**ALL PROGRESSIVE CONGRESS, APC**

**V.**

**IKPEME**

COURT OF APPEAL (CALABAR DIVISION)

CA/C/NAEA/156/2015

TUESDAY, 29 FEBRUARY 2015

**LEX (2015) - CA/C/NAEA/156/2015**

OTHER CITATIONS

2PLR/2017/4 (CA)

**BEFORE THEIR LORDSHIPS:**

C. E. NWOSU-IHEME JCA (Presided)

ONYEKACHI A. OTISI JCA

PAUL O. ELECHI JCA (Read the Lead Judgment)

**BETWEEN**

1. ALL PROGRESSIVE CONGRESS (APC)

2. BARR. EYO NSA EKPO – Appellants

AND

1. HON. VICTOR IKPEME

2. ALL PROGRESSIVE GRAND ALLIANCE (APGA)

AND

1. NTUFAM (HON.) ETTA MBORA

2. INDEPENDENT NATIONAL ELECTORAL COMMISSION

3. HON. BOBBY EKPENYONG

4. BARR. EYO NSA NKPO

5. PEOPLES DEMOCRATIC PARTY (PDP)

6. LABOUR PARTY – Respondents

**ORIGINATING COURT**

THE NATIONAL AND STATE HOUSES OF ASSEMBLY ELECTION PETITION TRIBUNAL SITTING IN CROSS RIVERS STATE (Ruling delivered by the Tribunal on 10 August 2015).

**REPRESENTATION/LAWYERS**

Nathaniel Uche Esq - for the Appellant.

E. E. Osim Esq, (with him, E. B. Boco [Mrs.])- for the 1st set Respondents.

Mba E. Ukweni Esq, (with him, C. A. C. Efifie Esq and E. O. Abba Esq) - for the 1st Respondent in the 2nd set of Respondents.

E. J. Amatey Esq - for the 2nd Respondent in the 2nd set of Respondents.

E. O. E. Ekong Esq, (with him, O. A. Okon Esq, I. N. Anana Esq and L. U. Ozojideofor Esq) - for the 5th Respondent in 2nd set of Respondents

**ISSUES FROM THE CAUSE(S) OF ACTION**

ELECTION PETITION – CROSS PETITION:- Principle that election matters are sui generis and are governed by definite provisions of the law - Provisions of section 134(1) of the Electoral Act, 2010, as amended; and, section 285(5) of the 1999 Constitution of the Federal Republic of Nigeria, as amended – Requirement that an election petition shall be filed within twenty-one days after the date of the declaration of results of the election – When cause of action deemed to have arisen

ELECTION MATTERS:– Appropriate party that may present an election petition – Proper respondent – How determined - section 137(1), Electoral Act, 2010, in review

ELECTION MATTERS:- Cross petition – Meaning of – Motion to be joined as an interested party to an election petition so as to present a Cross-petition - Whether required to be filed within the statutorily prescribed timeframe for elections petitions generally – Justification for

ELECTION MATTERS:- Practice and procedure - Appeals to the Court of Appeal – Relevant governing statutes - Paragraphs 54 and 55, 1st Schedule to the Electoral Act examined

ELECTION MATTERS:- Prescribed time within which to file an election petition as provided by statute - Electoral Act, 2010 and section 285(5), 1999 Constitution examined

ELECTION MATTERS:- Electoral Act, 2010, section 137(1) - Election petition - Who is deemed to have the locus standi to present same – Appropriate respondents thereto.

CONSTITUTIONAL LAW:- Constitution of the Federal Republic of Nigeria, 1999 (as amended), section 241(1) (a) –Decision of the Federal High Court - Whether lies as of right to the Court of Appeal

CONSTITUTIONAL LAW:- Constitution of the Federal Republic of Nigeria, 1999 (as amended), section 243 –“Interested party: - Whether can exercise right of appeal in an election matter without leave of court

**PRACTICE AND PROCEDURE ISSUES**

APPEAL - Federal High Court - Appeal against its decisions – When may lie as of right to the Court of Appeal- Section 241(1)(a), of the 1999 Constitution examined.

APPEAL - Final or interlocutory decision - How determined.

APPEAL - Interested party – Whether has automatic right of appeal - Whether may exercise - section 243 of the 1999 Constitution examined

COURT - Court of Appeal - Appeals to - Relevant statutes thereto.

COURT - Federal High Court - Appeal against its decision – When may lie as of right to the Court of Appeal- Section 241(1)(a), of the 1999 Constitution considered 2010 examined

JUDGMENT AND ORDERS - DECISION - Final or interlocutory – How determined - What constitutes final decision.

JUDGMENT AND ORDER – FINAL ORDER:- Application to be joined as a party to an election proceeding – Refusal of by court – Nature of order made – Whether appealable as of right

INTERPRETATION OF STATUTE - section 241(1) (a), section 243, section 285(5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), – Interpretations of

INTERPRETATION OF STATUTE - Electoral Act, 2010, section 134(1) - Electoral Act, 2010, section 137(1) -- Electoral Act, 2010, 1st Schedule thereto, Paragraphs 54 and 55 - Interpretation of

INTERPRETATION OF STATUTE:- section 285(5), Constitution of the Federal Republic of Nigeria, 1999 (as amended)- Interpretation of

**CASE SUMMARY**

ORIGINATING FACTS AND CLAIMS

The 2nd appellant was a candidate of the 1st appellant for the Calabar/ Odukpani Federal House Constituency, Cross River State. He was joined as 4th respondent in a petition filed by the petitioners before the National and State Houses of Assembly Election Petition Tribunal (the Tribunal).

On 30 July 2015, the 1st appellant brought a motion on notice before the Tribunal seeking, inter alia, orders from the Tribunal to be joined as a party to the petition as well as leave and extension of time to file a cross-petition. The said application was argued and in a well considered ruling delivered by the Tribunal on 10 August 2015, the appellants’ said motion was dismissed in its entirety as lacking in merit. Dissatisfied with the ruling, the appellants filed a notice of appeal with five grounds of appeal.

DECISION(S) APPEALED AGAINST

The National and State Houses of Assembly Election Petition Tribunal sitting in Cross Rivers State delivered a Ruling, refusing a motion on notice to be joined as well as leave and extension of time to file a cross-petition brought by the 1st appellant hence this appeal.

ISSUE(S) FOR DETERMINATION ON APPEAL

Whether the application filed by the appellants before the Tribunal for leave for the joinder of the 1st appellant to 1st set of respondents’ petition and to file a cross petition was competent.

DECISION OF THE COURT OF APPEAL

1. A party interested in an appeal, is a person who was not originally a party to the decision complained of, and who must first seek leave to appeal against that decision as an interested party to the matter in the lower court and must be seeking to appeal against the decision of the lower court in matter in which he did not participate as a party. A person who wishes to appeal in such circumstances must show that he was aggrieved by the decision, wrongfully deprived of something, or wrongfully refused something, or that the decision is likely to affect or aggrieve the person seeking for such leave to appeal.

2. The 1st appellant was not a party to the substantive petition before the Tribunal. This appeal is however not in respect of any decision made in respect of the said petition. The 1st appellant has not appealed against a decision in respect of the petition before the Tribunal that has affected it or is likely to affect it. The appeal is in respect of the decision of the Tribunal refusing an application that the appellants directly brought before it. To this extent, the circumstances of this appeal do not bring it within the purview of the provisions of section 243 of the 1999 Constitution, as amended.

3. By virtue of the provisions of section 241(1) (a) of the 1999 Constitution, as amended, an appeal would lie as of right from the Federal High Court when it is final decision in any civil or criminal proceedings before the Federal High Court sitting at first instance; and by section 241(1) (d), when it is a decision in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter IV of this Constitution has been, is being or is likely to be contravened in relation to any person.

4. A final decision is an order which disposes of the entire controversy on the merits, leaving nothing but the enforcement of that which has been determined. A judicial decision is deemed to be final, when it leaves nothing to be judicially determined or ascertained thereafter, in order to render it effective and capable of execution, and is absolute, complete, and certain, and when it is not lawfully subject to subsequent decision, review or modification by the tribunal which pronounced it.

5. The order of the Tribunal terminally determined the application submitted to it for adjudication. The appellants consequently could appeal the said final order as of right. There was no requirement for prior leave.

6. Election matters are sui generis and are governed by definite provisions of the law. By virtue of the provisions of section 134(1) of the Electoral Act, 2010, as amended; and, section 285(5) of the 1999 Constitution of the Federal Republic of Nigeria, as amended, an election petition shall be filed within twenty- one days after the date of the declaration of results of the election. The cause of action arises after the election result is declared. Thus, a petition filed after the period of twenty-one days is outside this period and thus is statute barred.

9. A cross-petition, if maintainable in the circumstance of this case, must be filed within the prescribed period of twenty-one days after the result of the election was declared on 28 March 2015. An application for joinder submitted to the Tribunal on 30 July 2015 to enable a cross-petition be filed by the appellants, more than on hundred (100) days after the results of the elections were declared, was completely time barred. An election matter is time bound and any provision relating to time must be strictly applied

10. The ruling of the National and State Houses of Assembly Election Petition Tribunal sitting at Calabar, Cross River State, delivered on 10 August 2015 is hereby affirmed.

Appeal dismissed.

**MAIN JUDGMENT**

OTISI JCA: (DELIVERING THE LEAD JUDGMENT):

The 2nd appellant was a candidate of the 1st appellant for the Calabar/ Odukpani Federal House Constituency, Cross River State. He was joined as 4th respondent in a petition filed by the petitioners before the National and State Houses of Assembly Election Petition Tribunal (the Tribunal). The petitioners are described as the 1st set of respondents in this appeal.

On 30 July 2015, the 1st appellant brought a motion on notice before the Tribunal seeking, inter alia, orders from the Tribunal to be joined as a party to the petition as well as leave and extension of time to file a cross-petition. The said application was argued and in a well considered ruling delivered by the Tribunal on 10 August 2015, the appellants’ said motion was dismissal in its entirety as lacking in merit. Dissatisfied with the ruling, the appellants filed a notice of appeal with five grounds of appeal.

Considered examination of the processes filed by the parties in this appeal reveals that there are certain fundamental issues that ought to be primarily determined. The 5th respondent in the second set of respondents herein raised a preliminary objection on three grounds. The said preliminary objection was argued in their brief of argument which was settled by E.O.E. Ekong Esq., and filed on 14 September 2015.

On ground one, the 5th respondent challenged the locus standi of the 1st appellant to initiate the instant appeal without leave of court. The 5th respondent had contended that the 1st respondent was not a party to the proceedings before the tribunal. Its application to be joined was refused. It was submitted that the 1st appellant, not being a party to the proceedings before the tribunal, could therefore only approach this court on appeal as a person interested, and not as of right. Reliance was placed on the provisions of section 243(a) and (b) of the Constitution of the Federal Republic of Nigeria, 1999, as amended. That this appeal was rendered incompetent, not having obtained leave of court. On ground two, it was submitted that the decision of the tribunal to refuse the application did not affect the rights of the 2nd appellant who was already a party to the petition as respondent therein. On ground three, it was contended that the appellants had amended the title and constitution of the parties to the proceedings leading to this appeal without leave of court. The petition had six respondents on record. The 5th respondent in the second set of respondents herein was the 5th respondent in the proceedings leading to this appeal. The appellants without leave of court increased the respondents to this appeal and altered the title and constitution of the parties. It was contended that the notice of appeal was rendered incompetent by this action of the appellants.

The appellants responded to the preliminary objection in the appellants’ reply brief settled by Lazarus A. Izabi-Undie Esq., Nathaniel Uche Esq., and Gabriel Unake Ugbong Esq., and filed on 1 September 2015. It was submitted that the 1st appellant did not appeal as a party interested but as a party which had applied to be joined in the petition but which application was refused. That the appeal of the 1st and 2nd appellants was predicated on the refusal of the Tribunal to join the 1st appellant as a party to the petition, based on their application. It was submitted that the right of appeal of the appellants was grounded by the provisions of section 241(1)(a) and (b) of the Constitution of the Federal Republic of Nigeria, 1999, as amended. On the title and constitution of the parties to the appeal, it was submitted that the appellants were the applicants before the tribunal. The first set of respondents was the petitioners at the Tribunal while the second set of respondents was the respondents thereat. Nathaniel Uche Esq, for the appellants submitted that the parties were so constituted in this appeal, which was interlocutory and did not arise from the substantive petition. Paragraph 54 to the First Schedule to the Electoral Act, 2010, as amended provides that the practice and procedure of the Tribunal in relation to an election petition shall be as nearly as possible, similar to the practice and procedure of the Federal High Court in the exercise of its civil jurisdiction. Paragraph 55 thereof goes on to provide that an appeal to this court from the Tribunal shall be determined in accordance with the practice and procedure relating to civil appeals in this court. Appeals to this court are guided by the 1999 Constitution, as amended, by the Court of Appeal Act, 2004, by the rules of this court and by relevant Practice Directions. By virtue of the provisions of section 243 of the 1999 Constitution, as amended, a right of appeal from the Federal High Court in civil matters shall be exercised with the leave of the Federal High Court or of the Court of Appeal at the instance of any person having an interest in the matter. An understanding of who constitutes a person having an interest in the matter within the meaning of the 1999 Constitution is germane to the consideration of the preliminary objection.

Simply, a party interested in an appeal, is a person who was not originally a party to the decision complained of, and who must first seek leave to appeal against that decision as an interested party to the matter in the lower court and must be seeking to appeal against the decision of the lower court in matter in which he did not participate as a party. A person who wishes to appeal in such circumstances must show that he was aggrieved by the decision, wrongfully deprived of something, or wrongfully refused something, or that the decision is likely to affect or aggrieve the person seeking for such leave to appeal; Societe Generale Bank (Nig.) Ltd. v. Afekoro (1999) 11 NLR (Pt. 628) 521, (1999) 7 SC (Pt. 111) 95. See also Enyibros Foods Processing Company Ltd v. NDIC (2007) 3 SC (Pt. 11) 175; Akande v. General Electric Ltd (1979) 3-4 SC 115; Dokubo v. Mobil Producing (Nig.) Unltd (2013) LPELR-21951 (CA).

It is not in issue that the 1st appellant was not a party to the substantive petition before the Tribunal. This appeal is however not in respect of any decision made in respect of the said petition. The 1st appellant has not appealed against a decision in respect of the petition before the Tribunal that has affected it or is likely to affect it. The appeal is in respect of the decision of the Tribunal refusing an application that the appellants directly brought before it. To this extent, I agree with learned counsel for the appellants that the circumstances of this appeal do not bring it within the purview of the provisions of section 243 of the 1999 Constitution, as amended.

By virtue of the provisions of section 241(1) (a) of the 1999 Constitution, as amended, an appeal would lie as of right from the Federal High Court when it is final decision in any civil or criminal proceedings before the Federal High Court sitting at first instance; and by section 241(1) (d), when it is a decision in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter IV of this Constitution has been, is being or is likely to be contravened in relation to any person.

Thus, an appellant’s right of appeal from the final decision of a trial court sitting at first instance, by virtue of section 241(a) of the 1999 Constitution lies as of right to this court. These provisions have been judicially interpreted. See Ault & Wiborg (Nig.) Ltd v. Nibel Industries Ltd (2010) 16 NWLR (Pt. 1220) 486 (SC), (2010) 6 - 7 SC1, (2011) All FWLR (Pt. 557) 609; Federal Housing Authority v. Kalejaiye (2010) 19 NWLR (Pt. 1226) 147 (SC), (2011) All FWLR (Pt. 562) 1633; Nigerian Laboratory Corporation v. Pacific Merchant Bank Ltd (2012) All FWLR (Pt. 640) 1211, (2012) 15 NWLR (Pt. 1324) 505, (2012) LPELR-7859 (SC).

The question arises - was the decision of the Tribunal culminating in this appeal a final decision? In giving a straightforward answer, if an order terminally determines the rights of the parties, it is a final order. If the order does not terminally determine the rights of the parties and can be revisited or reversed by the court, it is an interlocutory order. In Ifediorah v. Ume (1988) 2 NWLR (Pt. 74) 5, (1988) LPELR-1434 (SC), the Supreme Court, per Nnaemeka Agu JSC said:

“... the test as to whether a decision is final or interlocutory which has been preferred by authoritative decisions in this country has been consistently one which looks at the result, id est, which asks the question: “does the judgment or order, as made, finally dispose of the rights of the parties?”

A final decision has also been defined as an order which disposes of the entire controversy on the merits, leaving nothing but the enforcement of that which has been determined. The question of what constitutes a final decision was also considered in Fadiora v. Gbadebo (1978) 3 SC 219, (1978) LPELR-1224 (SC), (1978) All NLR 42. The Supreme Court therein, per Idigbe JSC cited with approval, the learned authors of Spencer Bower & Turner on the Doctrine of Res Judicata (1969 Edition) In Art 164, page 34 as follows: “A judicial decision is deemed to be final, when it leaves nothing to be judicially determined or ascertained thereafter, in order to render it effective and capable of execution, and is absolute, complete, and certain, and when it is not lawfully subject to subsequent decision, review or modification by the tribunal which pronounced it.”

Again, in Gomez v. Cherubim and Seraphin Society (2009) All FWLR (Pt. 477) 1, (2009) LPELR-1331 (SC), the Supreme Court, per Oguntade JSC said:

“However, where the order made finally determines the rights of the parties, as to the particular issues disputed, it is a final order even if it arises from an interlocutory application.”

See also: CA/C/181/2013: Saint Gobain Pam S. A. v. International Consultants Incorporated (Unreported) delivered on 20 March 2014.

The application which the appellants brought before the tribunal was refused. That order made by the Tribunal was in that circumstance a final order. It could not have been revisited by the Tribunal. The order of the Tribunal terminally determined the application submitted to it for adjudication. The appellants consequently could appeal the said final order as of right. There was no requirement for prior leave. To this extent therefore, the appeal is not incompetent.

The parties in this appeal were so constituted to reflect the capacity in which they are before this court, also taking cognizance of their capacities before the Tribunal. In this regard therefore, the appellant did not misrepresent the capacity of the parties. In consequence, the issues raised by the preliminary objection of the 5th respondent in the second set of respondents are resolved against them; and therefore dismissed.

The other crucial issue to be determined borders on the competence of the application which was submitted to the Tribunal for adjudication by the appellants. In the 1st respondent’s brief (second set of respondents), settled by Kebe P. Iwara Esq of Mba Ukweni & Associates and filed on 15 September 2015; it was contended that the application which was refused by the Tribunal was filed 105 days after the result of the election was announced and 103 days after the petition was filed. The election was conducted on 28 March 2015. The results thereof were announced on 30 March 2015. The petition filed by the aggrieved first set of respondents herein as petitioners was filed on 18 April 2015. Processes were filed by the relevant parties. On 13 July 2015, the 1st appellant, which was not a party to the petition, filed an application by motion on notice seeking to be joined in the petition and for leave to file a cross-petition. The said application was struck out by the Tribunal on 22 July 2015 for lack of diligent prosecution. The appellants refiled the said motion on 30 July 2015. The motion was heard on 7 August 2015 and by its ruling delivered on 10 August 2015, the Tribunal dismissed the application. The sole purpose in seeking to join the 1st appellant in the petition was to enable the appellants filed a cross-petition in challenge of the election result. Section 137(1) of the Electoral Act, 2010, as amended, provides that an election petition may be presented by the following persons: a candidate in the election, a political party which participated in the election. The person whose election is complained of is the respondent while the Independent National Electoral Commission shall also be a respondent when there is a complaint over the conduct of an electoral officer, a presiding officer or returning officer in the election. It was submitted that a cross-petition under the Electoral Act ought to fit into this framework. The parties to a cross-petition ought to fit into the mold as prescribed by the Electoral Act; and, the cross-petition would also be subject to the time limits prescribed by the Act, having regard to the provisions of section 285(5) of the 1999 Constitution, as amended; and section 134(1) of the Electoral Act. It was submitted that the 1st appellant was not a statutorily recognized respondent. The appellants are not persons whose election is being complained about. And if they were, their cross-petition ought to have been filed within the prescribed period of twenty-one days. It was submitted that the application of the appellants was incompetent and the tribunal was right to have dismissed it.

The 2nd respondent, in the second set of respondents, in their brief of argument, settled by Onyebuchi Obeta Esq and E. J. Amatey Esq and filed on 15 September 2015, took the same position.

The appellants filed a reply brief to the 1st respondent’s brief, and a reply brief to the 2nd respondent’s brief. The core issues raised by the 1st and 2nd respondents were however not addressed. Rather, learned counsel for the appellants attacked the sole issue raised by the 1st respondent as being outside the issues raised by the grounds of appeal and ought to be discountenanced as being incompetent, the 1st respondent having filed no cross-appeal.

It was also argued that the issues raised by the 1st and 2nd respondents ran counter to their arguments presented at the tribunal. The appellants sought to have the 1st appellant joined as a respondent to the petition and for leave to enable the appellants file a cross-petition. A fundamental primary question is whether this could be done as at the time the application was brought before the Tribunal.

It is not in issue that the 2nd appellant was not the winner of the election leading to this appeal. It is also not in issue that no relief was sought by the petitioners therein, who are the first set of respondents herein, against either of the appellants. The Tribunal in considering this scenario rightly held at pages 419- 420 of the record of appeal thus:

“With this situation, this Tribunal finds it difficult to state his locus standi. It is our view, and we so hold that a person does not become a necessary party merely because he has an interest in the correct solution of some questions involved and is afraid that the existing party may not advance same adequately... It is also our view that the applicant herein cannot cross the petitioner as a cross-petitioner as there is no relief against him. Furthermore, in election petitions time is of the essence. Time for filing a petition in this instance had since lapsed. From our records, the result of the election being challenged was declared on 28 March 2015. Anyone interested in contesting the election had 21 days within which to file his petition under the Electoral Act. By the date this application was presented on 30 July 2015, presentation of a petition had been statute barred.

In conclusion, we are of the firm view that this application lacks merit, the joinder is refused and it is accordingly dismissed.”

I see no reason to fault this conclusion. Election matters are sui generis and are governed by definite provisions of the law. By virtue of the provisions of section 134(1) of the Electoral Act, 2010, as amended; and, section 285(5) of the 1999 Constitution of the Federal Republic of Nigeria, as amended, an election petition shall be filed within twenty-one days after the date of the declaration of results of the election. The operative word after in these provisions has received the judicial interpretation of being the next day; Dariye v. P.D.P. (2011) LPELR-9334 (CA); Kabir v. Action Congress (2011) LPELR8929 (CA), (2012) All FWLR (Pt. 647) 638. In other words, the cause of action arises after the election result is declared. Thus, a petition filed after the period of twenty-one days is outside this period and thus is statute barred; Egbe v Adefarasin (1987) 1 SC 1, (1987) 1 NWLR (Pt. 47) 1, (1987) 1 All NLR 1; Aremo II v. Adekanye (2004) All FWLR (Pt. 224) 2113 at pages 2132-2133, (2004) 11 MJSC 17, (2004) 13 NWLR (891) 572; Hassan v. Aliyu (2010) All FWLR (Pt. 539) 1007, (2010) 17 NWLR (Pt. 1223) 547.

The Tribunal at page 420 of the record of appeal, already reproduced above, had found that the result of the election being challenged was declared on 28 March 2015. As the Tribunal rightly held, anyone interested in contesting the election had 21 days within which to file his petition under the Electoral Act. See section 134(1) of the Election Act, 2010, as amended. A cross-petition, if maintainable in the circumstance of this case, must be filed within the prescribed period of twenty-one days after the result of the election was declared on 28 March 2015. An application for joinder submitted to the Tribunal on 30 July 2015 to enable a cross-petition be filed by the appellants, more than on hundred (100) days after the results of the elections were declared, was completely time barred. An election matter is time bound and any provision relating to time must be strictly applied; Okechukwu v. I.N.E.C. (2014) 17 NWLR (Pt. 1436) 255, (2014) 9 SCNJ 47.

An application that seeks, surreptitiously, to extend the statutory period allowed for prosecuting an election petition cannot be permitted. Indeed the Tribunal would be bereft of the necessary vires to entertain such a petition or cross-petition at all. It is important to restate that time is of the essence in the hearing and determination of election matters. Proceedings are conducted within the statutorily prescribed time limits. Parties and their respective counsel are expected to co-operate with the Tribunals and the appellate courts in order to ensure that the pressure of the period of hearing determining these election matters within prescribed time is not exacerbated by unnecessary applications which are glaringly handicapped by incompetence. Election matters, including appeals, are not filed for mere academic reasons. The pronouncement of the Tribunal ought to have rested the statute barred application of the appellants. In all, this appeal is completely without merit and is hereby dismissed. The ruling of the National and State Houses of Assembly Election Petition Tribunal sitting at Calabar, Cross River State, delivered on 10 August 2015 is hereby affirmed.

Parties are to bear their costs.

**NWOSU-IHEME JCA**:

I had the opportunity of reading in draft, the judgment read by my learned brother, O. A. Otisi JCA. His lordship painstakingly resolved all the issues before arriving at the justice of this appeal. In concurring to this well researched judgment, I hereby adopt the facts of this case as set down in the lead judgment. Having resolved the issues in favour of the respondents, I agree that this appeal is devoid of merit and that it be dismissed. The ruling of the National and State Houses of Assembly Election Petition Tribunal sitting in Calabar, Cross River State delivered on 10 August 2015 is hereby affirmed. I abide by the order as to costs made by Otisi JCA in the lead judgment.

**ELECHI JCA**:

I have had the privilege of reading in draft, the judgment just delivered by my learned brother, Onyekachi Aja Otisi JCA. My lord has treated this matter with all the consideration it deserves before arriving at the conclusion. In view of that, I do not have anything more to add than to agree with the judgment and also abide with the order as to costs. On thing must however be emphasized that in view of the sui generis nature of election matters, parties and their counsel must as a matter of statutory provision of the Electoral Act 2010 (as amended) adhere strictly within the time frame for filing their petitions after the announcement of election result.

For this and other elaborate reasons in the lead judgment, I also dismiss the appeal and affirm the judgment of the lower court.

Appeal dismissed.