

BETWEEN: Morris Manmelin

Petitioner

AND: Principal Electoral Officer

First Respondent

AND: Christopher Emele

Second Respondent

Date of Order : 26th May 2020
Before: Justice Oliver.A.Saksak
In Attendance: Mr Daniel Yawha for the Petitioner
Ms Florence Williams for First Respondent
Mr John Less Napuati for Second Respondent

ORDER

Pursuant to the Decision dated 26th May 2020 that there shall be a recounting of votes for the whole Constituency of Torres,

I Order that-

1. The First Respondent shall deliver up the 12 Ballot boxes for **Lehali, Divers Bay, Veverau, Napque, Hiu, Tegua, Toga, Valua, Totolag, Rah and Nerenigmai** Polling Stations to the custody of the Court by 4:00pm on Friday 29th May 2020. These shall include the Electoral Rolls for each of these Polling Stations.

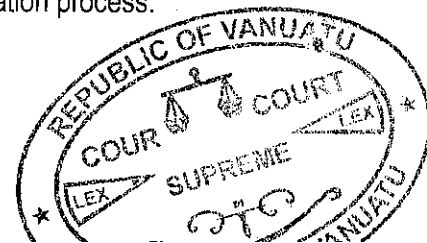
2. **Establishment of Committee and Composition**

2.1. There is hereby established an Examination Committee for the purposes of examination and recounting of votes for the Torres Constituency.

2.2. The Committee shall be composed of:

- a) Counsel for the Petitioner or his designate,
- b) Counsel for the First Respondent or his designate,
- c) Counsel for the Second Respondent or his designate, and
- d) The Principal Election Officer.

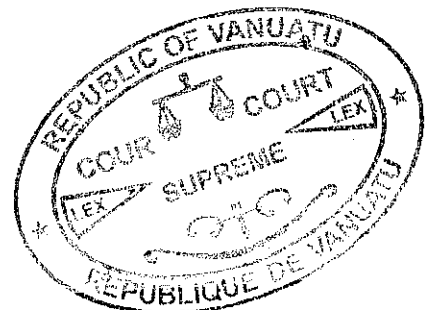
2.3. No member of the Electoral Commission shall be involved in the examination process.



- 2.4. No other person shall be allowed to attend the examination process and the recount except those persons named in 2.2.
3. The Principal Electoral Officer is hereby appointed to supervise the examination process and the examination of counted votes, void votes and examination of the counting of votes.

Examination Process

4. For each and every ballot box the process shall be-
 - 4.1. The Principal Electoral Officer shall open each box and remove from it all the ballot papers. He shall then identify the petitioner's papers and put them separately to his right and the second respondent's papers to the left. The papers belonging to the other candidates shall also be kept separately.
 - 4.2. After the identification and separation, the Petitioner's Counsel shall count up the Petitioner's ballot papers, then hand them over to the second respondent's counsel to do the same. Each counsel is required to record the number of the ballot papers counted. Then Counsel for the First Respondent shall have the final count. The same process shall be repeated for the Second Respondent's ballot papers with his Counsel counting first, the Petitioner's Counsel second, and the First Respondent's counsel counting last.
 - 4.3. Every void votes in each Ballot Box shall be counted in the same manner as in 4.2 above and recorded. This shall include the votes for the losing candidates.
 - 4.4. The total number of votes for each polling station shall be recorded and matched against the number obtained in the initial counting as shown by the tally sheets produced by the petitioner and the First Respondent in the sworn statement of Jonathan David Toara to see if they are the same or different.
 - 4.5. The total number of votes for each polling station recorded shall then be matched against the number of registered voters, valid and void votes shown in the Electoral Roll and as published on 8th April 2020, to see if they are the same or differ.



Event of Dispute

- 5. If any dispute arises, the opinion of the Principal Electoral Officer shall be sought. If any papers remain disputed by either party, the Committee shall refer the dispute for the decision of the Court in its final report or decision.

Venue, Date and Time of Examination

- 6. The Examination and Recounting shall be held in Court Room 1 at the Supreme Court Offices on Tuesday 2nd June 2020 at 1:30pm and may continue on Wednesday 3rd June 2020 at 9:00am, if it is not completed on this date.

7. Submissions of Report by Committee

- 7.1. The Committee shall prepare a joint report on the process of examination and the counting of votes including void votes, and submit the report within 48 hours after completion of such examination and counting, signed and endorsed by each counsel and the Principal Electoral Officer.
- 7.2. The Report shall be confidential and marked as such in a sealed envelope submitted to the Supreme Court by Tuesday 9th June 2020.

Hearing/Conference

- 8. There be a hearing on Wednesday 10th June 2020 at 8:15am in Chambers 3.

DATED at Port Vila this 26th day of May 2020

BY THE COURT



OLIVER.A.SAKSAK

Judge

