is settled law that in an election petition, the decision on who had majority of lawful votes is based largely on documentary evidence mainly election results Forms. This is because documents when tendered and admitted in Court are like words uttered and do speak for themselves. They are more reliable and authentic than words as they bear an eloquent testimony of what really transpired. See NGIGE V. OBI (2006) 14 NWLR (PT. 999) 233 and AIKI V. IDOWU (2006) 9 NWLR (PT. 984) 47,”

Thus in the determination of this issue, we will focus much on documentary exhibits. In the instant case, the Petitioners tendered a host of documents as earlier enumerated.

The learned counsels for the Respondents have forcefully contended that most of these documentary exhibits were merely dumped before the Tribunal. It is settled law that documentary exhibits must be analysed by the party tendering same and not by the court.

In the case of: *Ucha v. Elechi* (2012) 13 NWLR (Pt. 1317) 330 at 360, *Rhodes-Vivour (JSC)*, incisively, re-echoed the principle thus:

“...When a party decides to rely on documents to prove his case, there must be a link between the document and the specific areas of the petition. He must relate each document to the specific area of his case for which the document was tendered. On no account must counsel dump documents on a trial Court. No Court would spend precious judicial time linking documents to specific areas of a party's case. See: A.A.P.P.P. v. I.N.E.C. (2010) 13 NWLR (Pt. 1212) p. 549. See also Bornu Holding Co. Ltd. v. Bogogo (1971) 1 All NLR 324 at 330-331; Onibudo v. Akibu (1982) 7 SC 29; Ivienagbor v. Bazuaye (1999) 5 SCNJ 235 (1999) 9 NWLR (Pt. 620) 552; A.C.N. v. Lamido (2012) 8 NWLR (Pt. 1303) 560; A.C.N. v. Nyako (2013) All FWLR (Pt. 636) 424; Sa'eed v. Yakowa (2013) 7 NWLR (Pt. 1352) 124.”

Upon a careful review of the documentary exhibits tendered on behalf of the Petitioners, we observed that most of the exhibits were tendered from the bar in bulk. The Petitioners made no effort to demonstrate and link the documents so tendered to their case before this Tribunal. None of the four witnesses who testified for them was a Polling Unit Agent during the election and none of them was able to link or demonstrate in his deposition any voters register. Apart from some polling units results that the witnesses simply identified even though they were not the makers, all other documents tendered by the Petitioners were virtually dumped on the Tribunal.

In the case of: *CPC v. INEC & ORS* (2012) LPELR-15522(SC) the Supreme Court explained the implications of adopting this procedure when they expounded thus:

“This issue has raised a pertinent question of the Court evaluating documents allegedly dumped on it where there is no oral evidence linking the documents to the appellant's case. It is significant that these documents as per Exhibits P1-P201 have been tendered from the Bar with the consent of both sides. The appellant's contention is that they have been taken as read and that it is the duty of Court to appraise the documents without more. I think the appellant has misconceived the law in this regard that where the documents so tendered are

not examined in the open Court by oral evidence showing the purpose for tendering them and thus linking them precisely to a part of the case of the appellant as per the pleadings of the petition. Otherwise there is no duty on the Court to embark on a cloistered justice to examine them on its own outside the Court. The Court is not supposed to do a party's case for him. I am fortified for so holding by a plethora of cases including Jang v. Dariye (supra), Anyanwu v. Uzowuaka (supra) to mention but a few. To contend that the documents speak for themselves thereof is not to appreciate that it is the appellant's duty to call direct evidence to support its case.”

Applying the foregoing principles to the instant case, we are of the view that the Petitioners failed in their adjectival duty to connect these documents with the Petitioners case. The learned counsel for the Petitioners simply dumped them before the Tribunal. He never bothered to examine any of his witnesses to analyse or demonstrate any of the exhibits in the open Court.

For the Tribunal to begin to analyse the exhibits at this stage will amount to doing cloistered justice by examining them in the recess of our chambers. The law does not give the Tribunal the licence to privately analyse exhibits in order to establish a party's case. That would smack of investigation of documents. Judicial authorities are settled that a Court of law is an adjudicator and not an investigator. See the cases of: *Duriminiya vs. C.O.P (1961) NRNLR 70*; *Queen vs. Wilcox (1961) All NLR 633*; and *Dennis Ivienagbor vs Henry 6 SCNJ 235 at 243*.

Still on the issue of documentary evidence, we are in agreement with the learned counsel for the 1st Respondents that documentary evidence are hangers for the oral evidence of witnesses. But unfortunately for the Petitioners in this petition there was no such oral evidence to sufficiently activate the deluge of documentary evidence tendered ranging from Form EC 8 A (1), Voters Registers, unused ballot paper stacks, etc. essentially because none of the witnesses was the maker of any of the documents tendered. The witnesses appeared bereft of the contents of the documents. In the face of an armada of documentary evidence, the witnesses kept mute. In effect the documents were dumped without sufficient explanations or analysis.

We are of the view that a ground in an election petition alleging that the respondent was not duly elected by majority of lawful votes cast at the election is tantamount to an allegation that the declaration of result made by the 3rd respondent is a falsified result. To establish such an allegation, the petitioner must tender in evidence two set of results: one being the result declared by INEC and the other being the result available to the petitioners upon which they are urging the

tribunal to declare that the respondent was not duly elected by majority of lawful votes.

In the case of: *ABARI & ORS v. ADUDA & ORS (2011) LPELR-19750(CA)*, the Court of Appeal stated the position thus:

“It is more than settled in a long line of cases by both this Court and the Supreme Court that when a Petitioner challenges the return of a statutory Respondent on account of falsity of result, it is incumbent on such Petitioner to plead and produce in evidence two sets of results one correct and the other stigmatized as false.”

See also the case of: *HERO V. SHERIFF (2016) ALL FWLR (PT 861) 1309 AT 1363 – 1364*, aptly cited by learned counsel.

In the instant petition, the only result available before this tribunal is the result declared by INEC (the 3rd respondent) wherein the 1st respondent scored the majority of lawful votes cast at the said election. The petitioners did not plead or tender any other result in respect of the said election to contradict the result declared by the 3rd Respondent. Thus the only result available before this tribunal is the result declared by the 3rd respondent in respect of the said election.

Furthermore, applying the principle laid down in the earlier cited decisions of: *Awolowo vs. Shagari (1976) 6-9 S.C.51; and Nadabo vs. Dubai (2011) 7 NWLR (Pt.1245) 155 at 177*, we are of the view that the petitioners also failed to plead and prove the votes cast at the various polling stations, the votes illegally credited to the 1st Respondent, the votes which ought to have been credited to him and also the votes which should be deducted from that of the 1st Respondent in order to see if it will affect the result of the election. Having failed to do this, it will be impossible to resolve this issue in favour of the Petitioners.

In view of our findings made so far, we are of the view that the petitioners have not led sufficient and credible evidence to prove that the 1st respondent was not duly elected or returned by majority of lawful votes cast at the election held on 23rd day of February, 2019 for the office of Senator Representing Sokoto North Senatorial District, Sokoto State.

ISSUE 3:

Whether the election of the 1st Respondent to the office of Senator representing Sokoto North Senatorial District Sokoto State was in strict compliance with the provisions of the Electoral Act 2010 as amended and INEC guidelines for 2019 General Election

The gravamen of this issue is the Petitioners complaint that the election was invalid by reason of corrupt practices or non – compliance with the provisions of the Electoral Act 2010 (as amended).

This issue is an off-shoot *of Section 138(1) (b) of the Electoral Act, 2010 (as amended)* which stipulates as follows:

“138. (1) An election may be questioned on any of the following grounds, that is to say:

(b) that the election was invalid by reason of corrupt practices or non- compliance with the provisions of this Act.”

As we have emphasised, in an Election Petition, the burden of proof rests permanently on the Petitioners, to prove their petition. Under this ground the burden is on them to prove that the election was invalid by reason of corrupt practices or non- compliance with the provisions of the Electoral Act.

In the case of: *ORAEKWE & ANOR v. CHUKWUKA & ORS (2010) LPELR-9128(CA)*, the Court of Appeal shed some light on this ground thus:

“The Appellants challenged the Petition at the Tribunal on the grounds of - (a) Corrupt practices, and (b) Substantial non-compliance with the provisions of the Electoral Act. The two grounds have a common base. Every established act of corrupt practice amounts to non-compliance with the provisions of the Electoral act, but it is not every act of non-compliance that would amount to corrupt practice because corrupt practice imputes a criminal element, the burden of which is proof beyond reasonable doubt. In effect, the burden of proof in any allegation of corrupt practice is higher than the burden on a Petitioner who alleges a mere non-compliance with the provision of the Electoral Act, 2006. Any allegation of corrupt practice must be proved beyond reasonable doubt, and the burden is on the Petitioner to prove same - see *Onuigwe V. Emelumba (2008) 1 NWLR (Pt. 1092) 371; ANPP v. Usman (2008) 12 NWLR (Pt. 1100) 1.*”

To determine this issue we will first of all look at the aspect of corrupt practices. In the case of: *IBEZI & ANOR v. INEC & ORS (2016) LPELR-41574(CA)*, the Court of Appeal made some salient pronouncements on the proof of corrupt practices thus:

“The term Corrupt Practices denote or can be said to connote and embrace certain perfidious and debauched activities which are really felonious in character being redolent in their depravity and want of ethics. They become hallmark of a decayed nature lacking in conscience and principle. The charges of corrupt practices are in nature criminal charges and ought to be proved

beyond reasonable doubt. It is not sufficient to show that there are reasonable grounds to believe or suspect that there has been a corrupt practice. See NWOBODO v. ONOH (1984) 1 SCNLR page1; OMOBORIOWO v. AJASIN (1984) 1 SCNLR page 108; Oyegun v. Igbinedion & Ors (1992) 2 NWLR (pt.226) at 747. The Petitioner i.e. the 1st Respondent herein and his witnesses had alleged in their statements on oaths that there was violence, and threats to the peaceful atmosphere at C.B.N. Enugu where the materials for the election were to be collected. In my humble view, where as in this case a petitioner makes an allegation of crime against a respondent in an election petition, and makes the commission of crime the basis of his petition as could be seen from Paragraphs 12B and 12C of the petition that there were no ballot boxes, no forms EC8A and no ballot papers or any other electoral materials for election on both 14/4/2007 and 28/4/2007 and further that there was violence on 14/4/2007 such a petitioner has a strict burden by virtue of Section 138(1) of the Evidence Act to prove the commission of the crime beyond reasonable doubt. If the petitioner fails to discharge this burden his petition fails.

And in Eze v. Okoloagu (2013) 3 NWLR (pt.1180) 183 at 233, this Court again stated thus:

My Lords, the case of malpractices, constitute allegation of commission of criminal activities, in an election petition, the petitioner had the burden of proving the allegation beyond reasonable doubt. To discharge the burden, it must be established that the respondents, particularly, the 1st respondent before the Tribunal (appellant herein), committed the act personally or aided, abetted, counseled or procured the commission of these alleged wrong doings. Moreover, the acts were committed by an agent or servant, there must be evidence that the agent was permitted to act in that capacity or had a general authority to act. Our law did not say that if the winner of the election benefitted from the alleged irregularities and or malpractices then the election or votes will be nullified. It says, participated either directly or indirectly.(Underlining, ours) In Wali v. Bafarawa (2004) 16 NWLR (pt.898) 1 at 44-45 this Court, Kaduna Division, said:

A respondent who is a candidate in an election cannot be held responsible for what other people did in the form of unsolicited act of which the candidate or his agent was ignorant.”

Coming to the instant case, in order to establish corrupt practices, the Petitioners called four witnesses who testified of the events that transpired in some polling units on the Election Day.

In his written address, the learned counsel for the Petitioners highlighted some of the evidence adduced to substantiate the allegations of corrupt practices. We will scrutinise the allegations and make some preliminary findings on them as

we proceed.

COMPLAINTS RELATING TO OVER VOTING IN SELECTED POLLING UNITS

In paragraphs 18.9 – 18: 93 of the petition at pages 11 – 34 thereof, the Petitioners contended that at the aforementioned polling Units in Sokoto North Senatorial District, there were over voting and which results were reckoned with by the 3rd Respondent in favour of the 1st & 2nd Respondents in the final collation of results. The polling units under reference are as depicted in Exhibits P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4) as well as Exhibits P2A – P2(34), P2B – P2B(30), P2C – P2C(8), P2D – P2D(4), P2E – P2E(5), P2F – P2F(6), P2G – P2G(1), P2H – P2H(1), P2I – P2I(4).

In the case of: **PEOPLES DEMOCRATIC PARTY v. INDEPENDENT NATIONAL ELECTORAL COMMISSION & ORS (2011) LPELR-8831(CA)** the Court of Appeal gave some guidelines on the proof of over voting thus:

“ In order to prove over voting, the Petitioner/Appellant needs to tender the register of voters for the entire constituency, the ballot boxes containing the the ballot papers and the statement of result from all or at least the affected polling stations in the constituency. See KALGO V KALGO (1999) 6 NWLR (Pt.608) p.531, and MALUMFASHI V YABA (1999) 4 NWLR (PT.598) p.230. The Petitioner/Appellant would then proceed to demonstrate and establish from those documents tendered, how the over-voting occurred. He must then establish through the demonstration or evidence that, the total number of votes cast at the election exceeded the total number of votes on the register. See INIAMA V AKPABIO (2008) 17 NWLR (Pt.1116) p.225 and AWUSE V ODILI (2005) 16 NWLR (pt.952) p.416.”

In the recent case of: **OYETOLA v. ADELEKE & ORS (2019) LPELR-47529(CA)** the Court of Appeal expounded on the proof of over voting thus:

“Indeed, I agree with the submissions of the Respondents that the Appellants failed to tender and demonstrate the alleged incidents of over-voting through the Voters Registers. Even though the RW1, RW5, RW10 and RW11 tendered the Forms EC8As, this was not enough as it is only one of the requirements to prove over-voting. The Appellant failed to tender the Voters Registers and Card Reader Reports in respect of the disputed Polling Units; they also failed to relate the Voters Registers and Card Reader Reports (which were not tendered in the first place) to the Forms EC8As and also to the specific Polling Units, in order to

demonstrate the alleged over-voting, and how, if the alleged votes are removed from the votes ascribed to the 1st and 2nd Respondents, it would influence the result in the Appellants favour.

The Appellant also did not lead evidence in proof of allegations of non-accounting. Apart from tendering Exhibits R104A, R108A and R113 (Forms EC8A), RW1, RW5 and RW10 did not demonstrate the alleged non-accounting vis-a-vis the result sheets or the Voters' Registers.

Consequently, he failed to demonstrate before the Tribunal how the alleged non-accounting affected the outcome of the election against the Respondents. Thus, the evidence adduced through the Respondents' witnesses fell far short and were not sufficient to prove the allegations made.”

In the instant case, although some registers of voters were tendered, no ballot box was tendered. The statements of results tendered were simply dumped before the Tribunal without more. The witnesses called by the Petitioners did not demonstrate how the alleged over-voting occurred. Finally, the witnesses did not establish through the demonstration of evidence that the total number of votes cast at the election exceeded the total number of votes on the register. The only logical conclusion is that the over-voting was not proved.

NON - SIGNING, DATING AND STAMPING OF ELECTION RESULTS

Leaned counsel also complained that the election results were not stamped by the presiding officer and or signed with respect to certain exhibits to wit; Exhibits P2G (2), P2C (7), P2A(22) and P2H(4) respectively. He said that the said exhibits relate to some specific polling units and wards in dispute. He also produced a table to reflect other results affected by the same irregularity. According to him, the failure to sign and stamp the aforesaid results is in breach of ***section 63(2) of the Electoral Act 2010 (as amended)***.

It is settled law that a a petitioner who alleges in his petition a particular non-compliance has the onus not only to establish the non-compliance but to satisfy the court how the non-compliance affected the result of the election. See: ***Dzungwe v. Swem 1960-1980 LREC N 313***. We are of the view that the Petitioners have not discharged the burden to show how this failure to stamp and sign some results has affected the final results of the election. The burden was on the Petitioners to demonstrate and analyse the documentary exhibits to show the effect of the purported unsigned and unstamped documents on the votes scored by the two contesting parties. The analysis should involve facts and figures in order to determine whether the alleged non-compliance was substantial enough to affect the results declared by the 3rd Respondents.

In the case of: *CHIBUIKE & ANOR V. OKONKWO & ORS (2015) LPELR-40683(CA) Pp. 23-29, paras. D-C*, the Court of Appeal expounded thus:
"... Based on S. 139(1) of the Act, I am of the view that invalidation of an election is not automatic on mere proof if in fact there was proof of non-compliance with the provisions of the Electoral Act. No matter the gravity of the non-compliance, the Appellant has to prove same and show that same substantially affected the result of the election. In effect, the Appellant has to show that if the non-compliance has not occurred, the result of the election would have been in his favour. In Section 139(1) of the Electoral Act, the law maker recognizes the fact that elections in Nigeria or anywhere else for that matter is not conducted by angels or perfect beings. Like every human endeavour, elections conducted by human beings are subject to frailties of man. If the alleged non-compliance has not substantially tilted the result of the election to one side, the election cannot be invalidated for a fresh one for there can be no perfection in human affairs or conduct of such onerous task as elections" Per YAKUBU, JCA.

Again, in: *APC & ANOR V. PDP & ORS (2015) LPELR-41768(CA)_P. 15, paras. C-E*, Owoade JCA emphasised further:

"Now, it is trite that where a petitioner (like the Appellants in this appeal) is challenging an election on ground of acts of non-compliance and he is praying for a nullification of the entire election, he must establish the non-compliance complained of and prove that when the votes affected by the acts of non-compliance are nullified, the electorate have not been allowed to make their choice of candidate. See: Buhari v. Obasanjo (2005) 13 NWLR (Pt. 941) 1, 308-309 and Oke v. Mimiko (2014) 1 NWLR (Pt. 1388) 332, 395-396."

From the foregoing authorities, it is evident that merely showing that some INEC documents were not stamped and signed is not sufficient to prove substantial non-compliance with the Electoral Act and INEC Guidelines.

UNACCOUNTED BALLOTS/VOTES

The learned counsel for the Petitioners also made some allegations of unaccounted votes and ballots in several polling units. From the evidence adduced at the trial it is difficult to decipher how the learned counsel made these deductions. It appears he carried out a personal examination of the host of documents which they tendered without demonstrating them in open court. As we have already held the bulk of the documents that were tendered have little or no evidential value because the few witnesses who testified for the petitioners were unable to analyse

the contents of the documents before the Tribunal. It is not at the address stage that the learned counsel would attempt to do what the witnesses failed to do. We cannot carry out any analysis at this stage after the witnesses have been discharged from the box. There are a plethora of authorities that a Court of Law is an adjudicator not an investigator. See the following authorities on the point: *Duriminiya vs. C.O.P (1961) NRNLR 70*; *A.A.P.P.P. v. I.N.E.C. (2010) 13 NWLR (Pt. 1212) p. 549*; *Bornu Holding Co. Ltd. v. Bogogo (1971) 1 All NLR 324 at 330-331*; *Onibudo v. Akibu (1982) 7 SC 29*; *Ivienagbor v. Bazuaye (1999) 5 SCNJ 235 (1999) 9 NWLR (Pt. 620) 552*; *A.C.N. v. Lamido (2012) 8 NWLR (Pt. 1303) 560*; *A.C.N. v. Nyako (2013) All FWLR (Pt. 636) 424*; *Sa'eed v. Yakowa (2013) 7 NWLR (Pt. 1352) 124*.

Sequel to the foregoing, we are of the view that the allegations of unaccounted votes and ballots in several polling units have not been established.

REJECTED BALLOTS

The Petitioners also tendered a host of documents which he alleged are rejected ballot papers. According to learned counsel, the defects x-rayed in the impugned results are substantial enough to affect the election in the questioned polling units as provided by Section 139 (1) of the Electoral Act, 2010 so that the 1st Respondent cannot be said to have been elected by majority of lawful votes cast.

Again, we are of the view that the alleged bundles of rejected ballot papers were merely dumped before the Tribunal without any attempt to count them or analyse them before the Tribunal. Such documents have no evidential value in any trial.

We must emphasise at this stage that in an election petition, where a petitioner complains of non-compliance with the provisions of the Electoral Act, or INEC Guidelines, the petitioner has a duty to prove the non-compliance alleged based on what happened at each polling unit. The import of that duty is that the petitioner has to *call witnesses who were at each polling unit during the election*. See the case of: *Abubakar v. Yar'Adua (2008) 19 NWLR (Pt.1120) 1 @ 173*.

The importance of polling agents at the polling units was re-stated more recently by the Apex Court in the case of: *Gundiri v. Nyako (2014) 2 NWLR (pt. 1391) 211 at 245*, thus:

“The significance of the polling units’ agents cannot therefore be under estimated in the case at hand if the appellants must have the facts to prove their case. The best evidence the appellants could have had was that of the agents at the polling units who were physically on ground and in true position to testify as to what transpired at the election. The consequence of shutting them out for

whatever reason is very detrimental to the appellant's case. See the case of Hashidu v. Goje (2003) 15 NWLR (pt. 843) 352 and Buhari v. Obasanjo (2005) ALL FWLR (pt. 273) 1 at 164 165; Oke v. Mimiko (No. 2) (2014) 1 NWLR (pt. 1388) 332 at 376; and Adewale v. Olaifa (2012) 17 NWLR (pt. 1330) 478."

Again in the case of: *Boniface Sunday Emerengwa & Anor V. Independent National Electoral Commission & Ors (2017) LPELR-43226(CA)* the Court of Appeal opined thus:

"It is for this reason that this Court agrees with learned counsel for the 3rd respondent that no other person can competently give evidence on the polling units' results other than the party agents and presiding officers, having regard to the case presented by the appellants in their pleadings at paragraph 23 among others."

Again in the case of: *IGWEBUIKE Vs EZEONWUKA (2015) LPELR-40675*, still on the effect of failure to call a Polling Agent as witness in Election Petition, *YAKUBU*, J.C.A stated thus:

"Therefore, even if the said additional evidence had been received, it would have had no weight as it did not come from a person conversant with the entries in the electoral forms in question, nor from a person that personally witnessed the election in the affected units of the ward- see Buhari and Another v. Obasanjo and Others (2006) 2 EPR 295 at 559 -560, (2005) 13 NWLR (pt.941) 1 at 315-316 paras. B-C thus: "On the question whether the evidence led in support is sufficient to warrant the decision reached on the point by the Court below, it is necessary to examine the said evidence led. The position of the law regarding the type of evidence which must be led in support of allegations in which figures or scores of candidates at an election are being challenged should come direct from the officers who were on the field where the votes were counted and/or collated ... See Omoboriowo v. Ajasin (1984) 1 SCNLR 108; and Hashidu v. Goje (2003) 15 NWLR (pt.843) 352 at 366. In the Hashidu v. Goje Case, supra, I stated the position of the law on the point on page 393 of the report as follows ... None of these party agents was called to testify. Similarly none of the INEC polling agents was called to testify and confirm the figures since they should be the makers of the forms on which the figures given were written. It follows therefore that the evidence given by the said PW1 on the figures and relied on by the lower Court was totally inadmissible because it is hearsay evidence. The Court below was therefore wrong in relying on the figures". See also Buhari v. INEC (2009) All FWLR (pt.459) 1 at 568-569 and Buhari v. INEC and Others (2008)

In the instant case, the Petitioners were unable to field polling agents from

the various polling units to actually demonstrate and analyse the host of documents which were utilized in their various polling units during the election. This lapse on their part seriously weakened their case.

Again in election petitions based on non-compliance with the Electoral Act, the intendment of the statute is to ensure *substantial compliance with the provisions of the Electoral Act* and not an *absolute compliance* with the Act. This principle of substantial compliance is enshrined in *Section 139(1) of the 2010 Electoral Act (as amended)* which stipulates as follows:

Consequently, a petitioner who alleges non-compliance with the Electoral Act must call credible witnesses to prove that there was *substantial non-compliance with the Electoral Act*: see the cases of: *EMMANUEL v. UMMANAH (No. 1) (2016) 12 NWLR (Pt.1526) 179 @ 256-257 paras G-C; NYEMSON v. PETERSIDE (2016) 7 NWLR (Pt.1512) 425.*

In the case of: *Buhari v. I.N.E.C. (2008) 19 NWLR (Pt. 1120) 746, @ p. 442* the Supreme Court restated the position thus:

"...the mere fact that there were irregularities or failure to strictly adhere to the provisions of the Act is not sufficient to void the election. In order to void the election it must be shown that:

- (1) That the irregularities or failures constitute a substantial departure from the principles of the Act and that;*
- (2) The irregularities or failures have substantially affected the results of the election.*

From the foregoing, it is clear that for any Court or tribunal to proceed to invalidate an election the conditions set out above must be met.

It follows therefore that a situation where the irregularities do not constitute a substantial departure from the principles of the Act and had not been shown to have affected the result of the election the Court or tribunal has no power to invalidate the election. Even in a situation where the Court considers that the proven irregularities constitute non-compliance, the Court still has to be satisfied that the non-compliance has affected the result of the election before election can be nullified."

Again, in the case of: *Ucha & Anor v. Elechi & 1774 Ors (2012) 13 NWLR (Pt.1317) p.330*, the Court emphasised the principle of substantial compliance thus: *"The results declared by INEC are prima facie correct and the onus is on the petitioner to prove the contrary. Where a petitioner complains of non-compliance with provisions of the Electoral Act, he has a duty to prove it polling unit by polling unit, ward by ward and the standard required is proof on the balance of probabilities and not on minimal proof. He must show figures that the adverse*

party was credited with as a result of the non-compliance, Forms EC8A, election materials not stamped/signed by Presiding Officers. He must establish that non-compliance was substantial, that it affected the election result. It is only then that the Respondents are to lead evidence in rebuttal...."

In the instant case the Petitioners were unable to prove the allegations of non-compliance or corrupt practices in each of the affected polling units on the balance of probabilities. They could not show definite figures that the 1st and 2nd Respondents were credited with as a result of the alleged non-compliance or corrupt practices. More importantly, they failed to establish that the alleged non-compliances were substantial and how they affected the election result.

In view of the foregoing, we are of the view that the Petitioners have not led sufficient and credible evidence to prove that the election of the 1st Respondent to the office of Senator representing Sokoto North Senatorial District Sokoto State was not in strict compliance with the provisions of the Electoral Act 2010 as amended and the INEC guidelines for 2019 General Election.

Issue Three is therefore resolved in favour of the Respondents.

Having resolved all the Issues in this Petition in favour of the Respondents, *we hold that the Petition lacks merit and it is accordingly dismissed with N20,000.00 (twenty thousand naira) costs in favour of each Respondent.*

HON. JUSTICE P.A. AKHIHIERO
CHAIRMAN

HON. JUSTICE A.N. YAKUBU
1ST MEMBER

HIS WORSHIP S.T BELLO
2ND MEMBER

COUNSEL:

1. IBRAHIM ABDULLAHI ESQ.....PETITIONERS

2. DR. HASSAN M. LIMAN SAN1ST RESPONDENT
3. CHIEF J.E.OCHIDI.....2ND RESPONDENT
4. P.I.N. IKWUETO, SAN3RD RESPONDENT