

SUPREME COURT OF NIGERIA
TUESDAY 27TH OCTOBER, 2015. SC. 732/2015
**CORAM:- J. A. FABIYI, S. GALADIMA, M. U. PETER-
ODILI, O. ARIWOOLA, K. M. O. KEKERE-EKUN,
J. I. OKORO, A. SANUSI, JJSC**

ALHAJI IBRAHIM HASSAN DANKWAMBO APPELLANT
AND

1. JAFAR ABUBAKAR

2. CHARLES ILIYA RESPONDENTS

3. PEOPLES DEMOCRATIC PARTY (PDP)

4. INDEPENDENT NATIONAL ELECTORAL
COMMISSION (INEC)

STATUTES - Interpretation - Principle - Where words of statute are unambiguous - They must be given their ordinary meaning - Save where it will lead to absurdity or inconsistency with rest of the statute (H1)

ACTIONS - Determination - Basis - Cases are decided on their peculiar facts - And in the light of the applicable law - As every case is an authority for the facts which it decides (H2)

LEGAL PRACTITIONERS - Signature - Abbreviated name - Processes signed in such name by qualified legal practitioner are not invalid - As nothing in LPA s. 2(1) prohibits the use of initials (H3)

JURISDICTION - Sources - Jurisdiction of Election Tribunal and Court of Appeal in respect of election petitions - Is derived from the Constitution 1999 (as amended) (H4)

APPEALS - Election petitions - Issue - Appeal before CA relates to the petition - As dismissal of the petition by the trial Tribunal - Gave rise to the appeal before Court of Appeal (H5)

ELECTION PETITIONS - Dismissal - Effect of dismissal of 1st respondent's petition by the Tribunal - Is that his right to challenge the election of the Governor and Deputy Governor of the State is truncated

FACTS

This petition was filed at Governorship Election Petition Tribunal sitting at Gombe, by petitioner/1st respondent challenging the return of appellant as the elected Governor of Gombe State. 1st respondent was sponsored by the African Democratic Congress for the gubernatorial election conducted in the State on 11th April 2015, while appellant and 2nd respondent contested on the platform of 3rd respondent – Peoples Democratic Party (PDP). At the end of the election, 4th respondent declared appellant as the winner, having won majority of lawful votes cast. Appellant was duly returned as the Governor of the State. At the close of pleadings at the Tribunal, 1st respondent applied for the issuance of pre-hearing conference notice pursuant to paragraph 18(1) of the 1st Schedule of the Electoral Act 2010 (as amended). Thereafter, the matter was set down for hearing. Appellant brought an application urging the court to strike out the petition on the ground that the same was signed by one SAM KARGBO ESQ. whose name is not on the Roll of Legal Practitioners permitted to practice law in Nigeria.

1st respondent filed a counter affidavit contending that SAM KARGBO is the same person as SAMUEL PETER KARGBO whose name appears on the Roll of Legal Practitioners. In its ruling, the Tribunal held that the name SAM KARGBO, which is not on the Roll of Legal Practitioners, cannot validly sign the petition. The Tribunal was nevertheless of the view that as the petition was signed by both SAM KARGBO and the petitioner himself, the petition could not be declared incompetent. Before the commencement of hearing in the petition, 2nd and 3rd respondent brought an application on the basis that SAM KARGBO who represented the petitioner at the pre-hearing session is not a name on the Roll of Legal Practitioners and therefore the proceedings at the pre-hearing session ought to be expunged from the record. The Tribunal agreed with 2nd and 3rd respondent and dismissed the petition. Not satisfied, 1st respondent appealed to the Court of Appeal Yola Division. The appeal was allowed in part and judgment of the trial Tribunal dismissed. The petition was remitted to the Tribunal for hearing on the merits. Dissatisfied, appellant appealed to the Supreme Court. 1st and 2nd respondents also filed

appeals in Supreme Court.

ISSUES FOR DETERMINATION

1. Whether the petitioner's solicitor can, in conducting the petition, prepare, sign and file court processes and conduct court proceedings using, as his name, an alias other than his name on the Roll of Legal Practitioners, and, if he cannot, what is the validity of the said processes and proceedings?

2. Whether the appeal to the lower court from the decision of the Governorship Election Tribunal was competent.

HELD (Unanimously dismissing the appeal per

KEKERE-EKUN JSC)

STATUTES - Interpretation - Principle

1. As rightly stated by learned senior counsel for the appellant, the golden rule of interpretation of statutes is that where the words used in a statute are clear and unambiguous, they must be given their natural and ordinary meaning, unless to do so would lead to absurdity or inconsistency with the rest of the statute. (p. 3251 D)

ACTIONS - Determination - Basis

2. However, the law is trite that cases are decided on their peculiar facts and in light of the applicable law and therefore every case is an authority for the facts, which it decides. (p. 3252 B)

LEGAL PRACTITIONERS - Signature - Abbreviated name

3. Section 7(1) of the Legal Practitioners Act provides:

7 (1) "Subject to the provisions of this section a person shall be entitled to have his name enrolled if, and only if -
(a) he has been called to the Bar by the Benchers; and
(b) he produces a certificate of his call to the Bar to the Registrar."

It follows that only a person who has complied with these provisions is entitled to have his name enrolled at the Supreme

Court as a legal practitioner. If such a person after enrolment proceeds to use an abbreviated form of his name to sign processes and conduct proceedings, I am of the view that it would be stretching the literal interpretation of Section 2(1) too far to hold that processes signed in the abbreviated name and proceedings conducted with such abbreviated name are invalid.

The requirement of the law is that only a person whose name is on the roll is entitled to practice as a barrister and solicitor before the courts in Nigeria.

Learned senior counsel for the appellant himself concedes that there are circumstances such as change of name by married female members of the Bar that may be an exception to the literal interpretation of Section 2(1) of the Act. This is a concession that the section is concerned with the animate person who has been called to the Bar.

I agree with learned counsel for the 1st respondent that there is nothing in Section 2(1) of the Legal Practitioners Act that prohibits the use of an abbreviation of one's name or initials in signing documents and/or conducting proceedings in any court of law in Nigeria. In my view, to construe section 2(1) of the Legal Practitioners Act in the strict sense urged by learned senior counsel for the appellant would be inconsistent with the intendment of the provision, which is to protect the legal profession from impostors and charlatans. Such an interpretation would amount to enthroning technicalities at the expense of substance and would certainly lead to a miscarriage of justice as has occurred in the instant case. It cannot be the intendment of the statute to punish a legal practitioner who has genuinely been called to the Bar simply because he signs processes and conducts proceedings using an abbreviation of his name as it appears on the Roll.

This issue is accordingly resolved against the appellant.
(p. 3254 A/H)

JURISDICTION - Sources

4. The law is well settled that jurisdiction is a creation of statute or the Constitution. The jurisdiction of the Election Tribunal and the Court of Appeal in respect of Election petitions is

derived from the 1999 Constitution (as amended). It is therefore both statutory and constitutional. (p. 3257 B)

Election petitions - Issue

5. Section 285(2) of the 1999 Constitution (as amended) provides: B

285(2): “There shall be established in each state of the Federal an Election Tribunal to be known as the Governorship Election Tribunal which shall, to the exclusion of any court or tribunal, have original jurisdiction to hear and determine petitions as to whether any person has been validly elected to the office of Governor or Deputy Government of a State.” C

The provisions are clear and unambiguous and must be given their ordinary meaning. It is not in dispute that the 1st respondent’s petition before the lower court is for the determination of the question as to whether the appellant herein and the 2nd respondent were validly elected to the office of Governor and Deputy Governor of Gombe State. D

It is also not in dispute that the said petition was dismissed by the Tribunal on 9th July 2015 and that it is the said dismissal that gave rise to the appeal before the lower court. E

With the greatest respect to learned senior counsel for the appellant, I am unable to agree with him that the appeal before the lower Tribunal has nothing to do with the substance of the petition or the election. The rule of interpretation *express unis est exclusio alterius* is inapplicable in the present circumstances. (pp. 3257 D/3258 B) F

ELECTION PETITIONS - Dismissal G

6. The effect of the dismissal of the 1st respondent’s petition by the Tribunal is that his right to have the question as to whether the appellant and 2nd respondent were validly elected to the office of Governor and Deputy Governor of Gombe State determined has been truncated. Learned senior counsel for the appellant conceded as much at the hearing of this appeal on 19/10/2015. The 1st respondent was entitled to appeal as of right against that decision pursuant to Section 246(1) (c) (ii) of the 1999 Constitution (as amended). This issue is also H

hereby resolved against the appellant. (p. 3258 D)

NOTABLE POINT OF INTEREST

KEKERE-EKUN JSC

1. Words & Phrases – “Alias” – Meaning of

- B The Oxford Advanced Learner’s Dictionary New 8th Edition defines “alias” (noun) as “a false or different name, especially one that is used by a criminal.” “Alias” (adverb) “used when a person, especially a criminal or an actor, is known by two names: *Mick Clerk, alias Sid Brown/Hercule Polrot, alias David Suchet*.”

C Black’s Law Dictionary, 8th edition at page 79 defines “alias” as “An assumed or additional name that a person has used or is known by - also termed assumed name; fictitious *name*.”

- D “Abbreviate” - to make a word, phrase or name shorter by leaving out letters or using only the first letter of each word” - Oxford Advanced Learner’s Dictionary (ibid). (p. 3250 C)

REPRESENTATION

- E IBRAHIM ISYAKU, SAN with B. A. OYEFESO ESQ, for the Appellant

SAMUEL PETER KARGBO ESQ. with A. E. ERHABOR ESQ. AYODEJI R. ENISENYIN ESQ. and HENRY E. ONUGWU ESQ., for the 1st Respondent

- F SOLOMON UMOH, SAN with N. D. GWAISON ESQ., J. E. OKONKWO ESQ., C. M. DIOJI ESQ., C. B. ONUORAH ESQ., P. ALI-BOZI ESQ. and A. Z. ABDULLAHI ESQ. for the 2nd Respondent
OLAJIDE AYODELE, SAN with M. D. AYODELE ESQ. for the 3rd Respondent

- G I. M. DIKKO ESQ. with A. T. HASSAN ESQ. for the 4th Respondent

CASES REFERRED TO

- Rgd. Trustees of Apostolic Church v. Akindele (1967) All NLR 118
H Okarika v. Samuel (2013) 7 NWLR (pt. 1352) 19
Hamzat v. Sani (2015) 5 NWLR (pt. 1453) 486
Ibrahim v. Barde (1996) 9 NWLR (pt. 474) 513
Ojokolobo v. Alamu (1987) 3 NWLR (pt. 61) 377
Adisa v. Oyinwola (2000) 6 SC (pt. II) 47

Uwazurike v. A-G Federation (2007) 2 SC 169

Okafor v. Nweke (2007) 10 NWLR (pt. 1043) 521

First Bank of Nigeria Plc. v. Maiwada (2013) 5 NWLR (pt. 1348) 444

Dingyadi v. INEC (2011) 10 NWLR (pt. 1255) 347

Emeka v. Okadigbo (2012) 18 NWLR (pt. 1331) 55

Albion Construction Co. Ltd. v. R.A.O. Inv. & Prop. Ltd. (1992) 1 B
NWLR (pt. 219) 583

Buhari v. Obasanjo (2003) 17 NWLR (pt. 841) 446

Hamzat v. Sanni (2015) LPELR (23302) 1

Alor v. Ngene (2007) 17 NWLR (pt. 1062) 163

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STATUTES REFERRED TO

Constitution of the Federal Republic of Nigeria 1999, s. 246(1)

Electoral Act 2010 (as amended), para. 18 of 1st schd.

Legal Practitioners Act Cap. L11 LFN 2004, ss. 2(1), 24

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BOOKS REFERRED TO

Oxford Advanced Learner's Dictionary New 8th ed.

Black's Law Dictionary 8th ed., p. 79

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LEAD JUDGMENT BY KEKERE-EKUN JSC

This is an appeal against the judgment of the Court of Appeal sitting in Yola delivered on 10th September 2015, setting aside the ruling of the Governorship Election Tribunal in the consolidate application in petition No. EPT/GMB/GOV/2/2015 delivered on 3rd August 2015 and remitting the case to the Tribunal for expeditious hearing and determination of the petition on its merits.

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The appellant who was 1st respondent at the court below is dissatisfied with the decision and has appealed to this court via a notice of appeal filed on 16/9/2015 containing 4 grounds of appeal. The brief facts that gave rise to the appeal are as follows: on 11th April 2015, elections were conducted into the office of Governor of Gombe State by the 4th respondent. The 1st respondent contested the election on the platform of the AFRICAN DEMOCRATIC CONGRESS (ADC), while the appellant and the 2nd respondent contested on the platform of the PEOPLES DEMOCRATIC PARTY (PDP), the 3rd respondent in this appeal. Other political parties also fielded candidates. At the conclusion of the election, the 4th respondent de-

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clared the appellant as having won the majority of lawful votes cast at the election and he was duly returned as the elected Governor of Gombe State. The appellant polled 285,369 votes as against 848 votes scored by the 1st respondent.

B Dissatisfied with the return of the appellant, the 1st respondent filed a petition before the Governorship Election Tribunal sitting at Gombe challenging the return of the appellant. After the close of pleadings, the 1st respondent applied for the issuance of pre-hearing conference notice pursuant to paragraph 18(1) of the 1st Schedule of C the Electoral Act 2010 (as amended). At the conclusion of the pre-hearing session, the trial Tribunal issued a report of the pre-hearing and fixed the petition for hearing.

At the hearing, the appellant herein, as 1st respondent filed an application urging the court to strike out the petition on the ground D that the petition was signed by one SAM KARGBO ESQ. whose name is not on the Roll of Legal Practitioners permitted to practice law in Nigeria. The 1st respondent herein in response to the application filed a counter affidavit wherein it was averred, inter alia, that SAM E KARGBO is the same person as SAMUEL PETER KARGBO whose name appears on the Roll of Legal Practitioners. Several exhibits were attached to the counter affidavit in support of the averments.

In a ruling delivered on 9th July 2015, the Tribunal agreed that SAM KARGBO is very different from SAMUEL PETER KARGBO F and held that the name SAM KARGBO, which is not on the Roll of Legal Practitioners, cannot validly sign the petition. It however held that as the petition was signed by both SAM KARGBO and the petitioner himself, the petition could not be declared incompetent. In other words, it was saved by the signature of the petitioner.

G Hearing of the petition was to commence when the 2nd and 3rd respondents herein filed similar applications urging the Tribunal to dismiss the petition on the ground that SAM KARGBO who represented the petitioner at the pre-hearing session is not a name on the Roll of Legal Practitioners and therefore the proceedings at the pre-hearing session ought to be expunged from the record. In a consolidated ruling delivered on 3/8/2015, the Tribunal upheld the submissions of the 2nd and 3rd respondents and dismissed the petition. H

The 1st respondent was dissatisfied with the ruling and filed two notices of appeal at the lower court within time on 3rd August 2015

and 19th August 2015 respectively. The notice of appeal filed on 3rd August 2015 was subsequently struck out. On 9th September 2015 the court below allowed the appeal in part. It set aside the judgment of the trial Tribunal dismissing the 1st respondent's petition and remitted the matter to the Tribunal for hearing.

Dissatisfied with the judgment of the lower court, the appellant filed this appeal before this court on four grounds of appeal. Significantly, the 1st and 2nd respondents also filed appeals against the judgment.

Altogether, six appeals were filed bearing Appeal Nos:

- (i) SC.706/2015: Alh. Ibrahim Hassan Dankwambo Vs Jafar Abubakar & 3 Ors;
- (ii) SC.707/2015: Alh. Ibrahim Hassan Dankwambo Vs Jafar Abubakar & 3 Ors;
- (iii) SC.730/2015: Peoples Democratic Party Vs Jafar Abubakar & 3 Ors;
- (iv) SC.731/2015: Peoples Democratic Party Vs Jafar Abubakar & 3 Ors;
- (v) SC.732/2015: Alh. Ibrahim Hassan Dankwambo Vs Jafar Abubakar & 3 Ors; and
- (vi) SC.733/2015: Alh. Ibrahim Hassan Dankwambo Vs Jafar Abubakar & 3 Ors.

At the hearing of the appeal on 20th October 2015, it was agreed by learned counsel representing the parties that the decision of this court in the present appeal, SC.732/2015 shall bind all the other appeals, the parties and issues therein being the same.

It is acknowledged that briefs of argument were filed and fully exchanged in all the appeals.

At the hearing of the appeal, learner senior counsel, IBRAHIM ISIYAKU, SAN adopted and relied on the appellant's brief filed on 28/9/2015 and urged the court to allow the appeal. MR. SAMUEL PETER KARGBO, learned counsel for the 1st respondent adopted and relied on the 1st respondent's brief filed on 2/10/2015. He urged the court to dismiss the appeal.

SOLOMON UMOH, SAN learned senior counsel for the 2nd respondent relied on his brief of argument filed on behalf of the appellant in SC.706/2015 and SC.707/2015 and urged the court to allow the appeal.

MR. AYODELE, SAN urged the court to allow the appeal relying on the brief filed in SC.730/2015 and SC.731/2015. He also urged the court to be guided by its decision in FBN PLC Vs MAIWADA (2013) 5 NWLR (Pt.1348) 444.

B MR. I. M. DIKKO, learned counsel for the 4th respondent relied on his brief filed on 2/10/2015 and stated that the 4th respondent concedes the appeal.

The appellant raised two issues for the determination of the appeal. They are:

C 1. Whether the petitioner's solicitor can, in conducting the petition, prepare, sign and file court processes and conduct court proceedings using, as his name, an alias other than his name on the Roll of Legal Practitioners, and, if he cannot, what is the validity of the said processes and proceedings? (Grounds 1, 2 and 3)

D 2. Whether the appeal to the lower court from the decision of the Governorship Election Tribunal was competent. (Ground 4)

The 1st respondent formulated three issues as follows:

E 1. Whether the Court of Appeal was right in holding that the Trial Tribunal misapprehended and mis-applied the stipulations of the Legal Practitioners Act when it held that the proceedings conducted at the pre-hearing by Sam Kargbo are to be expunged because the name Sam Kargbo is not on the Roll of Legal Practitioners, without having been shown that the person who conducted the proceedings as Sam Kargbo is not a Legal Practitioner, since what the Act
F seeks to avoid is have impostors carry out duties as legal practitioners. (Grounds 1 and 2)

G 2. Whether from the facts and circumstances of this case the Court of Appeal was right in setting aside the Ruling of the Tribunal in the consolidated applications in Petition No. EPT/GMB/GOV/2/2015 delivered on 3rd August, 2015. (Ground 3)

H 3. Whether the appellant has established a case before this Honourable Court to warrant this Honourable Court to question the competence of the appeal to the lower court from the Tribunal. (Ground 4)

The 4th respondent adopted the issues formulated by the appellant. Having examined the issues formulated by the parties, I am of the view that the two issues formulated by the appellant will adequately dispose of the issues in contention in this appeal.

I shall however rephrase issue 1 by using the word “abbreviation” in place of the word “alias”. I shall state my reasons in the course of the judgment.

I shall therefore adopt the appellant’s issues for the resolution of this appeal, as amended.

ISSUE 1

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Whether the petitioner’s solicitor can, in conducting the petition, prepare, sign and file court processes and conduct court proceedings using, as his name, an abbreviation other than his name on the Roll of Legal Practitioners, and, if he cannot, what is the validity of the said processes and proceedings? (Grounds 1, 2 and 3)

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The crux of this issue is whether the lower court was right in holding that SAM KARGBO who signed processes and conducted proceedings before the Tribunal on behalf of the 1st respondent could not validly do so when the said names “SAM KARGBO” are not on the Roll of Legal Practitioners permitted to practice law in Nigeria.

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IBRAHIM ISIYAKU, SAN, learned senior counsel for the appellant, submitted that upon a proper interpretation of Section 2(1) of the Legal Practitioners Act Cap. L11 LFN 2004 and Section 24 thereof, the only permissible name by which a Legal Practitioner may prepare, sign and file processes in court and conduct proceedings is the name as it appears on the Roll of legal Practitioners. In his view, it is not permissible to use an alias. Learned senior counsel conceded that an affidavit was deposed to on behalf of SAM KARGBO to the effect that he is the same person as SAMUEL PETER KARGBO whose name appears on the Roll of Legal Practitioners with photocopies of his call to Bar certificate and other documents attached thereto. He argued that the said counter affidavit does not avail him as the attached documents were uncertified and did not contain the passport photograph of the said SAMUEL PETER KARGBO to show that he is the SAMUEL PETER KARGBO whose name appears on the Roll.

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He argued that the authorities of REGISTERED TRUSTEES OF APOSTOLIC CHURCH Vs AKINDELE (1967) ALL NLR 118; OKARIKA Vs SAMUEL (2013) 7 NWLR (Pt. 1352) 19 and HAMZAT Vs SANI (2015) 5 NWLR (Pt. 1453) 486 relied upon by the lower court in reaching its decision are not applicable to the facts of this case, as those decisions were in respect of the invalidity of processes filed in the name of a firm and not the use of an alias.

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Learned senior counsel submitted that the provisions of section 2(1) of the Legal Practitioners Act creates two possible scenarios:

1. Where a person was not called to the Nigerian Bar and is not a lawyer permitted to practice in Nigeria; and

2. Where a person was called to the Nigerian Bar but without showing any reasonable cause e.g. change of name as in adoption of husband's name- after marriage, resorts to an alias to prepare, sign and file court processes and also to conduct court proceedings. (Emphasis mine)

He submitted that Section 2(1) and 24 of the Legal Practitioners Act do not sustain the use of an alias by a Legal Practitioner other than the name on the Roll except where there is reasonable cause to do so. He argued that none of the exceptions was shown to be the case here. He contended that where a person who has been called to the Bar jettisons his name as it appears on the Roll and resorts to an alias, even though the commission of a crime may not be in issue, the processes prepared and signed by him and the proceedings conducted using an alias are liable to be expunged. He argued that to allow the processes and proceedings to survive is to grant license to lawyers to resort to all manner of names and in different cases.

Learned senior counsel identified processes signed and filed on behalf of the petitioner by different counsel who were being led by SAM KARGBO. He also identified proceedings conducted by the said SAM KARGBO. He argued that the lower court was wrong to have held that the said processes and proceedings were valid. He contended that the effect of a person signing processes and conducting proceedings in a name other than the name on the Roll is the same as where processes are signed by a law firm even though it is a registered business name and the partners are known lawyers.

He submitted finally, that even if SAM KARGBO is a known lawyer, processes signed and proceedings conducted by him in that name would be invalid if SAM KARGBO is not a name on the Roll.

In reaction to the submissions on behalf of the appellant, SAMUEL PETER KARGBO, learned counsel for the 1st respondent contended that the resolution of the issue depends upon a proper appreciation of Sections 2(1), 8(1) and 24 of the Legal Practitioners Act. He submitted that on a proper examination of the provisions, the lower court was right to have held that the provisions are in re-

spect of the PERSON and refer to the PERSON who shall be entitled to practice as a legal practitioner in Nigeria and not the name. He contended that the name is not an entity and that it is not the name that requires the requisite qualification of call to the Bar and enrolment at the Supreme Court but the person who bears the name. He submitted further that it is the person who bears the name that is obligated to pay practising fees. He submitted that where, as in the instant case the qualification of counsel is not in issue, it would amount to the worst kind of misapprehension and misapplication of the provisions of the Legal Practitioners Act to expunge processes filed by him because he subscribed the name SAM KARGBO against his Signature, nullify proceedings in which he announced himself as SAM KARGBO and deny him the right of audience. B C

Learned counsel argued that the contention of learned senior counsel for the appellant that SAM KARGBO is an alias is misconceived. He submitted that SAM KARGBO is not an alias but an abbreviation of SAMUEL PETER KARGBO. He submitted that an alias on the other hand, as defined in Black's Law Dictionary 8th Edition, is a fictitious name. D

Learned counsel noted that learned senior counsel for the appellant in his brief alluded to certain circumstances in which it would be permissible for a person to practice in a name other than his name as it appears on the Roll. He argued that this negates the strict interpretation being advanced by the said senior counsel. He argued that the strict interpretation canvassed by learned senior counsel would defeat the purpose of the Legal Practitioners Act by punishing legal practitioners rather than protecting them. E F

He urged the court to take judicial notice of the fact that on a daily basis learned counsel announce their appearance in court in their abbreviated names or use their initials. He submitted that being a person called to the Bar, enrolled at the Supreme Court and having paid his practising fees, learned counsel for the 1st respondent has unhindered audience before the Tribunal and can sign processes as SAM KARGBO. He submitted that learned counsel for the 1st respondent did not in any way breach any of the provisions of the Legal Practitioners Act by abbreviating his name. G H

He argued that in the circumstances the trial Tribunal was wrong to have expunged the pre-trial proceedings and processes filed for

and on behalf of the petitioner/1st respondent, and worse still, to have dismissed the petition. He urged the court to resolve this issue in the 1st respondent's favour.

As noted earlier, no briefs were filed on behalf of the 2nd and 3rd respondents in this appeal, as they had filed briefs in their separate appeals also challenging the decision of the lower court on grounds similar to those advanced by the appellant herein.

L. M. DIKKO, ESQ. on behalf of the 4th respondent concedes the appeal.

In order to resolve this issue it is necessary to consider the relevant provisions of the Legal Practitioners Act, namely Sections 2(1), 8(1) and 24 thereof. Also relevant is the definition of the words "alias" and "abbreviation".

The Oxford Advanced Learner's Dictionary New 8th Edition defines "alias" (noun) as "a false or different name, especially one that is used by a criminal." "Alias" (adverb) "used when a person, especially a criminal or an actor, is known by two names: *Mick Clerk, alias Sid Brown/Hercule Polrot, alias David Suchet*."

Black's Law Dictionary, 8th edition at page 79 defines "alias" as "An assumed or additional name that a person has used or is known by - also termed assumed name; fictitious *name*."

"Abbreviate" - to make a word, phrase or name shorter by leaving out letters or using only the first letter of each word" - Oxford Advanced Learner's Dictionary (ibid).

From the above definitions it is evident that what was in issue at the trial Tribunal was not the use of an "alias" or fictitious name as contended by the appellant but the use of an abbreviated form of a name. Where a name is abbreviated, the name is either shortened by removing some letters or by the use of initials. In the instant case, it is contended on behalf of the 1st respondent that the name SAM KARGBO in which learned counsel signed court processes and conducted proceedings is an abbreviation of the name SAMUEL PETER KARGBO which appears on the Roll of Legal Practitioners. The issue is therefore not the use of an alias but of abbreviation.

I now return to the provisions of the Legal Practitioners Act. The relevant sections provide as follows:

Section 2(1): "*Subject to the provisions of this Act, a person shall be entitled to practise as a barrister and solicitor if, and*

only if, his name is on the roll.”(Emphasis mine)

Section 8(1): “*Subject to the provisions of the next following subsection and of any enactment in force in any part of Nigeria prohibiting or restricting the right of any person to be represented by a legal practitioner in proceedings before the Supreme Court or the Sharia Court of Appeal or any area or customary court, a legal practitioner shall have the right of audience in all courts of law sitting in Nigeria.*”

Section 24: “In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say -

“*legal practitioner*” means a person entitled in accordance with the provisions of this Act to practise as a barrister or as a barrister and solicitor, either generally or for the purposes of any particular office or proceedings.”

The appellant’s main emphasis is on the words “if and only if” used in Section 2(1) of the Legal Practitioners Act above.

As rightly stated by learned senior counsel for the appellant, the golden rule of interpretation of statutes is that where the words used in a statute are clear and unambiguous, they must be given their natural and ordinary meaning, unless to do so would lead to absurdity or inconsistency with the rest of the statute.

It was held inter alia, in the case of IBRAHIM Vs BARDE (1996) 9 NWLR (Pt.474) 513 @ 517 B - C per Uwais, CJN (as he then was) that if the words of the statute are precise and unambiguous, no more is required to expound them in their natural and ordinary sense. He held further that the words of the statute alone in such circumstances best declare the intention of the lawmaker. See also OJOKOLOBO Vs ALAMU (1987) 3 NWLR (Pt.61) 377 @ 402 F - H; ADISA Vs OYINWOLA & ORS (2000) 6 SC (Pt.II) 47; UWAZURIKE & ORS Vs ATTORNEY GENERAL FEDERATION (2007) 2 SC 169.

It is important to note that the caveat to the literal construction of statutes as stated in the authorities referred to above is that such literal interpretation must not lead to absurdity or inconsistency with the rest of the statute.

Considerable emphasis has been laid on the decisions of this court in OKAFOR Vs NWEKE (2007) 10 NWLR (Pt.1043) 521; FIRST

BANK OF NIG. PLC Vs MAIWADA (2013) 5 NWLR (Pt.1348) 444 on the interpretation of Sections 2(1) & 24 of the Legal Practitioners Act. In both cases, this court stated in no uncertain terms that for accountability, responsibility and for the protection of the profession, legal practitioners must comply with the law as enacted. This is certainly good law and holds true till today.

However, the law is trite that cases are decided on their peculiar facts and in light of the applicable law and therefore every case is an authority for the facts, which it decides. See DINGYADI & ANOR Vs INEC & ORS (2011) 10 NWLR (Pt.1255) 347 @ 391 A - *Hi* EMEKA Vs OKADIGBO (2012) 18 NWLR (Pt.1331) 55 @ 96 H; ALBION CONSTRUCTION CO. LTD. v. R.A.O. INV. & PROP. LTD. (1992) 1 NWLR (Pt.219) 583.

It was further held in EMEKA Vs OKDADIGBO (supra) at 96 D H that the rules of stare decisis do not allow the courts to apply the ratio of a case across the board with little regard to the facts of the case before them.

The issue in contention in NWEKE Vs OKAFOR (supra) and F.B.N. PLC Vs MAIWADA (supra) was the validity of a legal process signed in the name of a firm, a non-juristic person. In interpreting Sections 2 (1) & 24 of the Legal Practitioners Act, the court held that a law firm is not a legal practitioner and cannot therefore practice as such by filing processes in Nigerian Courts. In F.B.N. PLC Vs MAIWADA (supra) @ 483 C - O, this court per FABIYI, JSC stated thus:

"It is not in doubt that in deserving cases, purposive interpretation should be employed by the court. The purpose of legislation is a paramount factor. The purpose of Sections 2(1) & 24 of the Act is to ensure that only a legal practitioner whose name is on the roll of this court should sign court processes. It is to ensure responsibility, and accountability on the part of a legal practitioner who signs a court process. It is to ensure that fake lawyers do not invade the profession."

H He went further to state at 483 G:

"The literal construction of the law is that legal practitioners who are animate personalities should sign court processes and not a firm of legal practitioners, which is inanimate and cannot be found in the roll of this court." (Emphasis mine)

The issue that has arisen in this appeal is not as regards the signing of court processes by a non-juristic person but the signing of processes and the conduct of proceedings by an animate person whose name must be on the roll of Legal Practitioners.

In resolving this issue the lower court per OGAKWU, JCA held at page 2216 of the record: B

“It seems to me that the issue of whether somebody who has announced appearance in court as a legal practitioner, is indeed a legal practitioner; is whether in fact the person is a legal practitioner and not as simplistic as whether the name announced is as it appears on the Roll. May the day never come when a legal practitioner would be denied audience in court or the proceedings he conducted in court be set aside and expunged, not because he is not a legal practitioner but because he did not announce appearance in exactly the names in which he enrolled. Banish the thought! Verily may that day never come.” C

Per OGUNWUMIJU, JCA at page 2226 of the record:

“Precedents are followed on the basis of facts and law they interpreted. It is a restrictive and punitive interpretation of Section 2 of the Legal Practitioners Act to hold that the only person whose appearance can be countenanced by the court must be the same person who signed processes and whose names appeared on the Roll as SAMUEL PETER KARGBO and that the contemplation of the Legal Practitioners Act is that counsel must only file processes and announce appearance only as exactly as their names appear on the Roll leaving no room for abbreviation of such name.” E

...The purpose of Section 2 and Section 24 of the Legal Practitioners Act is to exclude anyone from practising as a Barrister and Solicitor who had not been called to the Bar and whose name had not been enrolled as a Solicitor and Advocate of the Supreme Court of Nigeria. There was no doubt that the counsel who appeared before the Tribunal was a Barrister and Solicitor duly enrolled to practice law before the courts in Nigeria. Counsel’s affidavit to that effect was never countered.” (Emphasis mine) F

In my view, the opinions expressed by the lower court reproduced above are unassailable. The focus and intendment of Sections 2 (1) and 24 of the Legal Practitioners Act is to prevent any person not called to the Nigerian Bar from practising law in any court in H

Nigeria.

Section 7(1) of the Legal Practitioners Act provides:

7 (1) “Subject to the provisions of this section a person shall be entitled to have his name enrolled if, and only if-

(a) he has been called to the Bar by the Benchers; and

(b) he produces a certificate of his call to the Bar to the Registrar.”

It follows that only a person who has complied with these provisions is entitled to have his name enrolled at the Supreme Court as a legal practitioner. If such a person after enrolment proceeds to use an abbreviated form of his name to sign processes and conduct proceedings, I am of the view that it would be stretching the literal interpretation of Section 2(1) too far to hold that processes signed in the abbreviated name and proceedings conducted with such abbreviated name are invalid.

The requirement of the law is that only a person whose name is on the roll is entitled to practice as a barrister and solicitor before the courts in Nigeria.

Learned senior counsel for the appellant himself concedes that there are circumstances such as change of name by married female members of the Bar that may be an exception to the literal interpretation of Section 2(1) of the Act. This is a concession that the section is concerned with the animate person who has been called to the Bar.

In the instant case, as held by the court below, the appellant’s counsel produced documentary evidence before the trial Tribunal proving that he was enrolled at the Supreme Court of Nigeria on 1st July 1992 and a receipt showing that his practising fee, which entitles him to practice in all courts, including the Election Tribunals in Nigeria had been paid up to date. The said affidavit was not controverted.

It was not proved that the person who signed processes and conducted proceedings as SAM KARGBO is not a legal practitioner or that he is not the same person as SAMUEL PETER KARGBO that appears on the Roll.

I agree with learned counsel for the 1st respondent that there is nothing in Section 2(1) of the Legal Practitioners Act that prohibits the use of an abbreviation of one’s name or ini-

tials in signing documents and/or conducting proceedings in any court of law in Nigeria. In my view, to construe section 2(1) of the Legal Practitioners Act in the strict sense urged by learned senior counsel for the appellant would be inconsistent with the intendment of the provision, which is to protect the legal profession from impostors and charlatans. Such an interpretation would amount to enthrone technicalities at the expense of substance and would certainly lead to a miscarriage of justice as has occurred in the instant case. It cannot be the intendment of the statute to punish a legal practitioner who has genuinely been called to the Bar simply because he signs processes and conducts proceedings using an abbreviation of his name as it appears on the Roll.

This issue is accordingly resolved against the appellant.

ISSUE 2

The contention of learned senior counsel for the appellant under this issue is that the decision of the trial Tribunal was not related to the substance of the petition or the election.

He submitted that the jurisdiction of the Election Tribunal and the appellate Courts in election matters is statutory. He referred to Section 285(2) of the 1999 Constitution (as amended) to the effect that the Governorship Election Tribunal has exclusive jurisdiction to hear and determine petitions as to whether a person has been validly elected to the office of Governor or Deputy Governor of a State. He also referred to Section 246(1) (c) (ii) of the Constitution (as amended).

Relying on several authorities, including *DANGANA Vs USMAN* (2013) 6 NWLR (Pt.1349) 50 @ 93 B - D; *AMADI Vs INEC* (2013) 4 NWLR (Pt.1345) 595 @ 633 D - F; 634 - 635 H - C and *ADISA Vs OYINWOLA* (2000) 10 NWLR (Pt.674) 116 @ 202, he submitted that in the interpretation of provisions of the Constitution, effect must be given to every word in the section and that where the words used are clear and unambiguous, they must be given their plain, ordinary meaning. He submitted that from the provisions of Section 246(1) (c) (ii) of the Constitution (as amended) it is only an appeal on a question as to whether a person has been validly elected to the office of Governor or Deputy Governor of a State that lies as of right to the Court of Appeal from an Election Tribunal. He contended that any

appeal on any other issue must be with leave.

He argued further that paragraph 55 of the 1st schedule to the Electoral Act, which relates to matters of practice and procedure in civil appeals cannot extend to matters in respect of which an appeal may lie as of right since jurisdiction is conferred by substantive provisions of the law and not by Rules of practice and procedure.

He submitted that Section 241 of the Constitution (as amended) is only applicable to appeals that lie as of right to the Court of Appeal from decisions of the High Court of a State or the Federal High Court in matters other than election matters and that Section 242 relates to appeals that lie with leave in similar circumstances.

He referred to the rule of interpretation to wit: *express unius est exclusion alterius* (the express mention of one thing implies the exclusion of the other) and contended that if it was intended to include appeals from Election Tribunals, Sections 241 and 242 of the Constitution would have so provided. He submitted that the exclusion of the Election Tribunal must be taken as deliberate. He referred to: *ATTORNEY GENERAL LAGOS STATE Vs ATTORNEY GENERAL OF FEDERATION* (2014) 9 NWLR (Pt.1412) 217 @ 275 O - H. He submitted that without any provision in Section 246 to the effect that appeals shall also lie as of right from decisions of the Governorship Election Tribunal on any decision finally disposing of the rights of the parties in the petition, or any decision involving questions of law alone, the appeal herein, not being in respect of a decision as to whether a person has been validly elected to the office of Governor or Deputy Governor of a State, is incompetent and the lower court had no jurisdiction to entertain it.

In reaction to the submissions of learned senior counsel for the appellant, learned counsel for the 1st respondent was at a loss as to how the decision, which dismissed the petition and thereby affected the status of the appellant to prosecute the petition could be described as a decision not related to the substance of the petition or even the election. He referred to the decision of this court in *AWUSE Vs ODILI* (2003) 18 NWLR (Pt.851) 116 @ 1S4 wherein it was held that appeals lie to the Court of Appeal from decisions of Election Tribunals in an election petition whether interlocutory or on the merits. He noted that the appellant did not challenge the grounds of appeal or the Notice of Appeal but anchored his argument wholly on

his interpretation of the term and purport of section 246 of the Constitution.

As observed earlier, the crux of the appellant's complaint in respect of this issue is that the decision appealed against has nothing to do with the question as to whether a person has been validly elected to the office of Governor or Deputy Governor of a State and therefore the appellant cannot appeal as of right to the court below. In other words, that leave to appeal ought to have been sought and obtained, and that failure to do so renders the appeal incompetent.

The law is well settled that jurisdiction is a creation of statute or the Constitution. The jurisdiction of the Election Tribunal and the Court of Appeal in respect of Election petitions is derived from the 1999 Constitution (as amended). It is therefore both statutory and constitutional. See ANPP Vs GONI (2012) LPELR – 7830 6A (SC) @ 29-30 G-A.

Section 285(2) of the 1999 Constitution (as amended) provides:

285(2): “There shall be established in each state of the Federal an Election Tribunal to be known as the Governorship Election Tribunal which shall, to the exclusion of any court or tribunal, have original jurisdiction to hear and determine petitions as to whether any person has been validly elected to the office of Governor or Deputy Government of a State.”

The provisions are clear and unambiguous and must be given their ordinary meaning. It is not in dispute that the 1st respondent's petition before the lower court is for the determination of the question as to whether the appellant herein and the 2nd respondent were validly elected to the office of Governor and Deputy Governor of Gombe State.

It is also not in dispute that the said petition was dismissed by the Tribunal on 9th July 2015 and that it is the said dismissal that gave rise to the appeal before the lower court.

Section 246 (1) (c) (ii) of the Constitution provides:

“(1) An appeal to the Court of Appeal shall lie as of right from - (c) decisions of the Governorship Election Tribunals on any question as to whether-

(ii) any person has been validly elected to the office of Governor or Deputy Governor

(2) *The National Assembly may, confer jurisdiction upon the Court of Appeal to hear and determine appeals from any decision of any other court of law or Tribunal established by the National Assembly.*”

Again, the words used are clear and unambiguous and must be given their plain and ordinary meaning.

With the greatest respect to learned senior counsel for the appellant, I am unable to agree with him that the appeal before the lower Tribunal has nothing to do with the substance of the petition or the election. The rule of interpretation express unis est exclusio alterius is inapplicable in the present circumstances. Indeed as held by this court in Awuse Vs Odili (supra) at 154 - 155 H - A, the word “decision” as defined in Section 318 of the 1999 Constitution (as amended) includes decision against a ruling in any proceeding and therefore includes an interlocutory ruling in a proceeding. See also BUHARI Vs OBASANJO (2003) 17 NWLR (Pt.841) 446.

The effect of the dismissal of the 1st respondent’s petition by the Tribunal is that his right to have the question as to whether the appellant and 2nd respondent were validly elected to the office of Governor and Deputy Governor of Gombe State determined has been truncated. Learned senior counsel for the appellant conceded as much at the hearing of this appeal on 19/10/2015. The 1st respondent was entitled to appeal as of right against that decision pursuant to Section 246(1) (c) (ii) of the 1999 Constitution (as amended). This issue is also hereby resolved against the appellant.

In conclusion, the appeal fails and is accordingly dismissed. The judgment of the Court of Appeal sitting at Yola, delivered on 10th September 2015 is hereby upheld. The petition of the 1st respondent - is remitted to the trial Tribunal for expeditious hearing. The five other appeals namely; SC.706/2015, SC.707/2015, SC.730/2015, SC.731/2015 and SC.733/2015 on the same facts & law and between the same parties are also accordingly dismissed, as agreed by all learned counsel.

There shall be no order for costs.

FABIYI JSC

I have had a preview of the judgment just delivered by my learned brother - Kekere-Ekun, JSC. I agree with the lucid reasons therein advanced to arrive at the conclusion that the appeal lacks merit and deserves an order of dismissal.

Let me say it right away in support that Section 2 (1) of the Legal Practitioners Act, 2004 should not be construed strictly to the point of attempting to rock the boat. An abbreviated name is not enough to disqualify a lawyer whose name is on the Roll. This is more so as the counsel concerned in this matter deposed to an affidavit to show that he is a qualified lawyer. Same was not countered by the other side. Sam Kargbo established that he is the same person as Samuel Peter Kargbo whose name appears on the Roll of Legal Practitioners.

This matter has nothing to do with the contention in *Nweke v. Okafor* (2007) 10 NWLR (Pt. 1043) 521; *First Bank of Nig. Plc v. Maiwada* (2013) 5 NWLR (Pt. 1348) 444 wherein Legal processes were signed in the name of a firm, a non-juristic person.

My learned brother said it all. For the above observation and based on the reasons ably advanced in the lead judgment which I hereby respectfully adopt, I too find that the appeal is devoid of merit. It is hereby dismissed along with the five (5) other similar appeals on same facts and law as agreed by all counsel to the parties in those appeals.

I too, make no order for costs.

GALADIMA JSC

I have had the opportunity of reading in advance the lead judgment just delivered by my learned Brother KEKERE-EKUN JSC. I agree that this appeal lacks merit and should be dismissed, without costs.

The Appeal is one of the 6th Appeals slated for hearing on the 20th day of October, 2015. The others listed for hearing which have the same facts and circumstances are:

1. SC.706/2015: ALHAJI HASSAN DANKWAMBO

VS

JAFAR ABUBAKAR & 3 ORS.

2. SC. 707/2015: ALHAJI IBRAHIM HASSAN DANKWAMBO
VS

JAFAR ABUBAKAR & 3 ORS.

3. SC. 730/2015: PEOPLE DEMOCRATIC PARTY
VS

^B JAFAR ABUBAKAR & 3 ORS.

4. SC.731/2015: PEOPLE DEMOCRATIC PARTY
VS

JAFAR ABUBAKAR 3 ORS.

^C 5. ALHAJI IBRAHIM HASSAN
VS

JAFAR ABUBAKAR & 3 ORS.

When these appeals came for hearing on the 20th day of October 2015, learned counsel for the respective parties unanimously
^D agreed that Appeal No SC.732/2015 should be taken first, the decision of which they would abide by. Hence, my consideration of the Appeal No SC. 732/2015 herein.

In the case at hand the Court of Appeal sitting in Yola, in its judgment delivered on 10/9/2015 set aside the Ruling of the Governorship Election Tribunal in the consolidated application in petition
^E No. EPT/GMB/GOV/2/2015 delivered on 3/8/2015 and remitted the case to the Tribunal for the expeditious determination on the merits.

Not satisfied with the judgment, the Appellant who was the first Respondent both at the trial Tribunal and in the Court of Appeal
^F filed two separate Appeals SC.732/2015 and SC.733/2015 containing similar Grounds and particulars and served the 1st Respondent with two Appellant Briefs on 2/9/2015.

It is important to note that the decision appealed against from
^G the decision of Tribunal to the Lower Court and thereafter to this Court is not on the question whether Alhaji Ibrahim Dankwambo was validly elected as the Governor of Gombe State. It is rather, that the Appeal was from a decision in the election petitions by which the Election Tribunal had decided that the name of the learned counsel
^H of the 1st petition/Respondent whose full names on the Roll of the Legal Practitioner called to the Bar is SAMUEL PETER KARGBO could have validly signed the petition of the petition and other processes and subsequently conducted prehearing trial as SAM KARGBO and or can validly announce his appearance before the Tribunal, as

such, as he cannot be considered as a person fit to practice as a lawyer in Nigeria.

On the foregoing ground the Election Tribunal had expunged the pre-hearing and trial proceedings in which the name of the counsel appeared. Consequently, the Tribunal ruled that the Petitioner had not taken part in the pre-hearing proceedings, and liable to be and was dismissed pursuant to paragraph 18(11) of the 1st schedule to the Electoral Act 2010, as amended. B

The lower court without much order set aside the decision of the lower Court and restored the petition Aggrieved by this decision the Appellant who was the 1st Respondent in the petition has now appealed to this Court. C

In paragraphs 4 - 7 of the Affidavit in support of the Appellant's (hearing) application seeking to have the petition strike out, the following facts were deposed to: D

"4. That I have also checked the name 'Sam Kargbo' on the Roll of Lawyers called to the Nigerian Bar.

5. That there are only two persons bearing the name 'Kargbo' namely:

(1) Kargbo Samuel Peter (called to Bar in 1992 with Enrolment No. SCN 018744). E

(2) Kargbo Fatu Alice (Miss) (called to Bar in 2009 with Enrolment NO.SCN 069466).

6. That there exists no 'Sam Kargbo' on the said Roll available on Nigerian Bar Association website. F

7. That the Petition in Petition No. EPT/GMB/GOV/2/2015 was not prepared signed and filed by a lawyer called to the Nigeria Bar."

In the petitions counter-Affidavit in paragraphs 12-16 it was deposed to as follows: G

"12. I know for a fact that what the Act forbids and which the Courts have frowned at is for Legal Practitioners to sign legal documents or processes with their firm's names.

13. I know for a fact that my colleague is the only Legal Practitioner using Sam Kargbo in Nigeria and he is enrolled at the Supreme Court of Nigeria on July 17, 1992 with enrolment Number SCN-018744 in volume 69 pages 27247. H

14. I know that Sam Kargbo is a real person and a very prominent Legal Practitioner who has made immense contribution to Le-

gal Practice including but not limited to pioneering. Alternative Dispute Resolution (ADR) in Nigeria through the Negotiation and Council Management Group (NCMG) which he co-founded in 1988.

15. *I know for a fact that Sam Kargbo is and cannot be a fake Lawyer but a complete gentleman who is indeed quintessential example of what a Lawyer should be.*

16. *Mr. Sam Kargbo's Call to Bar Certificate Letter from the Chief Registrar of the Supreme Court confirming his status as a Legal Practitioner, Bachelor of Laws Degree from the University of Benin and some of the receipts of payments to the Nigeria Bar Association are attached as Exhibit AE1) AE2) AE3 and AE4-D to this Affidavit.*"

In his 4 Grounds of Appeal the two issues raised for determination are:

"1. *Whether the Petitioner's Solicitors can, in Conducting the Petition, prepare, sign and file Court processes and conducts Court proceedings using) as his name, an alias other than his name on the Roll of Legal Practitioners, and, if he cannot what is the validity of the said Processes and Proceedings?* (Grounds 1, 2 and 3)

2. *Whether the appeal to the lower Court from the decision of the Governorship Election tribunal was competent. (Ground 4)*

The issues formulated by the 1st Respondent for the determination of this appeal are as follows:

"1. *Whether the Court of Appeal was right in holding that the Trial Tribunal misapprehended and mis-applied the stipulations of the Legal Practitioners Act when it held that the proceedings conducted at the pre-hearing by Sam Kargbo are to be expunged because the name Sam Kargbo is not on the Roll of Legal Practitioners, without having been shown that the person who conducted the proceedings as Sam Kargbo is not a Legal Practitioner, since what the Act seeks to avoid is have impostors carry out duties as legal practitioners.*" **FOUNDATIONS 1 and 2**

2. *"Whether from the facts and circumstances of this case the Court of Appeal was right in setting aside the Ruling of the Tribunal in the consolidated applications In Petition NO: EPT/GM13/GOV/2/2015 delivered on 3rd August, 2015".* **FOUNDATION 3**

3. *"Whether the Appellant has established a case before this Honourable Court to question the competence of the appeal to the lower court from the Tribunal."* **FOUNDATION 4**

The 4th Respondents in their Brief adopts the two issues formulated by the Appellant. Its learned counsel however concedes the appeal.

On the first issue learned silk for the Appellant 1. ISIYAKU SAN has submitted that by sections 2(1) and 24 of the Legal Practitioner Act, a person is entitled to practice law only if his name is on the Roll. That if in the conduct of his practice a person identifies himself not as in the Roll; he would clearly be in breach of the said Act, and all process and proceeding conducted by him will be expunged and proceedings conducted by him are liable to be strike out. It is contended that the counsel for the 1st Respondent in the conduct of his practice prepared and signed and filed processes in a name other than the one in the Roll. Amplifying on the issue some legal authorities were cited in support of the counsel's arguments and submissions, OKARIKA V. SAMUEL (2013) FWLR (Pt. 1352) p.19, HAMZAT v. SANI (2015) 5 NWLR (pt.1453) 486, REGISTERED TRUSTEES OF APOSTOLIC CHURCH V. AKINDELE (1967) All NLR 118, which Counsel submitted the Court below relied on, which are not apposite.

It is submitted that the provisions of section 2(1) of the Legal Practitioners Act (Supra) create two scenarios and not one; namely, called to the Nigerian Bar and is not a Lawyer permitted to practice, and where a person was called to the Nigerian Bar but without showing any reasonable cause, for example, change of name as in adoption of husband's name after marriage, resorts to an alias to prepare, sign and file Court processes and also conduct Court proceedings.

Further classifying the position of law on this point, learned silk submitted that the provisions of section 2(1) and 24 of the Act. (Supra) do not sustain the use of an alias by a Legal Practitioner other than the name on the Roll unless where there is reasonable cause to do so: as where a female marries and adopts her husband's name or where a person changes his name. That in the instants case none of these exceptions has been shown.

On the second issue learned silk submitted that from the provisions of the section 246(1) (c) (ii) of the 1999 Constitution, it is only an appeal, as to whether a person has been validly elected to the office of Governor or deputy Governor of a State that appeal lies as of right to the Court of Appeal from an Election Tribunal.

It is submitted that in the absence of any substantive provision conferring any right of appeal without leave on any question other than as to where a person validly elected Governor or Deputy Governor, the lower Court has no jurisdiction to entertain the appeal of the 1st Respondent. It is urged that this issue be resolved in favour of the Appellant.

The Crux of the Appeal before the Court below was that the petitioner's Solicitor held out himself as "SAM KARGBO", a name that is not on the Roll of Lawyers. When he was challenged the 1st Respondent filed a counter-Affidavit which have been set out above, where, inter alia, it was deposed that "*SAM KARGBO*" is one *and the same person as ((SAMUEL PETER KARGBO*" a name found on the Roll of Legal Practitioners.

The following points must be well noted. It is on record that the petition which the Tribunal listed as one of the processes filed by "SAM KARGBO" on page 15 of its Ruling and which it nullified was already held to be competent by the Tribunal differently constituted, in its ruling of 9 17 12005. Worthy of note also is the fact that the pre-hearing information sheet form T/F 008 was issued on the basis of Henry Onugwu's application see page 1811-1825 of Vol. 3 of the Records. It was the same person who filed the Answers to questions contained in the said pre-hearing information sheet. The pre-hearing report was made and presented in the Tribunal and not "Sam Kargbo see Page 863-1867. It is shown that the said proceedings were conducted by the Tribunal with Henry Onugwu also in attendance. It would appear that there was no protest by the Respondent against the appearance of Henry Onugwu Austin Enhaba. The resolution of this first issue herein depends on a proper appreciation of section 2(1) 8(1), (2) and 24 of the Legal Practitioners Act.

These sections provide as follows:

"2(1) Subject to the provisions of this provision of a person shall be entitled to practice as a Barrister and Solicitor if, any only if, his name is on the roll.

8(1) Subject to the provisions of the next subsection and of any enactment in force in any part of Nigeria prohibiting or restricting the right of any person to represented by a legal practitioner in proceedings before the Supreme Court or the Sharia Court of Appeal or any area or customary court) a practitioner shall have the

right of audience in all courts of law sitting in Nigeria.

(2) No legal practitioner (other than such a person as is mentioned in subsection (3) of section 2 of this Act) shall be accorded the right of audience in any court in Nigeria in any year) unless he has paid to the Registrar in respect of that year) a practising fee -

24. "Legal practitioner" means a person entitled in accordance with the provisions of this Act to practice as a barrister or as a barrister and solicitor) either generally or for the purposes of any particular office or proceedings". (Emphasis ours)"

From the foregoing provisions, it is clear that the Court below was right to 'have held that these provisions are in respect of the person who shall be entitled to practice as a Legal Practitioner in and not about the name of the person. The reason is clear. The name is not an entity and it is not the name per se that acquires the requisite, qualifications for call to the Bar and enrolment at the Supreme Court but the person who bears the name.

In this case qualification of the counsel is not In Issue. It is not disputed that he does not bear abbreviated "SAM KARGBO." It will amount to gross misapprehension and misapplication of the provisions set out above to expunge the counsel's processes filed by him because he subscribes, the name "Sam Kargbo" against his signature, and to deny him right of audience.

Courts do not give a restrictive and punitive interpretation to a statute where there is leeway that will avert such adverse consequences. I set out quite extensively, the judgment of the Court below the possibility of such adverse effect," when it held at page 35-36 as follows:

"It is restrictive and punitive interpretation of Section 2 of the Legal Practitioners Act to hold that the only person whose appearance can be countenanced by the court must be the same person who signed processes and whose appeared on the Roll as Samuel Peter Kargbo, and that the contemplation of the Legal Practitioner Act is that Counsel MUST only file processes and announces appearance only as exactly as their names appear on the Roll leaving no room for abbreviation of such a name.

The argument of learned 1st Respondent Counsel that if Sam Kargbo instead of Samuel Peter Kargbo is allowed to practice law, every Nigerian Lawyer called to the Bar will be allowed to jettison his name on the Roll of Lawyers and use different names or alias in

different processes and proceedings IS disingenuous at best. The traditional, the Bar and Bench cannot be swept off so lightly. Most Lawyers drop their full names and use abbreviations or initials to announce their appearance and sign Court processes. That has always been acceptable so long as they are juristic persons who had been called to Bar. This has been settled beyond doubt by *Hamzat V. Sani (2015) LPELR (24302)* delivered by the Supreme Court. See *OKAFOR v. NWEKE (2007) 10 NWLR PT.1043 Pg. 521*. The present legal names of most woman Lawyers who married after call to Bar are on the Roll of Legal Practitioners. Their married name is their Legal names now. If argument were allowed to hold) eighty percent of processes in law courts today all over the country will be rendered incompetent. I cannot fathom how and why the Tribunal can countenance the argument of the respondents given the nature and circumstance of this case being an election petition. It is a preposterous enthronement of technicality over substantial Justice.

The purpose of Section 2 and Section 24 of the Legal Practitioners Act is not to exclude anyone from practising as a Barrister and Solicitor duly enrolled to practice law before the courts in Nigeria. Counsel's affidavit to that effect was never countered"

As noted above) it was the Appellant herein who made the application of 6/7/2015 upon which the ruling of 9/7/2015 was made by the Tribunal differently constituted from that which made the ruling of 3/8/2015. I, find it difficult to reconcile Appellant's paragraph 4.02 of his brief where it is contended that Sam Kargbo is an alias. He is not an alias but an abbreviation of "Samuel Peter Kargbo."

The Dictionary meaning of the word "abbreviation" is to make a word or phrase shorter by using only the first letters of each word. Examples a hand; "Theophilus" is often abbreviated "Theo" "Okechukwu" abbreviated as "Okey" Daniel" as Dan etc. On the other hand "alias" refer to a fictions name. It is defined in the Oxford Advanced Learners Dictionary as "a false different name, especially one that is issued by a criminal".

Arguing the appeal learned silk laid so much emphasis on the decisions of this Court in *OKAFOR v. NWEKE (2007) 10 NWLR (Pt.1043) 521*, *FBN (NIG) LTD. v. WADA 5 NWLR (Pt. 1348) 444*, on the interpretation of sections 2 (1) 24 of the Legal Practitioners Act (supra). Decisions of Courts are made on particular facts and circum-

stances of each case. Both cases raised the validity of a legal process agreed in the name of a firm, which is a non-juristic person. This Court held that a law firm is not a legal practitioner and cannot therefore practice as such by filing processes in Nigerian courts. This does not lay general principle that covers situation in the case of hand. The cases are distinguishable. B

The questions in this appeal is whether “Sam Kargbo” is the same person as “Samuel Peter Kargbo” - a person who has enrolled to practice as a lawyer in Nigerian Courts. It was not proved that the person who signed the processes and conducted proceeding as Sam Kargbo is not a legal Practitioner. Nothing in section 2 (1) of the Legal Practitioners Act that prohibits the use of an abbreviation of someone’s name or initials in endorsing documents or conducting proceedings. In the light of the above, I resolve the first issue against the appellant. C D

In issue 2 the contention of the learned senior silk for the Appellant is that the decision of the trial Tribunal was not related to the substance of the petition or the election. Reference was made to s. 285 (9) of the 1999 Constitution as amended and s. 246 (1) (C) (ii) of the said Constitution. It is submitted that from the provisions of 8.246 (i) (c) (ii) (supra) it is only an appeal on question as to whether a person has been validly elected to the office of Governor or his deputy that lies as of right to the Court of appeal from Election Tribunal; that any on issue must be with leave of Court. E F

I agree with the learned Counsel to the 1st respondent that this submission is misconceived. The dismissal of petition of the 1st Respondent at the Tribunal and the decision of the Court below that redressed his right to ventilate his complaint and the Appellant’s stand on the issues, to my mind, are all issue related to the substance of the petition for the Election. The 1st and 2nd Respondents had challenged the election of the Appellant, this petition was dismissed. He has right of Appeal against the decision under S. 246(1) (c) (ii) of the Constitution. In view of the foregoing, I resolved this issue against the Appellant. G H

On the whole and in conclusion I agree with my learned Brother Kekere- Ekun JSC that the appeal lacks merit it is accordingly dismissed. The petition of the 1st Respondent is remitted to the trial Tribunal for expeditious hearing.

PETER-ODILI JSC

I am in total support with the judgment and reasoning just delivered by my learned brother, Kudirat M. O. Kekere-Ekun, JSC and I shall make some comments to underscore that support.

B Briefly the facts culminating in this appeal could be stated thus:

The Petitioner had petitioned the Governorship Election Petition Tribunal sitting in Gombe against the election to the office of Governor of Gombe in the person of Alhaji Ibrahim Hassan Dankwambo who shall hereinafter be referred to as the Appellant.

C In the course of the proceedings at that Tribunal aforesaid, it was decided by the Tribunal that the name of the counsel who prepared, signed and filed the Petition and conducted the prehearing and trial proceedings on behalf of the Petitioner is not a name on the D Roll of Legal Practitioners in Nigeria and is not the name of a person allowed to practice as a lawyer in Nigeria. The Tribunal thereby expunged the pre-hearing and trial proceedings in which the said Solicitor had identified himself to the Tribunal in the un-enrolled name. Also expunged was the Pre-hearing Report and the Tribunal further E dismissed the Petition stating that the Petitioner had not taken part in the Pre-hearing.

On appeal to the Court of Appeal, that decision of the trial Tribunal was set aside and the Petition restored.

F Unhappy with that decision of the appellate Court, the Appellant has appealed to the Supreme Court.

The grouse of the Appellant is that the counsel to the Petitioner had signed with the name “Sam Kargbo Esq” while the name in the Roll of Lawyers called to the Nigerian Bar is Kargbo Samuel Peter G called to Bar in 1992. The Petitioner had deposed to a counter-affidavit that “Sam Kargbo Esq” was the same person as “Kargbo Samuel Peter”.

Learned counsel for the Appellant, I. Isiyaku adopted his Brief of Argument filed on 28/9/2015 and in it raised two issues for H determination, viz:

1. Whether the Petitioner’s solicitor can in conducting the Petition, prepare, sign and file court processes and conduct court proceedings using as his name, an alias other than his name on the Roll of Legal Practitioners and if he cannot, what is the validity of the said

Processes and Proceedings?

2. Whether the appeal to the Lower Court from the decision of the Governorship Election Tribunal was competent?

Samuel Peter Kargbo, learned counsel for the 1st Respondent adopted his Brief of Argument filed on 2/10/2015. He formulated three issues for determination which are as follows:-

1. Whether the Court of Appeal was right in holding that the Trial Tribunal misapprehended and mis-applied the stipulations of the Legal Practitioners Act when it held that the proceedings conducted at the pre-hearing by Sam Kargbo are to be expunged because the name Sam Kargbo is not on the Roll of Legal Practitioners, without having been shown that the person who conducted the proceedings as Sam Kargbo is not a Legal Practitioner, since what the Act seeks to avoid is have impostors carry out duties as legal practitioners. (Grounds 1 and 2)

2. Whether from the facts and circumstances of this case the Court of Appeal was right in setting aside the Ruling of the Tribunal in the consolidated applications in Petition NO. ERT/GMB/GOV/2/2015 delivered on 3rd August, 2015". (Ground 3)

3. Whether the Appellant has established a case before this Honourable Court to warrant this Honourable Court to question the competence of the appeal to the Lower Court from the Tribunal. (Ground 4)

Mr. I. M. Dikko, legal counsel for the 4th Respondent adopted the two issues crafted by the Appellant.

The two issues so drafted by the Appellant are hereby taken together and in effect the questions called up are whether the Petitioner's solicitor can conduct the petition, prepare, sign and file court processes and conduct proceedings in the Court using as his name an alias other than that reflected on the roll of Legal Practitioners and if he cannot what is the validity of those processes and proceedings. Also whether the appeal to the Court of Appeal was competent.

In making their case, learned counsel for the Appellant submitted that the provisions of Section 2 (1) of the Legal Practitioners' Act created two possible scenarios which are:

(1). Where a person was not called to the Nigerian Bar and is a Lawyer permitted to practice in Nigeria; and

(2). Where a person was called to the Nigerian Bar but without

showing any reasonable cause like change of name as in adoption of husband's name after marriage, resorts to an alias to prepare, sign and file court processes and also to conduct court proceedings.

B That the provisions of Sections 2 (1) and 24 of the Legal Practitioners' Act do not sustain the use of an alias by a Legal Practitioner other than the name on the Roll unless where there is a reasonable cause to do so as where a female marries and takes on the name of the husband or where a person changes his names none of which exceptions are applicable in the case in hand.

C Learned Senior Counsel, Mr. Isiyaku contended that the effect what transpired with the signing of the Petition in the name of Sam Kargbo is the same as signing in the name of a Law Firm which name is not on the Roll of Legal Practitioners.

D On the second issue as to the competence of the appeal at the Court of Appeal without leave of that court, learned counsel for the Appellant submitted that the appeal was incompetent since it was from an interlocutory decision not a final decision and the lack of leave was fatal. He cited Sections 285, 246 and 241 of the Constitution as amended. That is, that the decision appealed against to the E Court below was not to the question whether a person was elected to the office of Governor or not.

F In response, Mr. Samuel Kargbo for the 1st Respondent contended that the Court of Appeal was right in holding that the Legal Practitioners Act Section 2 (1) & 24 are in respect of the person who shall be entitled to practice as a legal practitioner in Nigeria and not about the name of the person. That the Court of Appeal put the adverse effect of a restrictive interpretation of the Legal Practitioners' Act in its proper perspective.

G It was further submitted for the 1st Respondent that in holding that the Tribunal had jurisdiction to hear and determine the applications pursuant to which the petition was dismissed, the Lower court determined the issue whether or not the question determined by the Tribunal was an interlocutory question or a final one and when it H held the decision to be one on a final question, it became a final decision and so there was no need for leave to appeal as the appeal was of right in the circumstance.

The standpoint of the Appellant as anchored by learned counsel is that the genesis of the appeal is not in respect of a decision as to

whether a person was validly elected Governor but arose from a decision as to whether the Petitioner's counsel's name is Sam Kargbo which is not the exact name in the Roll of Legal Practitioners and so infringed Sections 2 (1) and 24 of the Legal Practitioners' Act. That the infraction vitiated the pre-hearing proceedings and Report which had the effect of having the Petition dismissed as not in compliance with the 1st Schedule to the Electoral Act, 2010 as amended. That the decision to dismiss that petition emanating from an application was not a final decision and so the lack of leave to appeal was fatal in keeping with Section 246 (1) (c) (ii) of the 1999 Constitution as amended.

Countering that position, the 1st Respondent said it was the Court of Appeal who rightly set the situation as it should be that is that Sam Kargbo was the same person as Samuel Peter Kargbo, the name on the Roll of Legal Practitioners in Nigeria and the Tribunal was wrong to dismiss the Appeal. Also that the dismissal of the petition though stemming from an interlocutory application being a final decision there was no need for leave as the appeal to the Court Below was of right.

The 4th Respondent being on the same page as the Appellant conceded the appeal, adopting the reasoning thereof.

On whether or not the solicitor, Sam Kargbo was properly before the Court, I shall quote the relevant statutory provisions as stated in the legal Practitioners' Act 1975 Sections 2 (1), 8 (1) & (2) and 24 thereof viz:

2(1) Subject to the provisions of this Act, a person shall be entitled to practise as a barrister and solicitor if, and only if, his name is on the roll.

8(1) Subject to the provisions of the next following subsection and of any enactment in force in any part of Nigeria prohibiting or restricting the right of any person to be represented by a legal practitioner in proceedings before the Supreme Court or the Sharia Court of Appeal or any area or customary Court, a legal practitioner shall have the right of audience in all Courts of law sitting in Nigeria.

(2) No legal practitioner (other than such a person as is mentioned in subsection (3) of Section 2 of this Act) shall be accorded the right of audience in any Court in Nigeria in any year, unless he has paid to the Registrar in respect of that year, a practising fee.

“Section 24 - “Legal Practitioner” means a person entitled in accordance with the provisions of this Act to practise as a barrister or as a barrister and solicitor, wither generally or for the purposes of any particular office or proceedings”.

The Court of Appeal in its judgment interpreted those provisions in this way and I shall quote extensively for a clearer appreciation of what is expected and thus:-

*“It is a restrictive and punitive interpretation of Section 2 of the Legal Practitioners’ Act to hold that the only person whose appearance can be countenanced by the Court must be the same person whose signed processes and whose names appeared on the Roll as Samuel Peter Kargbo, and that the contemplation of the Legal Practitioner Act is that Counsel **MUST** only file processes and announce appearance only as exactly as their names appear on the Roll leaving no room for abbreviation of such a name.*

The argument of learned 1st Respondent Counsel that if Sam Kargbo instead of Samuel Peter Kargbo is allowed to practice law, every Nigerian Lawyer called to the Bar will be allowed to jettison his name on the Roll of Lawyers and use different names or alias in different processes and proceedings is disingenuous at best...”

The tradition at the Bar and Bench cannot be swept off so lightly. Most Lawyers drop their full names and use abbreviations or initials to announce their appearance and sign Court processes. That has always been acceptable so long as they are juristic persons who had been called to Bar. This has been settled beyond doubt by *Hamzat v Sanni (2015) LPELR (23302) 1* delivered by the Supreme Court. See *OKAFOR v NWEKE (2007) 10 NWLR (Pt. 1043) Page 521*. The present legal names of most women Lawyers who married after call to Bar are not on the Roll of Legal Practitioners. Their married name is their Legal names now. If the argument were allowed to hold, eighty percent of processes in law courts today all over the country will be rendered incompetent. I cannot fathom how and why the Tribunal can countenance the argument of the Respondents given the nature and circumstances of this case being an election petition. It is a preposterous enthronement of technicality over substantial justice.

The purpose of section 2 and Section 24 of the Legal Practitioners’ Act is to exclude anyone from practising as a Barrister and Solicitor who had not been called to the Bar and whose name had

not been enrolled as a Solicitor and Advocate of the Supreme Court of Nigeria. There was no doubt that Counsel who appeared before the Tribunal was a Barrister and Solicitor duly enrolled to practice law before the Courts in Nigeria. Counsel's affidavit to that effect was never countered". PER OGUNWUMIJU, JCA at pp. 35 - 36.

The stance of the Appellant that the use of the name Sam B Kargbo instead of Samuel Peter Kargbo is akin to the use of an alias by counsel for the 1st Respondent. This position as taken by learned counsel for the Appellant and which persuaded the trial Tribunal to make such a sweeping decision and order is difficult to understand C taking into consideration the proper interpretation of the Legal Practitioners' Act provisions in Sections 2 (1) & (2) and 24 respectively and the practice in the course of proceedings or adjudication and normal course of events. What the Tribunal did was like taking a joke too far as one cannot confine a legal practitioner called to bar at a D young age with his simple names such as an Okechukwu Telema Williams who later in the course of his practice and life becomes a Chief, Prof., PHD holder etc from the use of those titles in his legal practice since by any of those titles, people have come to know him in his professional capacity. Also in context is a young girl called to E Bar as Miss Halima Zainab Mohammed and later gets married, becomes an Alhaja and properly answers Mrs. Hajia or Dr. Halima Zainab Abdulkadir. Can it be right to say neither of these persons in their later names are the same as those their names in the roll? The situa- F tion as pushed by the Appellant and encouraged by the Tribunal is one the legal profession can neither handle nor contain in the confusion that would ensue as a lot of cases including those by Judges whose names had changed as they delivered their respective judgments at a point in time would be vitiated not to talk of nullifying G processes of counsel whose names had become Chief or Dr. or Prof in the course of time and judgments and orders executed over the years would now come to naught. The chaotic atmosphere that would ensue cannot just be imagined and as the Court of Appeal rightly H said, "It is a preposterous enthronement of technicality over substantial justice". I agree with what the Court of Appeal said and did and may that day never come when that posture propelled by the appellant would be reality. What was before the Tribunal was not the same as where the names of a legal firm was used instead that of the hu-

man person legal practitioner as what was before that Court. See Registered Trustees of Apostolic Church v Akindele (1967) All NLR 118; Okarika v Samuel (2013) 7 NWLR (Pt. 1352) 19 which are inapplicable to the case in hand, rather, it is to be said that the Legal Practitioners' Act Sections 2 (1) & (2) and 24 do not support the stand of the appellant as they had not provided as Appellant posited and as was held in Jarvis Motors (Harrow) Ltd v Anor. (1964) 3 All ER 89 at 91 "*what is not expressly forbidden is permitted*".

In the final analysis, the Court of Appeal was right in its reasoning and decision to which this Issue relates. As a follow up to the Second Issue as to whether the expunging of those processes and the dismissal of the Petition was interlocutory or final, I shall seek refuge with the test orchestrated by Tobi JSC in Alor v Ngene (2007) 17 NWLR (Pt. 1062) 163 at 178 and thus:-

"Two tests have been laid down for determining whether or not an order of Court is final or interlocutory. They are: (a) the nature of the application made to the Court; (b) the nature of the order made. In Nigeria, it is the nature of order test that has been constantly applied. If the order made finally disposes of the right of the parties, then the order is final. If the order made does not, then it is interlocutory. An order is also regarded as final if it at once affects the status of the parties for whichever side the decision may be given, so that if it is given for the plaintiff, it is conclusive against the defendant, if it is given for defendant, it is conclusive for the plaintiff. In order to determine whether or not the decision of a court is final or interlocutory, the decision must relate to the subject matter in dispute between the parties and not the function of the court making the order.

The decision of the Tribunal of 3^d August, 2015 was a dismissal of the Petition and it affected the status of the Appellant to prosecute the Petition. Accordingly, by the nature of order test applicable in Nigeria, the decision of the Tribunal complained about is final. See OMONUWA v OSHODIN (1985) 2 NWLR (Pt. 10) 924 and AKINSANYA v USA LTD (1986) 4 NWLR (Pt. 35) 273. In the circumstances, the stipulation of paragraph 27 (1) of the 1st Schedule does not apply".

I do not have any difficulty in going along with the argument of learned counsel for the 1st Respondent that the decision of the Tribunal dismissing the Petition which thereby affected the status of

the Appellant to prosecute the Petition is a decision clearly related to the substance of the Petition and even the election and I go so far as to say it is a final decision for which no leave is required to appeal to the Court below. See *Awuse v Odili* (2003) 18 NWLR (Pt. 851) 116 in which this Court underscored the right of appeal in an interlocutory process properly provided in Section 246 (1) (2) and (3) of the 1999 Constitution. B

This issue is also resolved in favour of the 1st Respondent and so from the foregoing and the well adumbrated lead judgment, I dismiss this appeal as lacking merit while abiding with the consequential orders my learned brother, Kekere-Ekun made. C

ARIWOOLA JSC

I have the privilege of reading in draft the lead judgment of my learned brother Kudirat Kekere-Ekun, JSC just delivered. I agree entirely with reasoning and conclusion that the appeal is lacking in merit and should be dismissed. D

My Lord has meticulously dealt with all the issues in the lead judgment that I need not repeat the same. I only need to chip in a few words in support of the erudite judgment. The appellant had distilled two issues from the four grounds of appeal he filed in the Notice of Appeal. I shall take only the 1st issue which he couched as follows: E

“Whether the Petitioner’s Solicitor can, in conducting the petition, prepare, sign and file court processes and conduct court proceedings using, as his name, an alias other than his name on the roll of Legal Practitioners, and if he cannot, what is the validity of the said processes and proceedings?” F

First and foremost it must be noted that this is an election matter which the court has held to be *sui generis* and of a special nature. G

A petition had been filed at the Gombe Governorship Election person whose name is not on the Roll of Legal Practitioners of the Supreme Court. The name on the said processes is “Sam Kargbo Esq.” The petition was sought to be thrown out for being incompetent having been signed by someone not known to law whose name is not on the Roll. In the counter affidavit filed to oppose the application, the petitioner had deposed to facts and attached various docu- H

ments showing that the name on the Roll of lawyers as Samuel Peter Kargbo was called to bar in 1992 and enrolled on 17th July, 1992, is the same person known and called Sam Kargbo.

It is noteworthy that the appellant had relied heavily on Sections 2(1), 8 (i) and 24 of the Legal Practitioners Act. The appellant B had argued that all the processes filed by Sam Kargbo Esq. are not valid and ought to be thrown out. The court below held otherwise and allowed the appeal which led to the instant appeal.

The Legal Practitioners Act provisions relevant to this case states as follows:

C Section 2(1):-

“Subject to the provisions of this Act, a person shall be entitled to practice as a barrister or solicitor if, and only if his name is on the Roll”

D Section 24:-

“In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say... ” legal practitioner” means a person entitled In accordance with the provisions of this Act to practise as a barrister or E as a barrister and Solicitor; either generally or for the purpose of any particular office or proceedings. ”

As I stated earlier, the appellant herein had challenged the processes filed by the counsel to the 1st respondent herein as petitioner before the trial tribunal on the name that signed and the person who F represented the petitioner as counsel not being a Legal Practitioner known to law. The reason they gave was that the name in question is not in the Roll of Legal Practitioners of the Supreme Court.

There is no doubt that the name of Sam Kargbo Esq. as described may not be on the roll but can it be said that the person who G appeared in court to represent the petitioner/1st respondent and who admitted in writing as the person who prepared and signed those processes is not a legal practitioner qualified and recognized to practise law in a” courts in Nigeria? My response is obviously in the negative. This court has held to be a legal practitioner, that person that has H been called to the bar to practice as a barrister and solicitor of the Supreme Court of Nigeria as provided in Sections 2(1), (2), (3) and (4) of Legal Practitioners Act. See; F. O. M. Atake Vs Chief Nelson Asigboro Afejuku (1994) 9 NWLR (Pt.368) 379, (1994) LPELR -

585 (SC).

There is no doubt that the name Samuel Peter Kargbo is on the Roll of Legal Practitioners entitled to practice law in the Nigerian courts. And the person who appeared as counsel for the petitioner and who admitted in writing, also through sworn affidavit, that he is Samuel Peter Kargbo is the same person that is enrolled on the Legal Practitioners Roll in the Supreme Court. To now say that by abbreviating his name Samuel to simply “Sam” robs him of his entitlement to practice law by filing processes and appearing in court for his client, is carrying it too far. The law did not prohibit counsel or any other person from abbreviating, in particular, first

In other words, I totally disagree with the appellant’s counsel and with respect, I consider it mischievous, to describe the abbreviated name of counsel “SAM” as an alias.

An alias is described in the Chambers Dictionary as “a false or name assumed name.” In the 9th Edition of Black’s Law Dictionary, alias is described as “fictitious name” whereas “to abbreviate a name is to shorten or represent a long word by a shortened form.” I must say clearly, that an abbreviated name is legal and permissible. It does not cease to be a person’s name or render it to lose its juristic personality. In other words, an abbreviation of the first name of any person whose name is on the Roll of Legal Practitioners does not render the abbreviated name to become unregistered or unknown to law as argued by the appellant.

This is a different situation from the use of two names that are on the roll as a Legal Practitioner’s name to file processes in court. There is no doubt that two persons or personalities cannot become, except in marriage when the Statutory law of marriage treats husband and wife of two different personalities as one as far as the relationship exists. In *Amos Oketade Vs. Olayinka Adewunmi & Ors* (2010) NWLR (pt.1453) 63 at 74, this court opined as follows:

“There is a big legal difference between the name of a firm of legal practitioner and the name of a legal practitioner simpliciter. While the name of Olujinmi and Akeredolu is a firm with some corporate existence, the name of a legal practitioner is a name of solicitor and Advocate of the Supreme Court of Nigeria which has no corporate connotation. As both carry different legal entities in our jurisprudence of parties, one cannot be a substitute for the other because they are

not synonyms. It is clear that Olujinmi and Akeredolu is not a name of a Legal Practitioner in Nigeria ...There is no such name in the roll of legal practitioners... “

There is no doubt that the court came to the above conclusion in that case because it was not disputed that the name Olujinmi and
 B Akeredolu are two different names of two distinct personalities. The two names with the conjunctive word cannot make it one name of a legal practitioner on the roll of Legal Practitioners. Such name cannot be found in the roll. But the name of Samuel Peter Kargbo which
 C is on the roll remains a legal practitioner who is entitled to practice law in the Nigerian Courts by that name either with abbreviated first name or initials of his other names other than the family name - Kargbo. It cannot be said that the name “Sam Kargbo” is either a fictitious or false name. I agree that it is the same name of Samuel
 D Peter Kargbo - a Legal practitioner on the roll of the Supreme Court of Nigeria.

I agree entirely with the court below when at p.2226 of the record the court, per Ogunwumiju, JCA stated beautifully, inter alia, as follows:

E “...The purpose of Sections 2 and 24 of the Legal Practitioners Act is to exclude anyone from practicing as a Barrister and Solicitor who had not been called to the Bar and whose name had not been enrolled as a Solicitor and Advocate of the Supreme Court of Ni-
 F geria. There was no doubt that the counsel who appeared before the tribunal was a Barrister and Solicitor duly enrolled to practice law before the courts in Nigeria. Counsel’s affidavit to that effect was never countered.”

I cannot agree more with the court below. The trial tribunal
 G was wrong to have held that the counsel to the petitioner who is the 1st respondent herein cannot practice law with his abbreviated name. The court below was perfectly right and put the point straight. There are many Senior Legal Practitioners and Judicial Officers whose first name as it appears on the roll of legal Practitioners of the Su-
 H preme Court of Nigeria has been abbreviated as it stands today, yet that abbreviation has not robbed and could not rob them of their status as legal practitioners nor can it be said that they have contravened the Legal Practitioners Act. Many first names such as Oluwole, Olukayode, Akinlolu, Christian, Okechukwu, Joseph, Samuel,

Emmanuel, Omotayo, Olajide, Oladele, Olabode appear in the Roll but today stand abbreviated as first name of legal practitioners as Wole, Olu, Akin, Chris, Okey, Joe, Sam, Emma, Tayo, Jide, Dele, Bode. Until the contrary is proved, abbreviated first name or initials before family name used on documents for filing processes in court or announced as appearing for litigants remain valid and proper forever. I say no more on this. B

In the circumstance, and without any further much ado, I also hold that the entire appeal against the decision of the court below is not only lacking in merits but frivolous and vexatious and should be dismissed. C

For the above brief comments, and the detail reasoning in the lead judgment I too will dismiss the appeal. Appeal is dismissed.

I abide by the consequential orders in the lead judgment and also make no order on costs. D

OKORO JSC

I have had the privilege of reading in advance the judgment of my learned brother, Kekere-Ekun, JSC just delivered, with which I agree that this appeal lacks merit and ought to be dismissed. My learned brother has meticulously and quite efficiently resolved all the salient issues submitted for the determination of this appeal and all I intend to do is to make a few comments in support of the judgment. F
A synopsis of the facts leading to this appeal shows that sequel to the governorship election for Gombe State held on 11th April, 2015, at which the appellant herein was returned as duly elected, the 1st respondent who was a candidate at the election filed a petition at the Governorship Election Petition Tribunal challenging the return of the appellant and 2nd respondent as duly elected Governor and Deputy Governor of Gombe State respectively. G

After the close of pleadings, the 1st respondent applied for the issuance of pre-hearing notice pursuant to paragraph 18(1) of the 1st Schedule to the Electoral Act. This was duly issued- by the Tribunal. H
At the end of pre-trial session, the Tribunal issued a Report and fixed the petition for hearing.

The appellant herein thereafter filed an application urging the tribunal to strike out the petition upon the ground that the petition

was signed by Sam Kargbo, Esq., a name that is not on the Roll of Legal Practitioners. The 1st respondent filed counter-affidavit to show that Sam Kargbo, Esq., and Samuel Peter Kargbo are the same. The name Samuel Peter Kargbo appears on the Roll of Legal Practitioners. The Tribunal ruled against the 1st respondent insisting on the use of the name on the Roll of Legal Practitioners and not any other name. The Tribunal then held that the name Sam Kargbo which is not contained on the Roll of Legal Practitioners cannot validly sign the Petition. The tribunal however declined to strike out the Petition, ruling that since the petitioner signed the petition himself, the petition would be saved.

Having come to this conclusion, hearing on the petition commenced. The appellant was not done yet. He and the 3rd respondent filed another applications which were similar urging the Tribunal to dismiss the petition in limine on the ground that Sam Kargbo who represented the petitioner at the pre-hearing session was not a name on the Roll of Legal Practitioners and that in consequence, the proceedings at the pre-hearing session should be expunged and concomitantly the petition dismissed pursuant to paragraph 18(11) of the 1st Schedule to the Electoral Act for failure of the Petitioner to participate in the pre-hearing session. The tribunal upheld the two applications and consequently dismissed the petition. Dissatisfied with the ruling, the 1st respondent appealed against same. In its judgment of 10th September, 2015, the Court of Appeal set aside the consolidated ruling of the Tribunal and remitted the petition to the Tribunal for hearing.

The appellant herein was dissatisfied with the judgment and filed an appeal via a notice of appeal containing four grounds out of which he has distilled two issues for the determination of this appeal. The two Issues are:-

1. Whether the Petitioner's Solicitor can, in conducting the Petition, prepare, sign and file court processes and conduct court proceedings using, as his name, an alias other than his name on the Roll of Legal Practitioners, and, if he cannot, what is the validity of the said processes and proceedings?

2. Whether the appeal to the lower court from the decision of the Governorship Election Tribunal was competent.

The respondents' issues are well set out in the lead judgment

and I do not intend to repeat the exercise.

The main plank of this appeal relates to the issue as to whether a legal practitioner can abbreviate or shorten his name as against the full names as established in the Roll of Legal Practitioners. Whereas the appellant and the 4th respondent (conceding to the appeal) argue that Sam Kargbo, Esq., cannot be the same as Samuel Peter Kargbo, Esq., appearing on the Roll of Legal Practitioners, the 1st respondent argued strenuously that- both names are the same as the former is an abbreviation of the later which the law does not forbid.

Now, Section 2(i) of the Legal Practitioners Act provides as follows:

“2(1) Subject to the provisions of this Act, a person shall be entitled to practice as a Barrister and Solicitor if, and only if, his name is on the Roll.”

In its reaction to the above section and argument in support, the trial Tribunal had insisted and held that - *“We hold the view that there is clearly a world of difference between the names Sam Kargbo and Samuel Peter Kargbo. Clearly, the name that Section (i) of Legal Practitioners Act insists on is the name on the Roll of Legal Practitioners and not any other name.”*

The Court of Appeal did not accept the above position of the trial Tribunal. It overruled the Tribunal in the following words:-

“I think it is ludicrous to extend the stipulations of the Legal Practitioners Act to the elastic extent of insisting that unless appearances in court is announced in the very names in which the Legal Practitioner is enrolled then the Legal Practitioner has no right to audience in court under Section 8 of the Legal Practitioners Act. I shudder to think of the effect and implication of such a construction...”

May that day never come which a Legal Practitioner would be denied audience in court or the proceedings he conducted set aside and expunged, not because he is not a Legal Practitioner but because he did not announce appearance in exactly the names in which he enrolled. Banish the thought. Verily, may that day never come.”

I wish to state here that every institution, group or association has its internal mechanisms to protect and safeguard their common and individual identities, who announced himself before the Tribunal was indeed Samuel Peter Kargbo enrolled in the Register of Legal

Practitioners. This is moreso as his affidavit in support of this fact was never controverted.

Based on the above reasons and the more and detailed ones in the lead judgment, I agree that the court below was right to set aside the decision of the trial Tribunal and ordered the Petition to be heard on the merit. I also dismiss this appeal as it lacks merit and abide by all consequential orders made in the lead judgment.

SANUSI JSC

The instant appeal emanates from the decision of the Court of Appeal (court below) Vola Division, which heard an appeal from the Governorship Election Petition Tribunal for Gombe State (the tribunal) wherein it set aside the ruling of the tribunal in an application on petition No.EPT/GMB/GOV/2/2015 delivered by the tribunal on 3/8/2015 and remitted same to the tribunal for hearing of the election petition expeditiously.

The first and second respondents herein, as petitioners at the tribunal, filed a petition at the tribunal challenging the election and return of the Appellant as winner of the governorship election held on 11th April 2015. Suffice it to say, that the 1st respondent contested the said election for the office of governor of Gombe State on the sponsorship of his party, the AFRICAN DEMOCRATIC PARTY (ADC), while the Appellant and 2nd Respondent contested the same election on the platform of PEOPLES DEMOCRATIC PARTY (POP), which is the 3rd Respondent in this appeal.

The petition was filed at the tribunal by one SAM KARGBO Esq. as solicitor for the petitioner who also signed the said petition along with the petitioner himself JAFAR ABUBAKAR, the first respondent in this appeal.

After exchange of pleadings the tribunal fixed a date for pre-hearing session and later the Tribunal then fixed a date for commencement of the hearing of the petition. On the date fixed for the commencement of hearing of the petition, the 1st respondent to the petition (appellant herein), filed an application praying the tribunal to strike out or dismiss the petition on the ground inter alia, that the petition was signed by one SAM KARGBO Esq. whose name is not in the Roll of registered Legal Practitioner, permitted or allowed to practice

law in Nigeria. Upon being served with the appellant's (1st Respondent's) application, the petitioner, now 1st respondent herein, filed a counter affidavit debunking what was averred in the application, stating that SAM KARGBO is the same person with SAMUEL PETER KARGBO which latter name appears on the Roll of Legal Practitioners. He also attached some exhibits to the counter affidavit. B

The tribunal delivered its ruling in the application on 9th July 2015, wherein it agreed that the name SAM KARGBO differs from SAMUEL PETER KARGBO which appears on the Roll of Legal Practitioners, hence SAM KARGBO Esq. could not validly sign the petitioner's petition. However, the tribunal ruled that the petition was still competent since the petitioner himself also personally signed it. It also held that the petition the platform of PEOPLES DEMOCRATIC PARTY (PDP), which is the 3rd Respondent in this appeal. C

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also held that the petition was still saved by the signature of the petitioner(the appellant) on it.

It is instructive to note that when hearing in the petition was to commence, the 2nd and 3rd Respondents herein, also filed application similar to the one mentioned above, also praying the tribunal to dismiss the petition on the same ground too and also seeking the expunging from the Record, the proceedings held at the pre-hearing sessions. In a considered ruling delivered on 3/8/2015, the tribunal upheld the submissions of the 2nd and 3rd Respondents and dismissed the appeal.

Aggrieved by the Ruling of the tribunal, the 1st Respondent appealed against the ruling and filed two notices of appeal at the lower court on 3/8/2015 and 19/8/15 respectively. The Notice of Appeal filed on 3/8/2015 was subsequently struck out. The lower court on 9/9/2015 delivered its judgment allowing the appeal in part and set aside the ruling of the tribunal dismissing the 1st respondent's petition and remitted the petition to the tribunal for hearing.

Piqued by the decision of the lower court, the 1st respondent appealed to this court on four grounds of appeal. The 1st respondent also appealed against the said judgment.

It is pertinent to say at this stage, that altogether six appeals were filed by various parties' learned counsel in this appeal. These appeals include:

1. SC.706/2015: Alhaji Ibrahim Hassan Dankwambo Vs Jafar Abubakar & 3 Ors;
2. SC.707/2015: Alhaji Ibrahim Hassao Dankwambo Vs Jafar Abubakar & 3 Ors;
3. SC.730/2015: Peoples Democratic Party Vs Jafar Abubakar 3 Ors;
4. SC.731/2015: Peoples Democratic Party Vs Jafar Abubakar & 3 Ors;
5. SC.732/2015: Alhaji Ibrahim Hassan Dankwambo Vs Jafar Abubakar & 3 Ors; and
6. SC.733/2015: Alh. Ibrahim Hassan Dankwambo Vs Jafar Abubakar & 3 Ors.

Briefs of arguments were filed and exchanged in all the six appeals including the instant appeal. Each learned senior or other counsel in each of the six appeals unanimously agreed in open court that the judgment in this appeal i.e. SC.732/2015 which was first

called for hearing, should bind the results of the remaining five appeals listed above.

Learned silk Ibrahim Isiyaku SAN, who appeared for the appellant in this instant appeal, after identifying ‘and adopting his brief in this appeal, urged us to allow his appeal. Then Mr. Samuel Peter Kargbo of learned counsel for the 1st Respondent also adopted his brief and urged that the appeal be dismissed. Then Mr. Solomon Umoh SAN adopted the filed brief on behalf of the appellant in SC.706/2015 and SC.707/2015 and urged this court to allow the appeal. Mr. O. Ayodele, SAN urged the court to allow the appeal on relying on the briefs of argument he filed in appeals Nos. SC730/2015 and SC.731/2015, but he urged this court to be guided by its decision in FBN PLC vs MAIWADA (2013) 5 NWLR (pt. 1348) 448. Lastly, Mr. I. M. Dikko, of learned counsel for the 4th Respondent announced that he conceded to this appeal.

The submissions made by learned senior counsel and other counsel in this appeal have been ably summarised in the leading judgement of my learned brother Kekere-Ekun, JSC which I do not need to repeat or reproduce here.

To my mind, the provisions of Section 2(1) of Legal Practitioner’s Act simply prohibit persons who have not been called to the Bar or registered as Legal Practitioner to practice law in any respect. Once a person whose competence or eligibility is tested and evidence abound that he is a registered Legal Practitioner, it will be absurd or injustice to deny him the permission to exercise his functions as a legal practitioner, simply because he decides to abbreviate his name. It is not in contention that the person who signed the petition is a registered legal practitioner.

The use of abbreviation will therefore not be a reason to question his competence or the validity of the processes he signed or filed in courts or to challenge his appearance in court.

From the facts and circumstances of this case, there is no evidence adduced at the tribunal to show that SAM KARGBO who signed the document petition is not a registered Legal Practitioner. In any case, the said SAM KARGBO deposed to an affidavit stating his actual name as SAMUEL PETER KARGBO as reflected in the Roll of Legal Practitioners and that he is the same person bearing the abbreviated name of SAM KARGBO.

Thus, with these few remarks, I am at one with the reasoning advanced by my learned brother Kekere-Ekun, JSC in the lead judgement which I also adopt as mine.

I also hereby dismiss this appeal for being devoid of any merit.

I abide by all the consequential orders made in the leading
B judgement.

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