THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

SAINT VINCENT AND THE GRENADINES

HIGH COURT CLAIM NO. 420 OF 2005

BETWEEN:

SVG GREEN PARTY
IVAN O'NEAL

Claimants

V

THE ATTORNEY GENERAL
THE SUPERVISOR OF ELECTIONS

Respondents

Appearances:
Mr. Emery Robertson Sr. and Mr. Emery Robertson Jr. for the Claimants
Mr. Arthur Williams for the Attorney General
Mr. Richard Williams for the Second Respondent

2005: October 6, 7, & 17
November 18

DECISION

[1] **THOM, J**: The Claimants seek to have Section 10A of the Representation of the People Act which forms part of Section 2 of the Representation of the People (Amendment) Act 2005 No. 4 of 2005 declared unconstitutional, null and void.

[2] The First Claimant the SVG Green Party is a political party in Saint Vincent and the Grenadines and the Second Claimant Mr. Ivan O'Neal is the Political Leader of the First Claimant.

[3] On January 6, 2005 the Second Respondent wrote to the Second Claimant informing him that there would be a nationwide enumeration of electors in Saint Vincent and the

Grenadines commencing on March 15, 2005 and ending on June 15, 2005. The letter outlined the reasons for the exercise to be:

(a) To expunge from the Electoral Lists the names of persons who have died and whose names are still on the list.

(b) To delete the names of electors who have been absent from Saint Vincent for a period exceeding five (5) years.

(c) To ascertain the exact number of electors now residing in this nation.

[4] By this said letter the Supervisor of Elections invited the First Claimant to nominate 187 persons to be the First Claimant's agents for the enumeration exercise.

[5] By letter dated 11th January 2005 the Second Claimant notified the Second Respondent of the willingness of the First Claimant to send the names of the 187 agents to participate in the enumeration exercise and enquired who would pay the wages for the agents.

[6] On the 8th day of February 2005 the Second Respondent wrote to the Second Claimant advising him that only scrutineers appointed by the political parties with membership in Parliament would be paid $400.00. The Second Claimant was reminded to submit the names of the scrutineers of the First Claimant by 14th February 2005 the day when training of enumerators was due to commence.

[7] On February 25, 2005 the Parliament of Saint Vincent and the Grenadines passed the Representation of the People (Amendment) Act 2005. This Act was assented to by His Excellency the Governor General on the 1st day of March 2005.

[8] Section 2 of this Act created eight new sections being Sections 10A to 10H. Section 10A makes provision for each political party having an elected member or elected members in the House of Assembly to nominate persons to be appointed as scrutineers. While Section 10F makes provision for scrutineers appointed under Section 10A to receive such remuneration as is determined by the Supervisor of Elections.

[9] The enumeration exercise was conducted between March 15, 2005 and June 15, 2005.

[10] On September 6, 2005 the Claimants filed a claim in which they claimed the following:

1. A declaration that section 10A of the Representation of the People Act (hereinafter referred to as Section 10A) is unconstitutional.
2. An order that the Supervisor of Elections do allow the First Claimant to have scrutineers assist in the enumeration process and that such scrutineers be paid by the Supervisor of Elections or the relevant authority.

[11] The Second Claimant swore two affidavits in this matter. The relevant paragraphs are paragraphs 11, 12, 14, and 15 of the first affidavit and paragraph 1(g) of the second affidavit.

Paragraph 11 reads as follows:

> "The said Act permitted the appointment of scrutineers by Political Parties having an elected member or elected members in the House of Assembly. Reference is made to Section 10 A (1) (3) of the Representation of the People Act No. 4 of 2005."

Paragraph 12 reads as follows:

> "The Green Party contends that this section of the Act is discriminatory in that if affects (affords) to the other two Political Parties having elected representatives in Parliament a different kind of treatment as that afforded to his party and the same ought to be declared unconstitutional as being contrary to the Schedule of the Constitution Part 2 Recital (b), and Chapter 1 Fundamental Rights provisions section 13 (1) which provides that no law shall make any provision that is discriminating either of itself or in its effect."

Paragraph 14 reads as follows:

> "My party the SVG Green Party is a person under the Constitution and the Law seeks to prohibit my party from taking part in the Election process and is contrary to the spirit of the Constitution as my party has been denied the right of having the opportunity to participate in the process of seeing that persons who are qualified to vote have their names recorded to be included in the List of Voters as well as ensuring that they who have died that their names be removed from the Voters List for the next Parliamentary Election which is constitutionally due next year."

Paragraph 15 reads as follows:

> "I intend to contest the next General Elections as a Candidate for the constituency of East St. George the area in which I reside and I am a registered voter for the said Constituency and I am enrolled as a voter having an ID card number SVG 075333 and I have an interest in seeing that persons elected to parliament have been duly elected in accordance with the Representation of the People Act under a procedure which is fair and just to all individuals contesting the said elections as well as any of my candidates contesting on behalf of the SVG Green Party."

[12] The Second Claimant in his second affidavit sworn on October 3, 2005 deposed in paragraph (1) (g) as follows:

> "The SVG Green Party was therefore deprived of participating in the democratic process and by Act No. 4 of 2005 the discrimination is apparent through Section 10A – 10H. I have also a certified copy of the Hansard and the Order of the Day Paper which I exhibit as "I.O. 3" to show the purpose and intent behind the said Act."

[13] Attached to the said Affidavit and marked "I.O. 3" is a document entitled "Excerpt of the sitting of the House of Assembly on 28th February 2005 Representation of the People (Amendment) Bill 2005 Debate." This document bears a stamp of the Department of the Clerk of the House of Assembly and is certified by the Clerk of the House of Assembly. The Court raised the issue whether the document was admissible in view of the decision of the Court of Appeal in the case of Randolph Toussaint v The Attorney General of Saint Vincent and the Grenadines, Civil Appeal No. 1 of 2004. It was agreed by both sides that there was no permission from the Speaker of the House of Assembly and the document could only be admitted pursuant to Section 40 of the Evidence Act, Chapter 158.

[14] Counsel for the Claimants submitted that the document was admissible since it was certified correct by the Clerk of the House of Assembly. The Court should not interpret Government Printer in Section 40 of the Evidence Act narrowly.

[15] Counsel for the Respondents submitted that the Claimants had to satisfy the condition of Section 40 of the Evidence Act before the document could be admitted in evidence. The condition has not been satisfied therefore the document is inadmissible.

[16] Section 40 of the Evidence Act reads as follows:

> "All documents purporting to be copies of the debate and proceedings of the House of Assembly or of papers presented to the House of Assembly purporting to be printed by the Government Printer, shall on their mere production be admitted as evidence thereof in all courts."

[17] As stated earlier Learned Counsel for the Claimants urged the Court not to give the term "Government Printer" a narrow interpretation. However, the term "Government Printer" is defined in Section 3 (1) of the Interpretation and General Provisions Act as follows:

> "… means the Government Printer of Saint Vincent and the Grenadines and any other printer authorized by, or on behalf of the Governor-General to print any written law or any other document of the Government."

[18] To be admissible under Section 40 of the Evidence Act the document must have been printed by the Government Printer or a printer authorized by or on behalf of the Governor-General.

[19] A document certified by the Clerk of the House of Assembly is not a document printed by the Government Printer nor is it a document printed by a printer authorized by the Governor-General. No evidence was led to the effect that the Clerk of the House of Assembly was a printer authorized by the Governor-General to print any written law or any other documents of the Government.

[20] I find that the document "I.O. 3" does not meet the requirement of Section 40 of the Evidence Act since it is not a document printed by the Government Printer as defined in Section 3(1) of the Interpretation and General Provisions Act.

[21] In the event that I am wrong and the document is admissible, I find that it does not advance the Claimants' case since the same arguments that were made during the debate by the Honourable Leader of the Opposition were made by Learned Counsel for the Claimants in his submission.

[22] This claim was brought pursuant to Sections 16 and 96 of the Constitution and Part 56 of CPR 2000. However, during submissions Learned Counsel for the Claimants submitted that the Claimants were relying on Section 16 of the Constitution.

[23] Learned Counsel for the Claimants submitted that Section 10A is unconstitutional in that it is discriminatory both in itself and in its effect.

[24] Learned Counsel for the Respondents in response submitted:

(1) That the Claimants have no locus standi. The First Claimant is not an individual; it is not a registered entity as such it can only bring an action by the named trustees of the Party. In support of his proposition counsel referred the Court to Halsbury Laws of England 4th ed Vol. 5 paragraph 271 and London Associates for Protection of Trade and Another v Greenlands Limited (1916) 2 A.C. p. 15. The Second Claimant has not pleaded that he has been discriminated against but rather that the First Claimant has been discriminated.

(2) The discrimination alleged does not fall into one of the protected classes stated in Section 13(3) of the Constitution. Alternatively, if Section 10A is discriminatory it falls within the exception of being reasonably justifiable in a democratic society as provided in Section 13 (4) (d), and 13 (4) (a) in that it is a law which makes provision for the appropriation of public revenue or other public funds.

(3) That there was undue delay in the bringing of his Motion. The Claimants were made aware of the Representation of the People (Amendment) Act No. 4 of 2005, on 1st March 2005 and they waited over six months and until after the enumeration process was completed to file the claim.

[25] The issues for consideration are:

(i) whether section 10A is unconstitutional;

(ii) whether the Claimants have locus standi; and

(iii) whether there was delay in instituting these proceedings.

[26] Submissions were made in this matter over a period of three days. Most of the time was spent on the issue whether the Claimants have locus standi. The Court of Appeal in cases such as Byron v Blake (1994) 47 WIR p. 174; Frank v Attorney General of Antigua and Barbuda Civil Appeal No. 1 of 1990; Attorney General of St. Kitts and Nevis v Lawrence (1983) 31 WIR p. 176; Attorney General of St. Lucia v Martinus Francois Civil Appeal No. 37 of 2003 and Baldwin Spencer v Attorney General of Antigua and Barbuda (1999) L.R.C. p. 1 has stated that the approach to be adopted by the Court is that the Court first determines the nature of the violation of the Constitution alleged by a Claimant, and only where the Court finds that there has indeed been a violation would the Court proceed to consider whether the Applicant has locus standi. I adopt this approach and would therefore consider the issue of the constitutionality of Section 10A first.

CONSITUTIONALITY OF SECTION 10A

[27] Learned Counsel for the Claimants submitted that the claim was brought pursuant to Section 16 of the Constitution and contended that the Claimants' fundamental rights as protected by Section 13 of the Constitution were breached in that Section 10A affords a different treatment to parties who have an elected member or elected members in the House of Assembly and those who do not. It confers an advantage on those Political Parties who have an elected member or elected members in the House of Assembly by permitting them to nominate scrutineers to participate in the registration process to ensure that the principles of fairness and impartiality are adhered to. The section places other Political Parties like the First Claimant at a disadvantage of not being able to take part in the electoral process. Learned Counsel submitted this amounts to discrimination within the provisions of Section 13 of the Constitution, the discrimination was based on political opinion. Section 10A favours the Political Parties in Parliament and it affords a privilege to those parties in Parliament and denies those with no elected members in Parliament the

opportunity to participate in the electoral process. In the event that one political party won all of the seats and is therefore the only political party with elected members in the House of Assembly, then only that political party would be able to nominate scrutineers to participate in the next enumeration exercise. This is contrary to the democratic process and the principles of fairness and impartiality.

[28] Learned Counsel for the Defendants submitted in response that the provision for Political Parties having elected members in the House of Assembly to nominate scrutineers was a qualifying provision, it was not discriminatory. The First Claimant did not meet the qualification and thus could not nominate scrutineers. The First Claimant was not in the same position as the Political Parties with elected members in the House of Assembly. In support of this submission Learned Counsel referred the Court to the case of Smith v L.J. Williams (1980) 32 WIR 395 at pp. 406 – 407.

[29] Learned Counsel further submitted that the discrimination alleged by the Claimants being discrimination between Political Parties having an elected member or elected members in the House of Assembly and a Political Party which does not have an elected member in the House of Assembly is not within the classes protected by Section 13 (3) of the Constitution. In support of this submission Learned Counsel referred the Court to Nielsen v Barker (1982) 32 WIR p. 254.

[30] Learned Counsel submitted alternatively that if Section 10A is discriminatory then it falls within the exceptions provided in Section 13(4), being Section 13 (4) (d) in that it is reasonably justifiable in a democratic society. In the absence of this provision anyone could form a Political Party, nominate scrutineers and these scrutineers would have to be paid. This would result in a drain of public funds from the Government Treasury. Under Section 13 (4) (a), Section 13 (1) does not apply to a law that makes provisions for the appropriation of public revenue.

[31] The relevant provisions of the Constitution are Sections 13 (1) and (3) and 16 (1) and (2).

Section 13 (1) and (3) reads as follows:

> "13(1) Subject to the provisions of subsection (4), (5) and (7) of this Section, no law shall make any provision that is discriminatory either of itself or in its effect."
>
> (3) In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by sex, race, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description."

Section 16 (1) and (2) reads as follows:

> "16(1) If any person alleges that any of the provisions of sections 2 to 14 inclusive of this Constitution has been, is being or is likely to be contravened in relation to him (or in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person) then without prejudice to any other action with respect to the same matter that is lawfully available, that person or (that other person) may apply to the High Court for redress.
>
> (2) The High Court shall have original jurisdiction -
>
> (a) to hear and determine any application made by any person in pursuance of subsection (1) of this section; and
>
> (b) to determine any question arising in the case of any person which is referred to in pursuance of subsection (3) of this section;
>
> and may make such declaration and orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of Sections 2 to 15 (inclusive) of this Constitution;
>
> Provided that the High Court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law."

[32] In Minister of Home Affairs and Another v Fisher and Another [1979] 3 AER p. 21 and in Attorney General of the Gambia v Momodou Jobe [1984] AC p. 869 the Privy Council outlined the approach that should be taken by the Court when interpreting provisions of a Constitution. In Minister of Home Affairs v Fisher Lord Wilberforce said at p. 26:

> "A constitution is a legal instrument giving rise amongst other things to individual rights capable of enforcement in a Court of Law. Respect must be paid to the language which has been used and to the traditions and usages which have given meaning to that language. It is quite consistent with this and with the recognition that rules of interpretation may apply, to take as a point of departure for the process of interpretation a recognition of the character and origin of the instrument, and to be guided by the principle of giving full recognition and effect to these fundamental rights and freedoms with a statement of which the constitution commences."

In Attorney General of the Gambia v Momodou Jobe, Lord Diplock said at p. 700:

> " A constitution and in particular that part of it which protects and entrenches fundamental rights and freedoms to which all parties in the State are to be entitled is to be given a generous and purposive construction."

[33] The question the Court must ask is whether the fact that only Political Parties with an elected member or elected members in the House of Assembly could nominate scrutineers makes section 10A contrary to the provisions of Section 13(1).

[34] In determining this question, the Court must determine what interpretation should be given to section 13(3).

[35] In Nielsen v Barker (1982) 32 WIR p. 255 The Court of Appeal of Guyana considered the interpretation to be given to Article 149 of the Constitution of the Republic of Guyana. Article 149 (1) and (2) are in the same terms as section 13 (1) (2) and (3) of the Constitution of Saint Vincent and the Grenadines. Massiah J.A. at p. 280 said:

> "The word "discriminatory" in Article 149 does not bear the wide meaning assigned to it in a dictionary. It has a precise and limited connotation. Although it contains the elemental constituents of favouritism, or differentiation in treatment, its application is confined only to favouritism or differentiation based on race, place of origin, political opinion, colour or creed. No other kind of favouritism or differentiation is "discriminatory" within the narrow constitutional definition of that word used in Article 149 (2). It is to be profoundly in error to think that there has been a contravention of a person's fundamental rights under Article 149 where the alleged discrimination is based on some ground other than those referred to above, no matter how reprehensible such grounds may appear to be. Such a situation clearly does not come within the purview of the constitutional guarantee although there may well be other means for its investigation and for securing redress."

And further at p. 281:

> "… the applicant could only have succeeded on this issue if he could have shown that the matters of which he complained fell within one of the tight definitive compartments prescribed under Article 149 (2). There was certainly no such allegation in either of the affidavits sworn by Saadie Mohammed, the applicant's wife although in paragraph 8 of her affidavit of 20th November 1981, she expressly complained of discriminatory conduct on the part of the first respondent. The understanding of counsel for the applicant as articulated by him in this Court was as already stated, that it was discriminatory to seek to expel the applicant while allowing others whose circumstances were the same as his to remain in Guyana. That argument did not take into account the narrow definition of discriminatory…"

[36] This statement of Massiah J.A. was approved and adopted by the Eastern Caribbean Court of Appeal in Baldwin Spencer v The Attorney General of Antigua and Barbuda and David Adolphus McKenzie v David Sampson Civil Appeal No. 12 of 2003.

[37] This issue was also considered by the Privy Council in Matadeen v Pointu (1999) 1 A.C. p.98. In Matadeen's case the Privy Council upheld the decision of the Supreme Court of Mauritius that the applicants' constitutional rights were not infringed by the new regulations made by the Minister of Education which permitted examiners to take into account marks obtained for Oriental language in the Primary Education Examination since the discrimination upon which the applicants relied did not fall within one of the grounds of discrimination outlined in Section 16(3) of the Mauritius constitution. The applicants had alleged that the Regulations discriminated against those children who had not studied an oriental language from the beginning of their primary schooling. Section 16(3) of the constitution of Mauritius is in similar terms to Section 13 (3) of the Constitution of Saint Vincent and the Grenadines.

[38] The principle that emerges from Nielsen v Barker, Baldwin Spencer v The Attorney General and Matadeen v Pointu is that a law would only be held to be discriminatory contrary to section 13(1) if the discrimination is based on one of the grounds outlined in Section 13 (3) of the Constitution.

[39] Applying this principle to the present case Section 10A would be unconstitutional if its provisions are discriminatory on one or more of the grounds set out in Section 13 (3) of the Constitution.

[40] The Claimants in their Motion at paragraph 1 outlined the discrimination as follows:

(i) It is discriminatory being in contravention of section 13 of the Saint Vincent Constitution Chapter 1 in that it affords a different treatment to persons of different political opinions to that held by the Government and the Opposition (in Parliament).

(ii) It contravenes the spirit and intendment of the Representation of the People's Act in that it affords only to the elected representative in Parliament and/or their Party a right to participate in the electoral process.

(iii) It discriminates against the SVG Green Party in that it denies them a right of taking part in seeing that people who are eligible to vote have their names registered to vote and it denies them that opportunity to see that the list should only contain eligible voters and it does in fact contain persons who are alive and resident in their respective constituencies.

(iv) It discriminates against them in properly participating in the electoral process.

[41] Section 10A reads as follows:

"10A(1) Subject to subsection (2), each political party having an elected member or elected members in the House of Assembly may nominate persons for appointment as scrutineers in connection with registration under this Act.

(2) The Supervisor of Elections shall appoint scrutineers on the nomination of the political party except that the number of scrutineers appointed by the Supervisor of Elections shall not exceed the number of enumerators."

[42] It is settled law that there is a presumption of constitutionality in respect of an Act of Parliament. This is a rebuttable presumption. The onus is on the Claimants to prove that the Act is unconstitutional.

[43] Having considered paragraphs (i) – (iv) of the Motion and paragraphs 11, 12 and 14 of the first affidavit of the Second Claimant, I find that with the exception of paragraph (i) none of the allegations are based on a ground set out in Section 13(3). In reference to paragraph (ii) an Act of Parliament cannot contravene another Act of Parliament. When Parliament

enacts an Act which is inconsistent with an earlier Act then the latter Act repeals the earlier Act in so far as it is inconsistent with the latter Act.

[44] I am of the opinion that Section 10A is clear and unambiguous. The section makes provision for only those Political Parties who have an elected member or elected members in the House of Assembly to nominate scrutineers. Political Parties who have no elected members in the House of Assembly do not have the privilege of nominating scrutineers. The section does not deal with political opinions. The right to nominate scrutineers is not based on political opinion but rather as stated earlier on membership in the House of Assembly.

[45] I find that the Claimants did not prove that Section 10A was discriminatory on any of the grounds set out in Section 13(3) of the Constitution.

OTHER RELIEFS:

[46] The Claimants also sought the following reliefs:

(ii) That all the enumeration lists be made available to the SVG Green Party for examination and scrutiny before the conduct of the General Elections.

(iii) That if there are any deficiencies pointed out by the SVG Green Party prior to the Election that those be remedied prior to the conduct of the General Elections.

(iv) That the Supervisor of Elections and/or the relevant authority do pay the costs for scrutineers as is paid to the other Political Parties' scrutineers.

[47] In relation to the relief sought at paragraph (iv) having found that Section 10A is not unconstitutional only scrutineers appointed pursuant to Section 10A being scrutineers nominated by a Political Party with an elected member or elected members in the House of Assembly and appointed by the Supervisor of Elections pursuant to Section 10A (2) can be paid pursuant to Section 10F.

[48] The First Claimant does not have any elected member in the House of Assembly and therefore could not nominate any scrutineer pursuant to Section 10A. The enumeration exercise was conducted between March 15 and June 15, 2005. No scrutineers nominated by the First Claimant took part in the enumeration exercise nor could the First Claimant nominate scrutineers pursuant to Section 10A.

[49] In relation to the reliefs sought at (ii) and (iii), the Lists were prepared pursuant to the Representation of the People Act. That Act contains the procedure for any interested person to examine and scrutinize the Lists and to make objections to deficiencies.

LOCUS STANDI:

[50] In applying the practice referred to earlier in relation to locus standi, Byron CJ in Baldwin Spencer v The Attorney General in holding that the Claimant had no locus standi said:

> "In my opinion however there is a short point which is decisive and it derives from the finding that the appellant did not have any cause of action under the Constitution; in effect there was no sustainable allegation that there was any contravention of the Constitution which affected his interests."

[51] Also in Attorney General of Saint Lucia v Martinus Francois Rawlins J.A. said at p. 43:

> "An applicant for a declaration can have no locus standi in an unmeritorious claim."

[52] Having found that the Claimants failed to establish any ground of discrimination as set out in Section 13 (3) of the Constitution, that Section 10A was not unconstitutional, the Claimants were not entitled to the other reliefs claimed and their claim is therefore unmeritorious. I find that the Claimants have no locus standi.

DELAY:

[53] Having found that Section 10A is not unconstitutional and that the Claimants have no locus standi, I find that it is not necessary for me to consider whether there was undue delay in the institution of this Claim.

COSTS:

[54] Learned Counsel for the Respondents submitted that the Court should award costs in the sum of $50,000. Learned Counsel for the Second Respondent urged the Court to award the said costs against the Second Claimant Mr. Ivan O'Neal since any order of costs against the First Claimant would be futile.

[55] The issue of costs in actions for declarations of infringement of fundamental rights was discussed by the Court of Appeal in Baldwin Spencer v The Attorney General of Antigua and Barbuda, Attorney General of Saint Lucia v Martinus Francois and Randolph Toussaint v The Attorney General of Saint Vincent and the Grenadines Civil Appeal No. 1 of 2004.

[56] In the Baldwin Spencer case costs were awarded against the Applicant because the Court was of the view that there was an abuse of the process of the Court and further the Statement of Claim contained scandalous allegations of fraud, public mischief and conspiracy. However, it was pointed out by Byron CJ that the accepted general principle which has been applied by the Court is not to order costs in cases where a private citizen seeks to enforce his constitutional rights.

[57] This principle was applied in the Martinus Francois case and the Randolph Toussaint case and no costs were awarded.

[58] Applying this principle to the present case while the Claimants' case was unmeritorious I do not find that they acted unreasonably in making the application to the Court.

[59] The First Claimant is recognized as a Political Party in Saint Vincent and the Grenadines. The Supervisor of Elections has written several correspondence to the First Claimant recognizing the First Claimant as a Political Party. The Supervisor of Election has awarded the First Claimant a symbol being "the telephone" pursuant to Rule 15 Form 8 of Booklet 1 of the Representation of the People Act Chapter 6.

[60] The Supervisor wrote to the Claimants a few weeks before the enactment of the Representation of the People (Amendment) Act inviting the Second Claimant to nominate scrutineers to participate in the enumeration process. The Claimants responded promptly indicating their willingness to nominate scrutineers. This suit was filed after a copy of the Representation of the People (Amendment) Act 2005 was sent to their lawyer. Under the provisions of the Act they were not able to nominate scrutineers. It is against this background that the Claimants challenged the constitutionality of the provisions of Section 10A. I will therefore apply the general principle and make no order as to costs.

[61] The Claimants' claim is dismissed. There is no order as to costs.

……..
Gertel Thom
HIGH COURT JUDGE