

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**
(Other Jurisdiction)

Election Petition
Case No. 16/370 SC/ELTP

BETWEEN: Maki Simelum

Petitioner

AND: Albert Williams

Respondent

Date of Hearing: *8th day of March, 2016 at 2:45 PM*

Before: *Vincent Lunabek – Chief Justice*

In Attendance: *Mr Edward Nalyal for Petitioner*

Mr Nigel Morrison for First Respondent

REASONS FOR STRICKING OUT PETITION

The Petitioner filed an Election Petition with a sworn statement in support on 19 February 2016.

The Petition alleges that:

1. The Respondent had an unpaid debt with the Environment Unit of the Government, that debt being the cost of repair to vehicle G117, which the Respondent caused damage in an accident whilst driving that vehicle.
2. That despite the unpaid debt described in paragraph 1 above the Electoral Commission, contrary to section 24 (1)(ca) of the Representation of People Act (as amended) (the Act) allowed the Respondent to contest the said elections, whereas the Respondent should have been declared not eligible to contest that election.

Section 24(1) of the Representation of the People Act deals with the eligibility of candidates – section 24 (1) (ca) provides:

“(1) subject to section 23 a person shall be eligible to stand as a candidate for election to Parliament if he –

“(ca) is a person who is not in default of payment of any rates, charges or other debts due to the Government or a Government agency as defined in the Public Finance and Economic Management Act [Cap 244], for a period exceeding 2 months after the same became due;”(see Representation of the People (Amendment) No.28 of 2007).

This Petition was listed for First hearing on 8 March 2016 pursuant to Rule 2.6 (2) (a) of the Election Petitions Rules for the Petitioner to satisfy the Court that there is a foundation for the Petition.

The Petitioner fails to satisfy the Court that there is a foundation to the Petition for the reasons set out herein. The sworn statement of the Petitioner disclosed the following facts:

- The Respondent used to be employed as head of the Environment Unit of the Government of Vanuatu, and drove a Toyota Hilux double cab, a government vehicle registration number G117 (the Vehicle).
- On 21 November 2014, whilst driving the vehicle, the Respondent caused an accident at the “Erakor halfroad”, which caused damage to the vehicle.
- The Government of Vanuatu required the Respondent to pay for the repair to the vehicle.
- On 26 November 2014, the Government through the Ministry of Climate change, obtained a quotation for the repair of the vehicle, in the sum of VT 731,145.
- By letter dated 27 January 2015, the Public Service Commission (PSC) terminated the Respondent from his position at the Environment unit of the Government of the Republic.
- In its letter, the PSC states that the Respondent standard payments will be used to offset the cost of the damages caused to the vehicle.
- In his letter dated 4 January 2016 to the Principal Electoral Officer, Mr Jesse Benjamin, Acting Director General of the Ministry of Climate change adaptation, Meteorology, Geo-Hazards, Environment and Energy confirmed that the Ministry of Climate change is working with the State Law Office in issues of G117 accident and other issues within the Ministry of Climate change.
- In her letter dated 8 January 2016, Angeline Glenda Dovo, Acting Attorney General confirmed the Government position on this issue when she advised:

“We confirm that in dismissing Albert Williams from Environment, the Public Service Commission informed him that the standard payments he was entitled to would be offset against the cost of damage caused to the vehicle in which he had an accident. We are instructed that accordingly, those standard payments were withheld.

In the circumstances, Mr Williams does not owe any debt to the Government in relation to his dismissal.”

The Petitioner fails to identify and set out any material fact showing the Respondent owes any debt to the Government.

The material fact contained in the sworn statement of the Petitioner may lead to a potential debt. However, a debt or the circumstance of a debt, if existed, before the date of the elections of January 2016, has been off-set by the Respondent's standard payments which have been withheld by the Government for that purpose before the elections poll day.

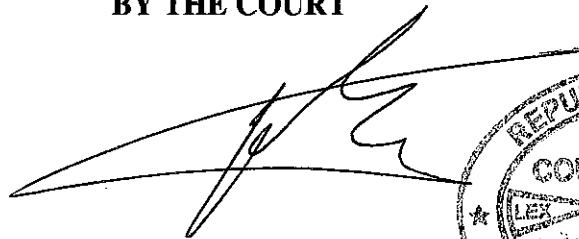
On the basis of the above, the Petitioner fails to satisfy the Court that the Petition has a foundation.

ORDER

1. The Election Petition case No.370 of 2016 between Maki Simelum (Petitioner) and Albert William (Respondent) has no foundation.
2. It is so Struck Out

DATED at Port Vila this 8th day of March, 2016

BY THE COURT



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Vincent Lunabek
Chief Justice

