



**Zimbabwe Election
Support Network** ■
Promoting Democratic
Elections In Zimbabwe

3 February 2024 By-Election

**Report on the 18th December 2023
Nomination Court Processes**

2023



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Report on the 18 December 2023 Nomination Court Process for the 3 February By-Election



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1. Introduction and background

On 18 December Nomination Courts in Marondera, Chinhoyi, Gweru and Bulawayo convened to fulfil Zimbabwe's legal procedure in officially verifying and accepting aspiring candidates' nomination papers ahead of the coming National Assembly by-elections scheduled for 3 February 2024. By-elections will be conducted in accordance with Statutory Instrument 235 of 2023, Proclamation 10 of 2023 to fill the parliamentary seats left vacant by the recalls of six (6) incumbent legislators. Vacancies occurred following the recalls of Citizens Coalition for Change (CCC) candidates on 10 November 2023 by the party's 'interim secretary general' who declared they had ceased to be members of the party.

The recalls triggered the need for by-elections to choose new representatives in Mkoba North, Goromonzi South, Seke, Pelandaba-Tshabalala, Zvimba East and Chegutu West Constituencies. Among the recalled Members of Parliament is the CCC organising secretary, Amos Chibaya, who is also Chief Whip of the party, and the party's deputy spokesperson Gift Ostallos Siziba, representing Mkoba North and Pelandaba-Tshabalala respectively. Admore Chivero (Chegutu West), Tapfumaneyi Willard Madzimbamuto (Seke), Oliver Mutasa (Zvimba East) and Stephen Chatiza (Goromonzi South) also ceased to be members of Parliament for their respective constituencies on 10 November.

In line with its objectives, ZESN members observed the nomination processes at designated Magistrates Courts. Due to resource constraints, ZESN members observed the nomination process for parliamentary contenders only and excluded nomination sittings for the twelve (12) Local Authority Councillors. To promote consistency across its observation, ZESN agreed on a common framework and approach through which members were guided in terms of gathering information on the process and outcome of the nomination.

Overall, the 18 December Nomination saw a reduction in competition for constituency seats by candidates who lodged their nomination papers. This is in comparison to the 21 June 2023 nomination process, in preparation for the 23 August 2023 Harmonized Elections for the same constituencies. Candidate fatigue emanating from a series of recalls that has kept Zimbabwe in an electioneering mode, subsequent by-elections in a noticeably short space of time coupled with high nomination fees deter candidates from participating in elections.

The nomination result shows that CCC filed double candidates in some constituencies, two (2) candidates were nominated under the party in Goromonzi South and Pelandaba-Tshabalala. Three (3) CCC aspiring candidates (Pelandaba-Tshabalala, Mkoba North and Goromonzi South) filed nomination papers under the CCC party, notwithstanding the December 7 High Court ruling that barred recalled candidates from contesting under the

party. Three (3) recalled CCC candidates decided to run as Independents in Zvimba East, Seke and Chegutu West.

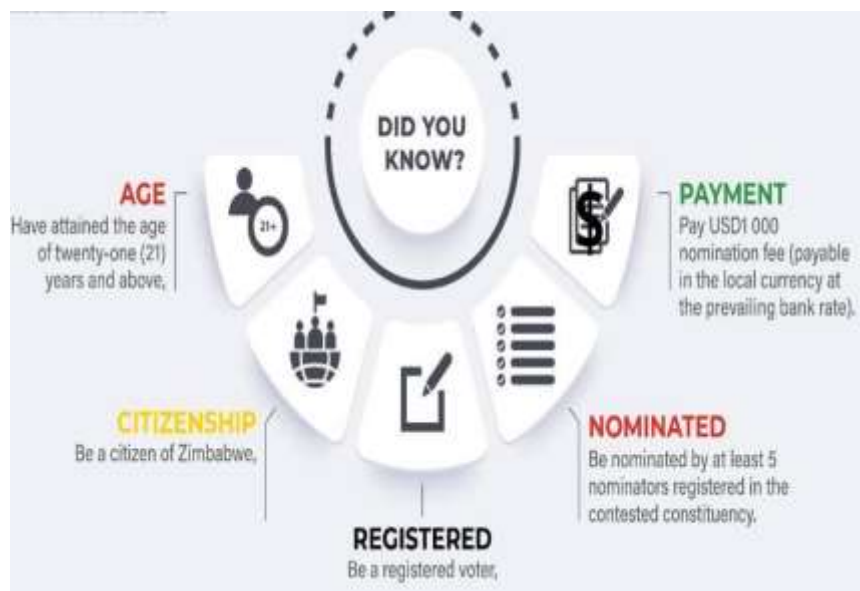
2. Legal Framework

In Zimbabwe, if an MP or councillor resigns or is expelled from their party, they cease to be members of the party hence the seat they represent technically becomes vacant. The party recalls the MP or councillor for disassociating themselves from the party that voters elected them under and triggers a by-election to replace them.

Section 39 of the Electoral Act states that in the event of an electoral vacancy occurring, the Speaker of Parliament shall notify the President and the Commission of the vacancy as soon as possible after he/she becomes aware of it. Section 38 of the Electoral Act outlines that the President should subsequently fix place(s) and day(s) on which the nomination court sits to receive nominations of candidates.

And whereas the Speaker of Parliament notified the President on the 15th of November 2023, in writing, of the vacancies for the six constituencies, the President ordered by-elections in the affected constituencies, and fixed Monday, 18 December 2023 as the date on which the Nomination Courts would sit to consider nomination papers from prospective candidates.

Figure 1: Requirements for one to be a National Assembly Candidate



Source: ZEC

In accordance with the law, Magistrates Courts sat on 18 December to consider aspiring candidates. While the law allowed for submission of nomination papers prior to the sitting of the Nomination Court, that is, soon after publication of the proclamation, no candidate submitted in advance. On 18 December, Nomination Courts validated nomination papers that complied with legally set requirements. See Figure 1

3. Commencement and environment

On 18 December, the Nomination Courts were open to aspiring candidates sponsored by political parties as well as independents. Overall, the process was very peaceful and calm. There were no reported incidents of violence or intimidation between candidates or their supporters during the verification and nomination period.

ZESN members and volunteers in Marondera observed that the Magistrates Court opened on time, around 10.00am. Ten (10) Zimbabwe Electoral Commission (ZEC) officials (six males and four females) were present to accept and verify nomination papers filed by candidates. At Tredgold Magistrates Court in Bulawayo, the court opened around 10.30am, was manned by ten (10) electoral officers, eight (8) females and two (2) males. Mrs Sithembiso Nkomo presided over the proceedings, overseeing the filing and validation of nominations. In Bulawayo, the ZEC Commissioner, Abigail Ambrose and ZEC Chief Elections Officer Utoile Silaigwana attended the process at different intervals.

The Chinhoyi Magistrates Court opened thirty minutes late, around 10.30am. Nine ZEC officials were present, four males and five females. The Gweru Magistrates Court opened on time, around 10.00am. Seven (7) ZEC officials, four (4) females and three (3) males were responsible for the nomination process.

Figure 2: Bulawayo ZEC Presiding Officer



Source: @ZBCNewsOnline

The media such as the Centre for Innovation and Technology, Chronicle, NewsDay, Zimbabwe Broadcasting Corporation ZESN members, the Zimbabwe Council of Churches among other organizations observed the proceedings without any hindrances. Security forces managed the nomination events professionally and maintained law and order without curtailing political rights and freedoms and following due process when verifying the nomination papers lodged by the various aspiring candidates.

4. Recalled MPs contesting portfolios.

On 7 December 2023, Zimbabwe witnessed a dramatic eleventh-hour exclusion of the CCC recalled members from the 9 December by-elections. Sengezo Tshabangu successfully secured a High Court order and barred them from participating, citing their expulsion from the CCC. This resulted in by-elections bereft of candidates who had been duly elected in August 2023. Just ten (10) days after the barring of CCC from contesting, on 18 December 2023, three (3) recalled candidates filed nomination papers to contest under the same party that recalled them. Mkoba North, Pelandaba Tshabalala and Goromonzi South as represented by Amos Chibaya, Gift Ostallos Siziba and Stephen Chatiza respectively filed and ZEC accepted them as duly nominated under the CCC party.

Table 1: Recalled Candidates and nomination filing status.

Constituency	Candidate	Successfully filed as;
Mkoba North	Amos Chibaya	CCC
Pelandaba	Gift Ostallos Siziba	CCC
Goromonzi South	Stephen Chatiza	CCC
Seke	Willard Tapfumaneyi Madzimbamuto	Independent
Chegutu West	Admore Chivero	Independent
Zvimba East	Oliver Mutasa	Independent

Three (3) of the recalled MPs filed their nomination papers as independent candidates. Technically, these three cannot cross the floor after being elected and will therefore, remain holding independent portfolios. The tenure of seat for MPs as provided for under Section 129 (1) (L) of the Constitution of Zimbabwe is *that if a member, not having been a member of a political party when he or she was elected to Parliament, becomes a member of a political party the seat he holds becomes vacant*. While it is permissible for independent MPs in Zimbabwe to join a political party after being elected, they will have to vacate their seat and contest in a by-election under the banner of the new party.

5. Readiness of the candidates

Usually, aspiring candidates who present polished, compliant and organized submissions tend to demonstrate stronger levels of preparedness for the nomination process. In

Marondera, ZANU-PF aspiring candidates for Goromonzi South and Seke successfully filed their nomination by 11.30am. ZANU-PF candidate for Pelandaba-Tshabalala also successfully filed before 11.00am. By midday, the ZANU-PF aspiring candidate for Zvimba East had successfully lodged his nomination papers in Chinhoyi, though he was initially denied for a missing document. CCC and many other candidates came after midday. It is, however, important to note that there were no rejected submissions, nomination papers were all accepted as valid and candidates officially nominated.

6. Decrease in number of candidates submitting nomination papers.

The 18 December Nomination saw a reduction in competition for constituency seats by candidates who lodged their nomination papers when compared to the 21 June 2023 nomination process conducted in preparation for the 23 August 2023 Harmonized Elections. For example, in June, six (6) candidates submitted papers in Pelandaba-Tshabalala, two points drop to four (4) was witnessed in December of the same year. Mkoba North had five (5) aspiring candidates in June and three (3) in December, Chegutu West had six (6) in June and half the number (3) in December 2023.

7. Double Candidates

CCC recorded a high number of double candidates, the party forwarded double representatives in two constituencies of Pelandaba-Tshabalala and Goromonzi South. ZANU-PF filed single candidates for all constituencies.

Table 2: CCC double candidates against its main political opponent ZANU PF

Constituency	Party	Number of Candidates
Goromonzi South	ZANU PF	1
	CCC	2
Pelandaba-Tshabalala	ZANU PF	1
	CCC	2

8. Conclusion and recommendations

The Nomination Court proceedings were peaceful, calm and successfully gave the candidates equal opportunity to file their papers. ZESN noted that Nomination Court Sitting at various Magistrates Courts demonstrated key aspects of inclusion as women played a pivotal role under ZEC. ZESN also applauds citizens for their political maturity and peace, for respecting each other and refraining from delegitimizing the nomination process or each other. However, from the same observations, ZESN wishes to recommend that:

- Political parties must improve on intra-party democracy, whose absence sometimes manifests in the fielding of double candidates.

- ZEC should conduct massive voter education to avert the likely voter apathy in the coming by-elections.
- Parliament should amend Section 129 (k) of the Constitution as recalls place a heavy burden on the fiscus, contribute to voter apathy and affect the essence of democracy. The power to recall, if any, must reside in the people and not the political parties as is the trend in the majority of democracies.
- There is need to register and regulate political parties to address the issue of recalls as they bring into question the significance and relevance of elections