

Charles J. Sandram v Malawi Electoral Commission

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Howard Pemba
Cause Number:	Electoral Matter No. 5 of 2025
Date of Judgment:	September 09, 2025
Bar:	K. Mchizi, Counsel for the Claimant L Kapida, Counsel for the Defendant

The Applicant sought a review in the High Court of Malawi against the decision of the Malawi Electoral Commission to exclude him from the official list of parliamentary candidates. The Claimant, a prospective candidate for Dedza Mtakatika Constituency, had paid a reduced nomination fee of MK1,250,000, believing he qualified as a youth candidate based on his age at the time of payment. The Defendant, however, rejected his nomination papers on the grounds that he did not qualify as a youth candidate at the time of submission of the papers, having turned 35, and had therefore paid an insufficient fee. The Claimant's lawyers wrote to the Defendant to seek a review of this decision, but

received no response before the polling day was imminent.

The principal issues the Court had to decide were whether the matter was procedurally incompetent due to failure to exhaust internal remedies, whether the Claimant was eligible for the reduced fee, and whether the Defendant had fulfilled its statutory duty to notify the Claimant of any defects in his nomination papers. The Court found that while an internal remedy existed under Section 99 of the Presidential, Parliamentary and Local Government Elections Act, the Defendant's failure to respond to the Claimant's complaint on time effectively deprived him of the opportunity to use this mechanism, thus justifying direct recourse to the Court. The Court also found that the Defendant, through its Returning Officer, failed to discharge its statutory duty to notify the Claimant of the defect in his nomination papers, which deprived him of the chance to rectify it.

The Claimant's application was allowed. The Court held that the Defendant's decision to exclude the Claimant was unlawful and should be set aside. The Court ordered the Defendant to include the Claimant on the final list of nominated candidates, provided the Claimant paid the balance of the nomination fee applicable to non-youth candidates within 48 hours. The Court further ordered each party to bear its own costs.