



**FILE REF: ZHRC/CHI/0012/18**

**PHIRI & 2 OTHERS**

**COMPLAINANTS**

And

**MARONDERA RURAL DISTRICT COMMITTEE (WARD 1)**

**1<sup>ST</sup> RESPONDENT**

And

**VILLAGE HEAD SHUNDURE VILLAGE 1**

**2<sup>ND</sup> RESPONDENT**

And

**HEADMAN MANYASHA**

**3<sup>RD</sup> RESPONDENT**

And

**ZANU PF**

**4<sup>TH</sup> RESPONDENT**

---

**REPORT**

---

**Key Issues**

- *Political rights – Section 67 (2) (c) Constitution*
- *Electoral malpractices – Section 281 (2) & 156 (c) Constitution*
- *Freedom of Assembly and Association – Section 58 Constitution*

**THE COMPLAINT**

1. Complaints of alleged forceful collection of serial numbers from community members in Marondera Rural (Rapids Farm), in Bocha Marange and Mutasa Districts of Manicaland Province were lodged with the ZHRC.
2. The violations are alleged to have been committed during the Biometric Voter Registration Exercise (BVR) in 2017 and the BVR mop up exercise in 2018. The violations are alleged to have been committed by Village Heads, Councillors, Chiefs and ZANU PF district chairpersons.
3. The Zimbabwe Human Rights Commission (ZHRC/Commission) began its investigations into the matter in November 2017. The relevant respondents were afforded the chance to state their side of the story. Witnesses for the complainants and respondents were also interviewed.

**National Legislation**

Constitution of Zimbabwe Act 20 of 2013

Traditional Leaders Act [Chapter 29:17]

Zimbabwe Electoral Act [Chapter 2:13]

**Regional Instruments**

African Charter on Human and Peoples Rights

**International Instruments**

Universal Declaration of Human Rights

International Covenant on Civil and Political Rights

## 1. FINDINGS FROM COMMUNITY CONSULTATIONS

From the focus group discussions and interviews carried out during investigations, the ZHRC made the following findings:

**1.1 Submission of serial numbers** – In all three areas under investigation, community members were being asked to submit their BVR slip serial numbers to either the village heads, Councillors, Chairpersons of ZANU PF or development committees or their representatives. However, no explanation was being given to community members on why these serial numbers were supposed to be submitted. Further, any defiance to such orders was followed by threats of violence and intimidation, as well as threats of not receiving any food aid or government inputs in future. Complainants from Ward 16 Mutasa highlighted that they had reported this to the District Administrator who said that he would look into the issue. Complainants from Ward 19 highlighted that they had reported the issue at Domborutinhira Police Station but the officer at the Police Post had refused to open a docket for the case. He had highlighted that instead he would follow up on the issue but nothing fruitful had materialised.

**1.2 Perpetrators** – In all three areas where complaints emanated from, the alleged perpetrators were traditional leaders and ZANU PF officials. In some instances, instructions to collect serial numbers were given by Village Heads or Headmen and ZANU PF officials. From the random household selection interviews it was noted that the communities are afraid of reporting human rights violations for fear of victimisation and at times they are not taken seriously by the police when they go to report.

**1.3 Food aid distribution** – This was not part of the initial complaint. However, when the Commission was conducting random household selection interviews for complainants from Mutasa District, in order to get corroborative evidence of the BVR slips issue some of those interviewed in Ward 16 indicated that there was corruption in the distribution of food aid. This was because deceased persons still received food aid and that some

households received too many bags against the required criteria by the Ministry of Labour and Social Welfare. The complainants highlighted they had not reported the matter since they did not know where to report as it was the Headman who was conniving with a Community Child Care Worker. Others highlighted that they were afraid of reporting the issue at the police since they feared that they would be called in to witness and support the complaint.

## **2. RESPONDENTS' ACCOUNTS**

In accordance with the *audi alteram partem* rule ("let the other side be heard as well"), the ZHRC held separate meetings with the respondents so as to hear their side of the story. From the separate meetings and in response to the allegations raised by the complainants, the following information was gathered:

**2.1 Village Head Shundure 1 Village** – the ZHRC spoke to the Village Head from Shundure Village 1 who denied the allegations raised by the complainants and stated as follows:

2.1.1 That he had not received any complaint from the community members on the allegations raised.

2.1.2 He, however, noted that intimidation was rife in the area as community members were being forced to attend political meetings by those allied to the ruling party, ZANU PF. He alleged that people ended up attending the political meetings due to fear of being left out when food aid distribution exercises are taking place.

**2.2 Councillor Tsoriyo** – the ZHRC also managed to interview Mrs. Tsoriyo, the Councillor for Shundure who stated as follows;

2.2.1 She confirmed the allegations but denied any one being forced to do so. She indicated that community members who submitted the serial numbers did so on a voluntary basis.

2.2.2 She indicated that village heads and councillors are asked how many people in their areas are registered to vote. Therefore, the exercise

was done on the basis of collecting information on how many villagers had registered to vote.

2.2.3 Further, she stated that some villagers had failed to register to vote due to the fact that they did not have national IDs. To assist such villagers, it was agreed by the traditional leaders that those that had registered be accounted for and those who didn't register, be found and assisted. Everyone was therefore encouraged to register to vote.

**2.3 ZANU PF Chairperson (Shundure village)** – The ZHRC also managed to talk to the District Chairperson for ZANU PF in Shundure who stated that:

2.3.1 As ZANU PF, they were indeed collecting the serial numbers for party purposes. They had a form which was supposed to be filled in by party members and that form had provision for serial numbers.

2.3.2 The reason why they were collecting the serial numbers was for them to know how many of their people had registered to vote to enable them to mobilize more people. It was all about numbers and knowing if they had the numbers as ZANU PF.

**2.4 Chairperson Hloko (Marondera)** – Also interviewed was Mr. Hloko, the Chairperson of the ZANU PF Marondera Rural District Committee.

2.4.1 He acknowledged that indeed an instruction had been received from the Provincial party offices (but no name was given) to the effect that serial numbers should be collected from registered villagers. However, he indicated that ZEC officials who were conducting voter education before or during voter registration advised leaders and villagers that it was illegal for anyone to collect serial numbers. It was because of this knowledge that they decided not to collect the serial numbers.

**2.5 Mutasa Ward 16 Village Head and Headmen** – these leaders interviewed by the ZHRC denied the allegations. They indicated that the only announcement they had made was that all villagers who had not managed to register, since the registration centre was 30km away from their village, could register their names with their leaders to ensure that transport to the registration centre was sought.

2.5.1 This announcement was made during a funeral service of one of the villagers in Nyamwanza, Ward 16. The Village Head then indicated that after the burial, he got a call from one of the complainants (Hon. Saruwaka) accusing him of asking people to submit serial numbers to him. He was shocked about this accusation as he was not aware of the issue of serial numbers. Be that as it may, he advised that the issue of serial numbers was a political party issue (Zanu pf) and thus had nothing to do with him as a traditional leader.

**2.6 Mutasa Ward 19 Village Head (Village 10)** – he indicated that sometime in November 2017, they received fertilizer and maize seed from Honourable Oppah Muchinguri. The Zanu Pf Chairperson then asked him (Village head) to write down names of 26 (twenty six) villagers from his village who would receive these inputs. All 26 had to be registered voters and their serial numbers were taken down. That is the only instance that he had taken down villagers' serial numbers.

**2.7 Mutasa District Administrator** – The Commission also met with the Assistant District Administrator who highlighted that they had not received any complaint about BVR Registration Slips. Nevertheless, he encouraged the Commission to raise awareness in communities on the insignificance of the serial numbers for purposes other than that of Zimbabwe Electoral Commission documentation. He highlighted that the issue had raised unnecessary alarm within communities.

**2.8 Department of Social Welfare (Mutasa)** – Mrs Marimbire highlighted that she was not aware of malpractices in food aid distribution. She highlighted that the list of beneficiaries did not have anything to do with BVR slips serial numbers. She denied that there was any food aid that was distributed based on whether anyone had registered to vote or not.

## **HUMAN RIGHTS INVOLVED**

3. The following human rights were allegedly violated:

3.1 Political Rights– Section 67

3.2 Electoral malpractices – Section 281 (2) & 156 (c).

## **ANALYSIS OF THE COMPLAINT**

### **4. Whether or not complainants political rights were violated**

4.1 Political rights as provided for in the Constitution involve making political decisions freely as well as deciding which party to join. In the present case, villagers are being forced to submit their voter registration serial numbers. This amounts to a violation of political rights as enshrined in Section 67 of the Constitution.

### **5. Whether or not perpetrators committed malpractices**

5.1 The Constitution clearly provides for the duties of traditional leaders and states, in Section 281 (2) that: “Traditional leaders must not—(a) be members of any political party or in any way participate in partisan politics; (b) act in a partisan manner; (c) further the interests of any political party or cause; or (d) violate the fundamental rights and freedoms of any person.”

5.2 In the present case, traditional leaders are receiving and executing instructions from political party members. Such conduct amounts to furthering the interests of a political party and is in direct violation of the abovementioned constitutional provision. Traditional leaders should therefore respect the Constitution and act in a non-partisan and shall perform their duties and responsibilities in a professional and non-partisan manner that allows all citizens regardless of political affiliation equal access to resources and guaranteed non-discrimination on partisan basis.

### **6. Whether or not complainants freedom of assembly and association were violated**

Freedom of assembly and association rights as provided for in the Constitution involve the right not to assemble or associate with others and not to be compelled to attend a meeting or gathering. In the present case, villagers alleged that they were being forced to attend ZANU PF political meetings which was even acknowledged by one of the Village Heads. This amounts to a violation of freedom of assembly and association as enshrined in Section 58 of the Constitution.

## **7. CONCLUSION**

Political intimidation and electoral malpractices continue unabated in Zimbabwe. This is largely due to the fact that most leaders at national and local levels lack political will to deal with political violations decisively. Further, some grassroots political officials are just overly enthusiastic and sometimes carry out unlawful actions in the name of politics. In the present case however, it is clear that the powers that be in the political field are aware of the issue of serial numbers although they chose to ignore the situation.

## **8. RECOMMENDATIONS**

In light of the above findings and conclusion, the ZHRC makes the following recommendations:

### **TO THE GOVERNMENT OF ZIMBABWE (MINISTRY OF HOME AFFAIRS AND CULTURE)**

8.1 In all government departments it should always be clear that they represent the will of the people rather than political parties as the government is there to serve all people regardless of their political affiliation.

### **TO COMPLAINANTS AND CONCERNED MEMBERS OF THE PUBLIC**

8.2 The complainants should always be courageous enough to report cases of human rights violations. They should also not be afraid to approach public institutions with the mandate to receive such cases and follow up their cases till finalisation.



## **TO THE ZIMBABWE ELECTORAL COMMISSION**

8.3 The Zimbabwe Electoral Commission should do extensive education to the people of Zimbabwe on its mandate and functions to ensure that knowledge on elections is disseminated widely.

## **TO THE ZIMBABWE REPUBLIC POLICE**

8.4 The Commissioner General of Police is directed to investigate and arrest any perpetrators collecting BVR serial numbers.

8.5 The ZRP must at all times uphold the functions stated in section 219 (1) (c) to (e) in that, as the Police Service, they are responsible for protecting and securing the lives of people, maintaining law and order and must uphold the Constitution of Zimbabwe. In enforcing the law without fear or favour, ZRP should desist from refusing to receive some complaints that will be having political connotations.

## **TO ZANU PF and OTHER POLITICAL PARTIES**

8.6 The ZHRC acknowledges the ZANU PF leadership's stance against such malpractices. However, the Commission recommends that the Party takes concrete steps to reign in their officials and party members to desist from collecting BVR serial numbers and violating citizens' political rights.

## **TO MEMBERS OF PARLIAMENT AND COUNCILLORS**

8.6 Once elected they are public officials who should endeavour to serve everyone fairly without discrimination across all political divides. These public officials should publicly pronounce this position as well as ensure that their conduct and behaviour demonstrate impartiality.

## **TO TRADITIONAL LEADERS**

8.7 Traditional leaders should be guided by Section 281 of the Constitution of Zimbabwe which requires traditional leaders to treat all persons within their areas equally and fairly. In particular Section 281 (2) states that traditional leaders must not; be members of any political party; participate in partisan

politics; act in a partisan manner; further the interests of any political party or cause; or violate the fundamental rights and freedoms of any person.