

TOBENNA EROJIKWE

NIPOST TOWERS (1st Floor)

98, Adeola Odeku Street, Victoria Island, Lagos.

Tel: +234(0)8096955974 Email: tobenna.erojikwe@thelawcrest.com

NBA NATIONAL OFFICERS ELECTIONS 2024: UPDATE ON THE ADJUDICATORY PROCESS THUS FAR

Dear Colleagues,

You would recall that on 13th August, 2024, I provided you with an update on my quest to compel the Electoral Committee of the Nigerian Bar Association (**ECNBA**) to release to me the materials that were used to conduct the 20th July, 2024 Nigerian Bar Association (**NBA**) National Officers Elections (the "**Elections**") (the "**Petition**"). The Petition was in line with the relevant provisions of the constitution of the NBA (the "**Constitution**"). I informed you at that time that not only did the ECNBA refuse to comply with the Constitution, it also directed Electionbuddy Inc, whose platform was used to conduct the Election, to decline releasing the electoral materials to me. Electionbuddy Inc informed me of this development by its email of 27th July, 2024.

Subsequent to my update of 13th August 2024, I discovered that some members of the National Officers' Election Appeal Committee (**the "Appeal Committee" or "Committee"**) had openly declared their support for the candidate that was declared the winner for the Office of the NBA President at the Elections. I received media evidence of such partisanship, including that of the Chairman of the Committee, Mr. Usman Sule, SAN, who in the aftermath of the Elections, issued a statement commending and congratulating the leadership of NBA "*for being steadfast for the emergence of the people's President*". He went on to describe the Elections as "*historic*", "*epochal*" and "*the freest and fairest NBA General Election*". Other members of the Committee also showed partisanship in various ways.

Having publicly expressed such partisan opinion over the conduct of the Elections, I wrote to the Appeal Committee and copied the immediate past President of the NBA, asking that the Chairman and members of the Appeal Committee recuse themselves and that a new and independent Committee be set up to determine my Petition. However, despite such open bias and partisanship, neither the immediate past President of the NBA nor the Appeal Committee reacted to my letter. The Appeal Committee also refused to communicate to me at all, or to hold any further proceedings over the Petition.

Faced with the ECNBA's unwillingness to abide by the provisions of the Constitution, I had earlier filed Suit No. FCT/HC/4393/2024: *Mr. Tobenna Erojikwe v Incorporated Trustees of the NBA; Mr. Oluseun Abimbola SAN; and Electionbuddy Inc*, to compel compliance with the Constitution. The matter was assigned to Honourable Justice C.O. Agashiezi of the High Court of the Federal Capital Territory (FCT) as the vacation judge. It was in a Further and Better Affidavit filed in that suit on 10th September, 2024 by Mr. Abdul Mohammed, SAN on behalf of the NBA, that I first saw what was called the "Report of the Nigerian Bar

Association National Officers Election Appeal Committee" dated 26th August, 2024 (the "**Report**"), addressed solely to the President the NBA and signed by the Chairman of the Appeal Committee. Thus, despite the very partisan disposition of the Chairman and some members of the Appeal Committee which was widely circulated in the media and my application for them to recuse themselves because of the likelihood of bias, the Committee nonetheless proceeded to hand down a decision signed by the Chairman and which was neither shared with me nor my counsel. In that decision, the Appeal Committee informed the President of the NBA that it was declining jurisdiction to hear my Petition on the ground that I had filed a suit at the High Court of the FCT.

It is clear to me that the Chairman and members of the Appeal Committee flagrantly breached section 14 (2) (1) of the Constitution which created the Committee and completely disregarded the principles of natural justice. The enabling section provides amongst other things, that the Appeal Committee "**shall receive and resolve electoral complaints and disputes arising from the election of National Officers...**" Thus, the Constitution conferred adjudicatory powers and duties on the Electoral Committee, which will require it to hear and determine election disputes brought before it. However, the Committee at the only sitting it had, refused to hear evidence but rather stated that it was "merely a fact-finding Committee". It proceeded to conduct its activities clandestinely, leading up to the secret Report that was sent to the President of the NBA.

In view of the fact that the High Court of the FCT is yet to deliver its judgment in my suit referenced above and that the proceedings of the Appeal Committee were made an issue before that Court, I am unable to discuss further details of the "Report" of the Appeal Committee and the merits or otherwise of the NBA engaging counsel to oppose and resist compliance with its Constitution. I will, however, address these issues adequately after the determination of the suit.

For now, I can confirm that my Originating Summons seeking the interpretation of the **Second Schedule, Part II, Paragraph 8(b), (c), (d) and (e) of the NBA Constitution** and to compel the Defendants to provide me the materials used for the Elections was heard on the 12th of September, 2024, alongside three Preliminary Objections filed by the Defendants. The NBA's objection is hinged essentially on my alleged failure to exhaust the internal remedies provided by the Constitution while the 2nd and 3rd Defendants' objections relate to alleged non-compliance with the legal requirements for serving the 3rd Defendant outside Nigeria. The learned trial Judge heard the Originating Summons and the Defendants' response to them contained in their respective Counter-Affidavits and Written Addresses. My Lord also heard the Preliminary Objections and thereafter reserved the matter for Ruling/Judgment.

I will like to conclude this update by reproducing the relevant provisions of the NBA Constitution which I am seeking to enforce before the FCT High Court:

Second Schedule, Part II, Paragraph 8(b), (c), (d) and (e) of the NBA Constitution-

"8. The ECNBA shall display openness and transparency in all its activities and its relationship with all members, particularly the candidates for the Elections, and shall ensure the following:

(b) provide an explanation in response to reasonable requests, for a decision it has made as part of the electoral process or a decision made as part of the general conduct of the Elections;

(c) establish a system that allows interested parties to access, in a timely manner, all critical information, documents, and databases used in an Elections process, or used in the normal operation of the Elections administration;

(d) disclose fully any deficiency in the administration of an Elections when it comes to its attention;

(e) make freely available and in a timely manner, the information on which each decision was based. (Emphasis supplied)

CONCLUSION

I want to reiterate that all I have done since after the Elections is to ask the ECNBA, the Appeal Committee and the handlers of the NBA to abide by the above provisions of the NBA Constitution.

I will continue to keep you apprised of key developments.

Thank you.



Tobenna Erojikwe
15th October, 2024.