

**IN THE COMMONWEALTH OF THE BAHAMAS
IN THE SUPREME COURT
Common Law and Equity Division
Claim No. 2026/CLE/gen/00350**

BETWEEN:

**Bahamas Constitution Party
(On Behalf of the People of The Bahamas)
Sharell Ali McIntosh
Velma Veronica Owens**

Applicants

AND

**Her Excellency, Dame Cynthia Pratt, Governor General of The Bahamas
The Honourable Phillip Edward Davis, Prime Minister of The Bahamas
The Honourable Wayne R. Munroe, Minister of National Security
Mr. Harrison Thompson, Parliamentary Commissioner**

Respondents

Before: The Honourable Mr. Justice Leif Farquharson

Appearances: Sharell Ali McIntosh in person; Michelle Fox also appearing for the Applicants

Olivia Pratt-Nixon, Adele Mangra and Nyanne Olander for the Respondents

Hearing date: 5 May 2026

RULING

Introduction

1. This matter came to me under a Certificate of Urgency filed on 27 April 2026. By "*Amended Notice of Motion*" filed on the same date, the Applicants seek "*an emergency injunction to stop the 2026 general elections*". The general elections are, of course, to be held in less than one week's time on 12 May 2026 and an advanced poll has already been held.
2. The Notice of Motion is not easy to decipher. Much of it is comprised of political commentary which is not suitable for determination by a court of law. On a close reading, the main ground for seeking relief appears to be a concern that persons who may not be lawfully entitled to vote by reason of their citizenship status may seek to

vote at the upcoming general elections. This concern is said to be borne out by “credible reports by citizens”, “public proceedings” and “[c]ourt cases” (see para.2).

3. The motion states that unless injunctive relief is issued, the participation of non-citizens in the upcoming general election is likely to significantly affect its outcome.
4. The Applicants seek a range of relief, including:
 - (i) an order that the upcoming general elections be “reschedule[d] to another date within the confines of the constitutionally mandated framework”;
 - (ii) an order rescinding and reversing the 41 Writs of Election;
 - (iii) an order that the Governor-General officially inform His Majesty King Charles of “the said concerns of his loyal subjects”.
5. The motion further “respectfully proposes” that His Majesty King Charles direct an investigation by Scotland Yard and appoint a Royal Commission of Inquiry to examine the conduct of the current political administration from September 2021 to March 2026, inclusive of conducting audits of the Immigration Department, the Passport Office and the Parliamentary Registration Department.
6. The Applicants were seemingly intent on seeking to obtain injunctive relief on an *ex parte* basis. Upon receiving their request for a fixture, the Court accordingly directed that the Office of the Attorney-General be immediately served with all filings. Counsel for the Respondents has therefore appeared on very short notice.

Affidavit Evidence

7. The Applicants’ motion is supported by an affidavit sworn to by Ms. Sharell Ali McIntosh, the second-named applicant, which was also filed on 27 April 2026. Ms. McIntosh confirms that she is a citizen of the Commonwealth of The Bahamas and describes herself as “the Servant Leader of the Bahamas Constitution Party”.
8. In paragraph 3 of her affidavit, she deposes that “the Applicants are convinced that there exists a serious public concern” that the current political administration “is suspected of giving thousands of foreign nationals the right of Bahamian citizenship, which in turn enabled them to acquire national documentation, including passports and voters registration cards”. She states that to allow general elections to proceed under these circumstances threatens the fairness, transparency and integrity of the results of such elections.
9. In paragraph 4, she states:

“4. If such actions are not restrained, they are likely to significantly affect the outcome of the 2026 General Elections, through the participation of individuals not lawfully entitled to vote; thereby undermining the selection of legitimate leadership, and the Bahamian people’s constitutional right to elect a Parliament under Article 52 of the Constitution of The Bahamas.”
10. No affidavit evidence was filed by any other party.

Procedural Exclusivity of Election Petition Procedure

11. Before addressing the merits of the current application, it is useful to make a few preliminary observations about the legal framework for challenging the validity of elections in this jurisdiction and the principle of procedural exclusivity. This essentially contemplates that where Parliament or the Constitution has prescribed a specific mechanism for seeking redress, that procedure will be followed. Failure to do so may therefore constitute an abuse of process.
12. Article 51(1) of the Constitution specifically provides for the establishment of an Election Court. It also addresses the jurisdiction and functions of the Election Court, stating as follows:

"51. (1) An Election Court, consisting of two Justices of the Supreme Court appointed by the Chief Justice or, if for any reason two such Justices are not available, one such Justice and the Chief Magistrate or a Stipendiary and Circuit Magistrate appointed by the Chief Justice, shall have jurisdiction to hear and determine any question whether —

(a) any person has been validly elected as a member of the House of Assembly;
or

(b) any member of the House of Assembly has vacated his seat or is required, under the provisions of Article 49(2) of this Constitution, to cease to perform his functions as a member. [Emphasis supplied]

13. Article 51(2) goes on to state:

"(2) Subject to the following provisions of this Article and to the provisions of Article 49(1) of this Constitution, Parliament may make, or provide for the making of provision with respect to —

(a) the institution of proceedings for the determination of any question referred to in paragraph (1) of this Article; and

(b) the powers, practice and procedure of an Election Court in relation to any such proceedings.

(3) The determination by an Election Court of any question referred to in paragraph (1) of this Article shall be final.

(4) Proceedings for the determination of any question referred to in paragraph (1) of this Article shall not be instituted except with the leave of a Justice of the Supreme Court.

(5) An appeal shall lie to the Court of Appeal on a point of law from the decision of a Justice of the Supreme Court granting or refusing leave to institute proceedings in accordance with this Article; but, subject as aforesaid, that decision shall be final." [Emphasis supplied]

14. Part VII of the *Parliamentary Elections Act* (the "**Act**") addresses "*Election petitions and inquiries into qualifications*". Section 79 provides for the avoidance of an election on an election petition. This importantly provides:

"The election of a candidate as a Member of Parliament shall be declared to be void on an election petition on any of the following grounds which may be proved to the satisfaction of an Election Court, namely —

- (a) *that by reason of general bribery, general treating or general intimidation, or other misconduct or other circumstances, whether similar to those before enumerated or not, the majority of electors were or may have been prevented from electing the candidate whom they preferred;*
 - (b) *non-compliance with the provisions of this Act relating to elections, if it appears that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance affected the result of the election;*
 - (c) *that a corrupt or illegal practice was committed in connection with the election by the candidate or with his knowledge and consent or by an election agent of the candidate or with the knowledge and consent of an election agent of the candidate;*
 - (d) *that the candidate was at the time of his election a person disqualified for election as a Member of Parliament.” [Emphasis supplied]*
15. Section 80 of the Act declares that every election petition shall be tried by an Election Court, which shall be constituted from time to time in the manner mentioned in Article 51(1) of the Constitution. Section 80 further confirms that the Election Court shall, subject to the provisions of the Act, have the same powers, jurisdiction and authority as the Supreme Court at the trial of a civil cause without a jury. Accordingly, witnesses may be subpoenaed and sworn and are subject to penalties for perjury. The Election Court also has the power to punish for contempt.
16. Section 81 addresses standing and confirms that a petition may be presented by any one or more of the following persons:
- “(a) some person who voted or had a right to vote at the election to which the petition relates;*
 - (b) some person claiming to have had a right to be returned or elected at such election;*
 - (c) some person alleging himself to have been a candidate at such election.”*
17. Section 82 addresses the relief that may be claimed in a petition. This includes a declaration that the election in question is void or the return of the person was undue. Where the seat is claimed by an unsuccessful candidate on the ground that he had the majority of lawful votes, a scrutiny may be ordered. If successful on a scrutiny, the Court is further empowered to grant a declaration that that candidate was duly elected.
18. Section 83 addresses the requirement to obtain leave to present a petition, which serves an important filter to weed out frivolous challenges. Section 84 addresses the time limits for presenting a petition. Section 85 addresses the steps following the conclusion of the trial of an election petition. This includes (among others) determining whether the Member of Parliament whose election or return is complained of was duly elected or returned, and whether the election was void. Section 85 also very importantly provides that the duly certified determination of the Election Court “*shall be final to all intents and purposes*”.
19. The procedure and practice on election petitions is regulated by the *Election Court Rules*.

20. A review of the authorities demonstrates that there is a marked reluctance on the part of the courts (and, in our case, the Supreme Court) to entertain legal challenges raising issues which can form the basis of an election petition. Indeed, in many cases the courts decline to exercise jurisdiction altogether. The reasons for this are self-evident. The Election Court (or similar court) is a specialised court specifically and constitutionally established for the determination of issues affecting the validity of elections. Its composition is reflective of the heightened importance of such cases. Its procedures and the strict time limits attending election petition proceedings are all aimed at achieving a swift and final resolution of such disputes. To assist in this process, the Court is also invested with coercive powers.
21. *Turnquest v. Parliamentary Registrar* [1982] BHS J No. 31 involved an attempted pre-election challenge to voter registration and transfer issues for the June 1982 election in The Bahamas. The Court, which was unusually comprised of a panel of three Supreme Court Judges, found that it had no jurisdiction to adjudicate on the complaints raised as they fell within the exclusive purview of the Election Court. Its decision on this issue was materially explained as follows (at paras.11-17):

"11. When attention is directed to the Act, it will be found that the Act is concerned with such matters as:

- (a) the qualifications of persons to be registered as voters - section 8;*
- (b) the persons entitled to vote - section 9;*
- (c) the evidence to prove the right to vote of a person entitled to vote and, depending upon the evidence, the kind of vote the voter may cast - sections 52 and 53;*
- (d) the manner in which the ballot paper should be marked - section 54; and*
- (e) the grounds for an election petition presented to an Election Court for controverting an election - section 74.*

12. Of the grounds set out in section 74, one which, if proved, will result in the election being declared void is that there has been:

"(b) non-compliance with the provisions of this Act relating to elections, if it appears that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance affected the result of the election."

....

14. From the foregoing, it is apparent to us that this Court cannot entertain such matters as are mentioned in (a), (b), (c) or (d) above, as they fall within the exclusive jurisdiction of the Election Court. When we turn to the nature of the Election Court what we find is that an Election Court, unlike this Court, is not a Court that has at all times to be available to the public. But we are not for that reason obliged to accept the submission of Counsel for the plaintiff that the Election Court is not in being and that therefore, the plaintiff's only recourse is to this Court. In our view, the Election Court exists because Article 51(1) of the Constitution provides for it. At this moment in time because it exists, but is not seen, it may be likened to an actor awaiting in the wings the cue that will bring him on stage. As we find that the Election Court exists, we cannot accept that submission of Counsel for the plaintiff. So assuming that the matters raised in the originating summons are matters that fall within the exclusive jurisdiction of

the Election Court, they must await their determination by that Court when that Court is made available to the public and can deal with those matters.

15. We then are faced by the question, do the matters raised in the originating summons fall within the exclusive jurisdiction of the Election Court? First we shall consider the declaration applied for in its original form. It is clear to us that what the plaintiff is asking for is that we declare that certain persons shall not be entitled to vote. The persons being those who as of the 31st March, 1982, were on a register for a constituency and have moved before, on or after that day to another constituency. Consequently, the plaintiff is asking us to make a declaration affecting the entitlement of these persons to vote. That is a matter which, in our view, falls to be determined by the Election Court. It is, therefore, a matter over which this Court has no jurisdiction and for that reason, the declaration in its original form cannot be granted.

16. We turn next to consider the injunction applied for in its original form, As we have endeavoured to explain, the Election Court is concerned with the validity of the register for election purposes and because of that concern, it may even look behind the register as in the example of [sic] corrupt and illegal practices that we mentioned. If the plaintiff's concern was with the validity of the register other than for the purpose of an election, that would not be within the purview of the Election Court. It is obvious, however, that the plaintiff's concern with the validity of the register is, as he sets out in the injunction sought:

17. As his concern is for the purpose of an election, whatever y [sic] question he may have to raise falls within the exclusive jurisdiction of the Election Court and is not, therefore, a question that can be determined by this Court. For that reason, the injunction in its original form is not one that this Court can grant." [Emphasis supplied]

22. The exclusivity of the prescribed procedure for challenging the validity of elections, and its underlying rationale, were also extensively analysed by Smellie CJ of the Grand Court of the Cayman Islands in *Solomon and Ors. v. Scotland and Anor.* [2009] CILR 403. The plaintiffs in that case sought declaratory relief pursuant to the Constitution on the grounds that the defendants were not qualified to be elected as members of the legislature by reason of their failure to disclose their interest in public service contracts within the deadline before the poll as prescribed by the Constitution. The declaratory relief sought was refused and the case ultimately struck out. In doing so, Smellie CJ referred to the exclusivity of the statutory scheme for challenging elections, explaining as follows:

"91. Section 28 of the Constitution (as did predecessor Constitutions) confers on the Legislative Assembly the power to enact a law regulating the procedure for challenging the validity of elections, including as to whether a person has been validly elected on account of being disqualified. The Legislative Assembly has enacted such a law in the form of the Elections Law (and its predecessors). It provides in Part VIII a comprehensive and exclusive statutory scheme for challenging the validity of elections.

92. Given the historical background to the vesting of jurisdiction by such laws in the courts and the imperative public interest in the certainty of Parliamentary

elections and the regularity of Parliamentary affairs, the time limit imposed by the Elections Law for the bringing of challenges as well as the other procedural requirements must be met and are regarded by the courts as mandatory. It is well established (see Harrikissoon (11)) that where a specific remedy is provided by statute enacted pursuant to the Constitution, it will be an abuse of process to seek to bypass that recourse by seeking another remedy under the Constitution.

93. The plaintiffs, not being the Attorney General, are required to bring a challenge to the validity of an election, including as to the qualification of a candidate, by election petition under the Elections Law. By seeking to move the court instead by reliance on s.23 of the Constitution, they seek impermissibly (whether intentionally or not) to bypass the prescribed and mandatory statutory scheme. If the time limits imposed by the Elections Law can be bypassed, then there would be no time limits at all. That cannot be a proper interpretation of the constitutional intent.

94. For all the foregoing reasons, the plaintiffs' originating motion is an abuse of the process of the court and must be struck out. It is so ordered. This conclusion does not affect the standing of the Attorney General to bring a motion, if it is appropriate to do so, in the public interest. [Emphasis supplied]

(See also the judgment of the Caribbean Court of Justice in *Ram v. Attorney General and Ors.* [2019] 4 LRC 554, at paras.38-41)

23. While on her feet, Ms. McIntosh referred to four authorities to support her position. No copies were made available to the Court at the time and she candidly admitted that she had not read them herself. She was therefore unfamiliar with the background facts of each case and the statutory scheme of the various jurisdictions concerned. In the very short time that I have had to prepare this ruling, as far as I can tell, in none of the cases cited did the court take the exceptional step of pre-emptively granting an injunction to restrain the holding of the election in question, or entertain a collateral legal challenge where the issue in question fell to be governed by a prescribed procedure for challenging elections.

Analysis of the Injunction Application

24. Once the nature of the Applicants' motion is appreciated, it becomes relatively straightforward to dispose of their application for injunctive relief.
25. The Applicants are not seeking a permanent injunction. After hearing from Ms. McIntosh, she confirmed that they are seeking an injunction to restrain the holding of the general election until such time as the 'concerns' of non-citizens seeking to participate in the electoral process are fully investigated and addressed. In this sense, the injunctive relief sought would appear to be interlocutory in nature.
26. The guiding principles applicable to an application for interlocutory injunctive relief are well settled and are derived from *American Cyanamid v. Ethicon* [1975] AC 396. Insofar as the Applicants are seeking to restrain the holding of a general election, a truly exceptional course, they would in my view be under a heightened duty to establish

a firmly based case of unlawfulness (see e.g. *R. v. Secretary of State for Transport, ex parte Factortame Limited (No.2)* [1991] AC 603, at 674; *Smith v. Inner London Education Authority* [1978] 1 All ER 411, at 418).

27. It should be apparent from my earlier comments that I do not accept that the Applicants' case raises a '*serious question to be tried*'. At its core, they appear to be seeking to assert a challenge to the entitlement of unidentified individuals to vote at the upcoming elections on grounds of citizenship. Such challenges can and have routinely been advanced within the confines of election petition proceedings (see e.g. *Bridgewater v. Laing and Anor.* [2008] 6 BHS J. No.4). As such, I am of the opinion that the appropriate venue to ventilate these issues is before the Election Court. While the issue of jurisdiction was not fully argued before me, based on the authorities cited, it would appear that this Court may lack jurisdiction to grant the injunctive relief sought. And, even if it possesses jurisdiction to do so, recourse to the Supreme Court for injunctive relief in aid of such a challenge would in my view be a gross abuse of process and the courts properly decline to exercise jurisdiction in such cases.
28. I also doubt the standing of the applicants to seek the requested injunctive relief. The first-named applicant, as far I can gather, is an unincorporated association. It is not a candidate in the upcoming elections. It is not a voter. It purports to sue in a representative capacity "*On Behalf of the people of The Bahamas*". Leaving aside the bald factual assertion that it acts for the people of The Bahamas at large, subject to very few exceptions, the Attorney-General represents the public in legal proceedings (see e.g. *Gouriet v. Union of Post Office Workers* [1978] AC 43; applied in *Glinton v. Cash* [1986] BHS J No.16 (CA)).
29. In addition, the Applicants in their motion fail to identify any legal right peculiar to them in particular (i.e. as opposed to rights enjoyed by the general public) which is threatened with infringement. The Court of Appeal's comments in *Glinton v. Cash* are instructive in this regard:
- "For a plaintiff to be granted a declaration, he must show that he has a legal right which he seeks to enforce and to be granted an injunction he must show that he has a legal right which is threatened or has been infringed. Further, if the right is one shared by the public at large, a plaintiff will have no cause of action unless he can show a particular right in himself". (The Bahamas Supreme Court in Turnquest v. The Parliamentary Registrar CLS No. 365 of 1982)" [Emphasis supplied]*
30. The third-named applicant has not sworn an affidavit in support of the motion. The affidavit of Ms. McIntosh is also not stated to have been sworn on her behalf. More fundamentally, the affidavit of Ms. McIntosh is explicitly stated to be based on '*suspicions*', '*allegations*' and '*concerns*' of wrongdoing in the widespread grant of citizenship; not cogent evidence (see *Re Lord Cable (deceased)* [1976] 3 All ER 417, for the requirement to adduce "*sufficient precise factual evidence*" when seeking interlocutory injunctive relief).
31. In any event, the balance of convenience overwhelmingly militates against the grant injunctive relief to restrain the holding of the general elections. The jurisdictional basis for the grant of relief is, as already stated, extremely suspect. The core issue that the Applicants are seeking to raise can potentially be ventilated before the Election Court,

after the general elections. The advanced poll has already taken place and the general elections are less than a week away. The grant of injunctive relief at the instance of the Applicants also, obviously, has drastic implications for the wider public interest and for governance.

32. In closing, I would only add that this ruling is in no way intended to be determinative of the issue of any specific individual's entitlement (or lack of entitlement) to vote. It is conceivable that such challenges may come before the courts in the future and I therefore express no opinion on the same.

Disposition

33. For all of the foregoing reasons, the Applicants' application for an injunction is denied. I make no order as to costs.

L. Farquharson

Farquharson, J.
7 May 2026

