



Fiji United Freedom Party

13rd September 2016.

1. Introduction:

As a newly formed political party, Fiji United Freedom Party's focus was to bring about a conceptual and structural framework in to the main stream governance while utilising the elections platform to reach out to the public. It has only contested 3 candidates in the 2014 elections and did not participate in polling activities with polling agents and any other supervisory or observatory roles.

This submission is purely based upon the experiences of the party from party registration to nominations of candidates and subsequent general observations before and after the elections and do not include any procedural aspect of the conduct of the elections, 2014.

2. Political Party Registration

2.1 Signature Verification & Validation Process:

Summary:

The signature verification process of registration of political parties should not reject valid signatures simply on the basis that a signatory(s) has already signed up for a different party.

Facts:

FUFP's first attempt of the registration as a political party failed as a substantial portion of the signatures submitted were deemed invalid. One of the key reasons of the failure was due to the duplication of signatures who have previously signed up for a different party.

Issue:

The individuals who have signed for a certain political party that was eventually registered were recognised as the said party's permanent members. If the same individuals have signed later for FUFP (or for any other party for that matter) were rejected by FEO as invalid or duplicates.

Rules:

The signatories must be registered voters, they should not have already signed up for another registered party and there should not be duplicates.

Political Parties Decree, section 6 (3);

- (i) *be accompanied by a schedule setting out the names, addresses, signatures and voter identification card numbers of at least 5,000 members of the proposed political party from all the four Divisions with a minimum number of members from each Division as follows—*
 - (i) *Central Division—2,000 members;*
 - (ii) *Western Division—1,750 members;*
 - (iii) *Northern Division—1,000 members;*
 - (iv) *Eastern Division—250 members;*

15. Resignation from political party

(1) A member of a political party who intends to resign from the political party shall give a written notice prior to his or her resignation to—

- (a) the political party; and*
- (b) the Registrar.*

(2) The resignation of the member of the political party shall take effect upon receipt of such notice by the Registrar.

(3) A person shall not be a member or an office holder of more than one proposed

political party or political party registered under this Decree at the same time.

(4) Any person who applies to become or becomes a member or an office holder of more than one proposed political party or political party registered under this Decree, commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 5 years or to both.

(5) A member of a political party may only be expelled from that political party if the member has infringed the constitution of the political party and after the member has been afforded a fair opportunity to be heard in accordance

with the internal party disputes resolution mechanisms as prescribed in the constitution of the political party.

Section (9) of the section Procedure for dealing with application is not very clear on duplicate members.

Application:

It is the prerogative and the right of an individual to sign up for any party at any given point in time. There cannot be such concept as permanent members of a political party and individuals may make or change their decisions to become a member of a party depending upon the policies and ideas presented by a political party. It is not the responsibility of a proposed political party to ensure or question the individuals whether they have signed up for a different party already. In our opinion it totally defeats the purpose of canvassing and convincing the public on the policies and manifesto of the proposed party. It is not and should not be the responsibility of the proposed political party to conduct a signature verification process.

Conclusion:

A proposed political party should not be penalised for any duplication of signatures with another registered political party. The general public should be allowed to change their mind at any given time and sign up for a party of their choice irrespective whether they have signed up for a party already or otherwise.

A proposed party should be registered as long as they provide the number of valid signatures as required by law.

3. Nomination of Candidates:

3.1. Dual Citizenship:

Summary:

Fiji recognises dual citizenship by law and a person holding multiple citizenships has or should have the same rights as any other citizen of Fiji without exceptions. Either the dual citizenry or the limitation for the candidacy should be removed.

Facts:

The Individuals holding dual citizenship are not allowed to be nominated as candidates for general elections.

Issue:

Dual citizenship in Fiji is accepted by law and every individual with dual citizenship with another country is considered a citizen of Fiji. The rights of every citizen of Fiji are enshrined in the constitution of Fiji with equal rights and right for political participation. The limitation of candidacy is contradicting with the rights enshrined by the constitution.

Rules:

Even though a person with dual citizenship is allowed to be an office holder of a political party and participate in any other political activity, S/he is not allowed to be a candidate of a party to contest elections.

Constitution of Fiji, 2013

5. Citizenship

- 1. All citizens of Fiji shall be known as Fijians.*
- 2. Subject to the provisions of this Constitution, all Fijians have equal status and identity, which means that they are equally*
 - a. entitled to all the rights, privileges and benefits of citizenship;*
 - and*
 - b. subject to the duties and responsibilities of citizenship.*
- 3. Citizenship of Fiji shall only be acquired by birth, registration or naturalisation.*
- 4. Citizens of Fiji may hold multiple citizenship, which means that*
 - a. upon accepting the citizenship of a foreign country, a person remains a citizen of Fiji unless he or she renounces that status;*
 - b. a former citizen of Fiji, who lost that citizenship upon acquiring foreign citizenship, may regain citizenship of Fiji, while retaining that foreign citizenship unless the laws of that foreign country provide otherwise; and*
 - c. upon becoming a citizen of Fiji, a foreign person may retain his or her existing citizenship unless the laws of that foreign country provide otherwise.*
- 5. A written law shall prescribe*
 - a. the conditions upon which citizenship of Fiji may be acquired and the conditions upon which a person may become a citizen of Fiji;*
 - b. procedures relating to the making of applications for citizenship by registration or naturalisation;*
 - c. conditions relating to the right to enter and reside in Fiji;*
 - d. provisions for the prevention of statelessness;*
 - e. rules for the calculation of periods of a person's lawful presence in Fiji for the purpose of determining citizenship;*
 - f. provisions relating to the renunciation and deprivation of citizenship; and*

Application:

A person holding dual citizen is simply a citizen with all the rights as any other citizen. The law in Fiji eliminates the dual citizens becoming candidates of a party and contesting elections.

Conclusion:

If a person is recognised as a citizen of Fiji, S/he should not be restricted or discriminated in enjoying the same rights as any other citizen of Fiji as political participation is a fundamental, constitutional and human right.

4. Discretionary powers to the electoral commission:

Summary:

The electoral commission should be empowered with discretionary powers to make decisions rather than having to literally interpret the law as is.

Facts:

One of the candidates of FUIFP was rejected by the supervisor of elections on the basis of having a criminal offence during the last 8 years from the date of the submission. On appeal, the electoral commission reinstated the decision by the supervisor of elections. It was a 7 year old traffic offence of which the court ruled to pay a fine of F\$300, failing which a 3 month imprisonment.

Issue:

In subsequent discussions during meeting with political parties and the electoral commission, the commission sympathised with the candidate on having to literally interpret the law. They did not have enough discretionary powers to rule against the decision by the supervisor of elections.

Rule:

A person having a criminal offence that carries a penalty of over 2 years or more during the period of 8 years from the date of the submission as a candidate is disqualified from the candidacy.

Application:

The court ruled that a fine of F\$300 to be paid failing which a 3 month imprisonment. The ruling by the court did not fall within the penalty of 2 years or more as per the political party decree. However, the interpretation by both the supervisor of elections and

the commission was to say that the crime **carries** the penalty of 2 years or more and the court **could have** sentenced the same.

Conclusion:

The ruling by the court is the ultimate which eventually becomes law as a precedent. The court weighs the situation and the tariff as per the circumstances and gives the verdict accordingly. Subsequently any other lower entity should not interpret the decision by the court with the assumptions of "***could have carried a longer sentence or the crime carries a penalty longer than that ruled by the court***"

5. Costs applicable to political parties

Summary:

The political parties that do not have any government financial assistance and provisions should not be compelled to bear the costs of any activity by the Fiji elections office or similar.

Facts:

Time to time the Fiji Elections Office informs the political parties that they will have to bear the costs on newspaper publications such as public notices of asset and income declarations by political parties.

Issue:

FUFP does not collect any public funding as yet due to the complications and also to avoid any possible fraudulent acts and misuse of public funds. However the parties are compelled to pay for activities by the Fiji Elections Office when making public notices related to political parties.

Rule:

As per political parties decree, the political parties should bear certain costs relating to activities by the Fiji Elections Office relating to political parties.

Application:

The government allocates funds and certain assistance to political parties that have at least has one sitting member in the parliament. However there is no such allocation for other political parties despite the fact that they have fulfilled the requirements to register as a political party.

Conclusion:

All registered political parties must have a certain fund allocation by the government. This can be justified as the party is registered with the minimum requirements such as

5000 signatories and other requirements as per political parties decree. Alternatively they should be exempted from any financial burden and having to pass the burden to the members of the party.

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