

DECISIONS OF THE NIGERIAN BAR ASSOCIATION BRANCH ELECTIONS APPEAL COMMITTEE (NORTH) ON APPEALS FROM NBA ABUJA BRANCH.

1.0 OPENING:

The committee on the 11th day of May, 2024 had its meeting where Appeals from members of the NBA Abuja Branch were considered.

Members of the committee are:

1. Abdul A. Ibrahim SAN -Chairman
2. Murtala A.Kankia (Life Bencher) -Alt Chairman
3. Sule Shuaibu SAN-----Member
4. Oluronke Adeyemi ----Secretary
5. Haruna Yelma----Member
6. Adamu L. Dambatta---Member
7. Mustapha Kashim ----Member
8. Member Adiguve ----Member
- 9.Rabiat A. Musa --- --Member
10. Yakubu Moses Ede ----Member
11. Muhammad Umaru ---Member

The Petitions are:-

4.0 CHIMEZIEM IFEANYI AMOS VS ELCOM OF NBA ABUJA BRANCH (UNITY BRANCH)

4.1 This complaint was received by this Committee on the 30th day of April 2024. The Petitioner is Chimeziem Ifeayin Amos who was called to the Bar on the 12th of December, 2017. He picked and submitted a Nomination Form for the position of Treasurer. He attached his Call to Bar certificate and practising fee receipts for 2017 – 2024. He was disqualified by the Electoral Committee in its interim report on the ground that he had not attained 7 years post call and sought the Appeal Committee's intervention to allow him to contest the forth coming Election of the branch. He attached a decision of the Federal High Court in suit No. FHC/ABJ/CS/925/2018 OLUMIDE BABALOLA VS CHIEF REGISTRAR SUPREME COURT OF NIGERIA to buttress his position that he is qualified to contest the election.

4.2 RESPONSE OF ELECTORAL COMMITTEE

4.3. In response, the Electoral Committee forwarded her response and asserted that the Petitioner has not attained the minimum post call requirement of Seven (7) years. And that the minimum requirement for Treasurer is 7 years post call. It was confirmed that Chimeziem I. Amos was called to the Bar in December 2017. And according to the Electoral Committee the Petitioner will be 7 years post call by December 11th 2024. They relied on Section 14(2) of the uniform Bye Law for branches.

4.4 RESOLUTION

4.5 Upon a calm review of the positions of the Petitioner and the Electoral Committee, this Appeal Committee is of the view that recourse has to be made to paragraph 14(2) of the Uniform Bye Law for Branches for resolution of the complaint.

Paragraph 14(2) provides

“That in reckoning post call years, a person shall be regarded as having attained a post call year on each succeeding anniversary of his/her call to Bar and not sooner”

4.6 This Appeal Committee is of the unanimous decision that since there is a specific provision in the NBA Constitution on how calculation of post call years should be made and attained, that this direction of the Constitution of NBA must be followed. The specific insertion of the word “not sooner” in Section 14 (2) of the Uniform Bye Laws of Branches is explicit and unambiguous. It is the view of this Appeal Committee that every calculation of a year must terminate at each succeeding post call anniversary.

4.7 A close and further review will show that the first Bar receipt was paid on 11th December 2017. Therefore, it will only be by 11th December 2024 that the Petitioner will attain 7 years post call anniversary.

4.8 This Appeal Committee is aware of the judgement in Olajide Akinlola Abiodun vs Incorporated Trustees of NBA, a decision of the Federal High Court Lagos Division delivered on the 13th day of June 2023 in Suit FHC/L/CS/1119/2022 by Hon. Justice D.E Osiagor. The court came to the conclusion in that case:

“However, for elective offices, the NBA constitution, being the set of rules that the organization made to govern itself and by section 14 (2) of 3rd Schedule (Uniform Bye Laws for branches) of the Nigerian Bar Association Constitution, the eligible contestant’s post call reckons with”

“...year of post call by the succeeding anniversary of call to Bar and no sooner”

4.9 This clearly precludes the Applicant who has not had a 10th anniversary of his call to bar prior to the election he sought to participate in and hence was disqualified.

4.10 On the basis of the forgoing decision, and in view of the fact that the Constitution of NBA has provided how members of the association's post year call is calculated, it is the unanimous decision of this Committee that the Nigerian Bar Association Abuja Electoral Committee has rightly disqualified the Petitioner (Chimezie Ifeanyi Amos) from vying as The Treasurer of the Nigerian Bar Association Unity Bar. The decision of the Electoral Committee is hereby affirmed and sustained.

5.0 MS. ADAEZE ANAH VS ELCOM OF NBA ABUJA BRANCH (UNITY BRANCH)

5.1 COMPLAINT

5.2 Ms Adaeze Anah's petition was filed on the 29th day of April 2024 and it was received on the 1st day of May 2024 by this Appeal Committee. In the petition dated 26th April 2024, the Petitioner alleged that on the 19th April 2024, she submitted her nomination form and the accompanying documents thereof. That all submitted forms will be opened on the 22nd April 2024 and applicants will also be screened on the same day of the exercise. Praragraphs 6, 7 and 8 are instructive.

"6. On the 19 of April. I submitted filled versions of the nomination forms picked and the accompanying documents required.

7. On the 19th of April 2024 the Mr. Moses Ebute SAN-led electoral committee issued a Notice of the opening of nomination forms and screening of Aspirants and in furtherance of this notice, some aspirants including myself proceeded to the designated venue for the opening of the forms and screening.

8. During my screening and verification of documents, it was discovered that my nominator Ms. Onyedim had unintentionally written that she was seconding my nomination in the letter of Nomination she is required to write in support of my nomination as expressed in the form. A copy of the letter in contention is herein annexed and marked "ANAH 4".

According to her, she sought for time to regularize the error in the Secondment letter attached. And that not allowing her to submit a fresh letter of nomination is repugnant to natural justice, equity and good conscience.

5.4 RESPONSE OF ELECTORAL COMMITTEE

5.5 In response, the Electoral Committee through its Chairman submitted that it indeed disqualified the Petitioner and confirmed that in the course of opening of nomination forms on 22nd April, 2024 which was done in public it was discovered that she submitted two letters of secondment but did not submit a nomination letter. The Electoral Committee relied on the Notice it issued on the 8/4/2024.

5.6 REPLY BY COMPLAINANT

5.7 The Electoral Committee's response was forwarded to the Petitioner for her comments. In her reply she asserted that the Electoral Committee had confirmed her unjust disqualification and that the Committee was not pragmatic in its approach.

5.8 RESOLUTION

5.9 This Appeal Committee has calmly reviewed the position of the two parties and the fulcrum of the dispute is centered on the issue of compliance with the Notice of the Committee issued on the 8th day, of April, 2024.

5.10 The members of this committee have pondered and reached the accepted view that issues of electoral matters are sui generis. The notice provides:-

“A member shall be validly nominated by two members who are eligible to vote and who must themselves be qualified for the particular office as provided for in the Bye-Laws.”

5.11 The Petitioner who submitted her Nomination and other accompanying documents form ought to copiously verify the nomination form and other accompanying documents to comply with the Notice.

5.12 The Notice in paragraph 8 provides that to be eligible to stand for election into an office, a member shall be validly nominated in writing by two members who are eligible to vote and who must have been also qualified for that position as provided by the Bye-Laws. And in paragraph 4 of the notice, the Branch Electoral Committee gave notice that all completed nomination forms and accompanying documents should be submitted in a sealed envelope and submissions of completed nomination forms shall close on Friday 19th April 2024 by 4pm.

5.13 A close perusal and review of the notices confirm that a candidate will be nominated for the office and the nomination will be seconded. The application form of the Petitioner was not accompanied by a nomination letter, rather it was submitted along with two letters seconding her nomination. Can a non-existing nomination be seconded?

The question now is that, was there compliance with the Notice for election? Was she validly nominated? Can the Electoral committee also give the Petitioner another opportunity to

submit a fresh nomination letter? Will it be fair and equitable to the Committee and other contestants to allow the Petitioner to submit a fresh nomination? We do not think so.

5.14 In view of the unambiguous wordings in the notice issued, this Committee is not in a position to order that a fresh Nomination Letter be submitted by the petitioner. The Appeal Committee will also not be in the position to extend the time for the Petitioner to comply with submission of nomination letters to enable her contest the election.

5.15 This committee unanimously finds that there is a case of non-compliance with the Notice issued on the 8th April, 2024 by the Electoral Committee of NBA Abuja.

5.16 In conclusion, the decision of the Electoral Committee of NBA Abuja is hereby affirmed and sustained. The petition lacks merit.

6.0 OCHILI MICHAEL OBINNA VS ELCOM OF NBA ABUJA BRANCH (UNITY BRANCH)

6.1 COMPLAINT

6.2 This petition is by one Ochili Michael Obinna submitted on 29th April, 2024 and forwarded to the Appeal Committee on the 1st day of May, 2024. The Petitioner alleged that he was wrongly disqualified to contest for the position of Publicity Secretary by the Branch Electoral Committee. The fulcrum of his complaint is in paragraphs 5, 6, 7 and 8 of his petition to this Appeal Committee. According to him, the reason that delayed his late submission was occasioned by the Electoral Committee.

6.3 RESPONSE BY ELECTORAL COMMITTEE

6.4 In response to the Petitioner, the committee reacted as follows:

“The closing for submission of Nomination Form was 19th April, 2024 at 4pm. Mr. Ochili Michael came to my office at 4:10 on the 19th April but couldn't submit his Form because according to him, he was yet to get a seconder for his nomination. Rather enforce the law that he was out of time, I used my discretion to grant him up to 6:00pm of same day to submit his Form, failing which no more indulgence will be accorded him. He was grateful and promised to comply.

I left my office at 6:10 but he did not come. He came back at 7:30pm and was told I had directed that nobody could submit Form anymore as the deadline had expired but he insisted his Form must be collected.

Luckily, I came back to the office and met him. I told him he was late and the Form could only be submitted on one condition, which is his endorsement on the envelope the time and date of submission which was 7:30 but he refused and went back with the Form.

He later brought the Form on Sunday 21st April at about 6pm and when I was called by my younger lawyer of the development, I directed that the Form be collected upon endorsement of the time and date on the envelope which he did.

The following day being the day for opening of Nomination Form, we considered his in the open and concluded that he did not submit the Form within the time allowed or allotted, hence we decided not to screen his documents at all”.

6.5 In addition, the committee relied on the notice dated 8th April, 2024 issued to intending aspirants wherein in paragraph 4 it was stated that submission of nomination forms and other accompanying documents shall close by 4 pm on Friday 19th April 2024. All duly contested forms should be submitted in a sealed envelope.

REPLY

6.6 The response of the Electoral Committee was forwarded to Ochili Michael and he responded on 9th day of May, 2024. He confirmed that he was about submitting his nomination forms when he discovered he did not have a seconder’s 2022 Receipt for his nomination. According to him “ that was when I went to the office of the Chairman of the Committee and inform him of the situation at hand before he leaves the office. But when I came back after six that evening, I presented my form to his Secretary who told me he could not collect from me.”

6.7 This Committee is also in receipt of a scanned envelope where it was written “form submitted today 21/4/2024 at 6:02pm, submitted by Ochili Michael, received by Oguche Agbaruka, Esq”.

RESOLUTION

6.8 In resolving, the Committee deliberated on whether there was compliance with the notice of the Committee dated 8thDay of April 2024.

6.9 Between the date of the Notice and the date of submission, there is ample period for the petitioner to strictly comply with Section 14 of the Uniform Bye Law of Branches.

6.10 Two facts stand unassailable, that is as at 4 pm 19th April 2024, the Petitioner had not submitted his forms. That in paragraphs 5 and 6, the petitioner stated that he paid for the form on 15th April 2024. That payment was not to the electoral committee but the Executive Committee. And that the treasurer was the one to confirm the payment. And that it was confirmed that payment was made on Monday 15th April, 2024 at Kubwa Branch of Zenith Bank to Nigerian Bar Association Abuja Account.

6.11 Respectfully, the question is whether there was compliance with the Notice of Nomination with regards to completed nominations form and accompanying documents? The Appeal Electoral committee is of the firm position that the petitioner has failed to meet up with the deadline of 4pm on Friday 19th April 2024.

6.12 By submission of forms after nomination has closed, it is obvious the Petitioner could not meet the requirement of eligibility within record time.

6.13 Therefore, there is non-compliance with the Notice issued and the Electoral Committee of the Branch is within its bounds not to accept the Nomination form.

6.14 The complainant's assertion in paragraph 6 of his complaint that he paid for the forms and payment was not confirmed by the Treasurer and that he was only availed the form 2 days to the close of submission is of no moment and value.

6.15 The Notice of 8th April 2024 had listed the requirement of eligibility. The petitioner is aware of the requirement. The petitioner in his complaint stated that "my second nominee has lost his 2022 receipts". The question is, is it the responsibility of the Electoral Committee of the Branch to assist him in getting his documents ready for submission? We do not think so.

6.16 In our firm view, this is a case of non compliance with the Notice. The Appeal Committee is not in a position to extend time for submission of documents to the Electoral Committee or the Petitioner. The decision of the Electoral Committee is hereby sustained. This complaint is equally dismissed as lacking merit.

Dated this 11th day of May, 2024.

SGD

Abdul Atadoga Ibrahim SAN
Chairman

SGD

Oluronke Adeyemi
Secretary