



**REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL DIVISION
ELECTORAL MATTER NUMBER 03 OF 2025
(Before Honourable Justice Muhome)**

**IN THE MATTER OF SECTION 40(3) OF THE CONSTITUTION
AND
IN THE MATTER OF SECTION 100(1) OF THE PRESIDENTIAL,
PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS ACT
AND
IN THE MATTER OF SECTION 19 OF THE PRESIDENTIAL,
PARLIAMENTARY AND LOCAL GOVERNMENT ELECTIONS ACT
AND
IN THE MATTER OF SECTION 10(1) OF THE CHANGE OF NAMES
(RESTRICTION) ACT, CAP 24:02 OF THE LAWS OF MALAWI**

IN THE MATTER BETWEEN:

ROZA MADALO FATCH

CLAIMANT

AND

MALAWI ELECTORAL COMMISSION (MEC)

DEFENDANT

CORAM: HON. JUSTICE ALLAN HANS MUHOME

Mr Felix Tambulasi, of Counsel for the Claimant

Mr Bob Chimkango, of Counsel for the Claimant

Mr Lawrence Lunguzi, of Counsel for the Defendant

Mr Andy Kaonga, of Counsel for the Defendant

Ms Ellen Gwedeza, Court Clerk

RULING

1. This is a petition taken out by the petitioner, Rosa Madalo Fatch, under section 100 of the Presidential, Parliamentary and Local Government Elections Act, 2023(PPLGA).
2. The petitioner was born Rosa Madalo Fatch on 6th October 1968 and changed her name to Rosa Madalo Mbilizi upon her marriage to Francis Mbilizi (deceased). Her National Identity (NID) Card was issued in the name ‘Rosa Madalo Mbilizi’ for the period 31st January 2019 to 6th October 2024.
3. Upon the death of her husband, on 1st August 2020, the petitioner depones that she reverted to her maiden name ‘Fatch’. This Court took judicial notice of the fact that the gazetted period for voter registration in the petitioner’s constituency (Mangochi Central) was between 27th November to 10th December 2024. At this point, the petitioner’s NID Card was in the surname ‘Mbilizi’ and so her details were captured as such.
4. Later on, the petitioner acquired a new NID Card with the ‘Fatch’ surname for the period 4th December 2024 to 6th October 2034. She has been campaigning under the surname ‘Fatch’ and presented her nomination papers

to MEC in the 'Fatch' surname. The petitioner did not produce a copy of the said Nomination Paper for this Court's examination neither did she sought it from MEC. However, the petitioner further deponed that an assurance was made by MEC officials that her nomination would be approved under the 'Fatch' surname.

5. She was surprised that MEC has maintained the 'Mbilizi' surname instead and she lodged an e-mail complaint with MEC's Chief Executive Officer on 14th August 2025. The CEO responded on the same day that '...your name on the ballot is as on the voter Registration Certificate and we got the details from the NID which is the source document you presented to the commission when you registered as a voter...'
6. On the same day, 14th August 2025, MEC issued a Public Statement essentially stating that MEC will use the name on the voter certificate which was generated from the NID Card presented during voter registration and that changes would, therefore, not be accommodated.
7. The petition is made as an appeal under section 100 of the PPLA, which provides as follows: -

(1) An appeal shall lie to the High Court against a decision of the Commission confirming or rejecting the existence of an irregularity and such appeal shall be made by way of a petition, supported by sworn statements, which shall clearly specify the declaration the High Court is being requested to make by order.

(2) On hearing a petition under subsection (1), the High Court —

(a) shall, subject to subsection (3), make such order or orders as it thinks fit;

or

(b) in its absolute discretion, may or may not condemn any party to pay costs in accordance with its own assessment of the merits of the complaint.

...

8. In the main, the petitioner prays for an order directing MEC to approve her candidature under her maiden name 'Fatch.'
9. The petition is supported by the petitioner's own sworn statement and skeleton arguments. MEC opposes the petition through the sworn statement of David Matumika Banda and skeleton arguments. Counsel also made oral arguments for which this Court is grateful.
10. The law under section 38(1)(d) of the PPLGA is that a person who intends to be nominated for parliamentary elections must be a registered voter in any constituency. In addition, under section 12, that person must present proof of eligibility through the NID card which the petitioner duly submitted with the surname 'Mbilizi.'
11. The law permits a registered voter to apply for change of registration details under section 19 of the PPLGA, which provides as follows: -
 - (1) A voter whose name or ordinary place of residence, business or employment, has changed, may apply in the prescribed manner to have the change recorded in the voters' register.
 - (2) A person shall not apply for change of particulars under subsection (1) where the change of name is due to change in marital status.
12. The petitioner, admittedly, did not apply for change of registration details which must be made in the prescribed form, namely Form 4A in the Schedule to the Act. She argued that section 19(2) allows her automatic change following the demise of her husband. Counsel for the petitioner made comparisons between the PPLGA and the Change of Names (Restriction) Act, Cap 24:02 of the Laws of Malawi. Under the latter law, section 10 provides for certain exceptions. For instance, where a married woman was

using her husband's surname and they divorce or the husband dies, the woman may revert to her maiden name without seeking approval from the Minister. Counsel urged this Court to find that the petitioner's change of name was automatic under section 19(2), as an exemption and MEC ought to effect the same, without further ado.

13. In sharp contrast, Counsel for MEC argued that, section 19(2) must be interpreted that it prohibits change of name due to change in marital status. That making a contrary interpretation would lead to absurdity. This Court agrees with this submission. It is common knowledge that a woman may change her name several times due to change in marital status and if the law permitted such changes, it would be uncertain who a registered voter is, in such circumstances. Section 19(2) is not discriminatory but aims at safeguarding the integrity of an election by ascertaining the names of registered voters regardless of change in marital status, through the NID Card details provided at the time of voter registration.
14. The PPLGA is a specialized law and must be interpreted as such. The comparisons with the general law on Change of Names must, therefore, be rejected, in this matter.
15. The petition is therefore dismissed, save that each party shall bear their own costs considering the facts of the petition and in keeping with section 100(2)(b) of the PPLGA. It is so ordered.

Made in Chambers this 7th day of September, 2025.



Allan Hans Muhome

JUDGE