

IN THE HIGH COURT OF THE SUPREME COURT OF JUDICATURE
PETITION QUESTIONING AN ELECTION TO THE NATIONAL
ASSEMBLY UNDER THE NATIONAL ASSEMBLY VALIDITY OF
ELECTIONS ACT CHAPTER 1:04

Elections holden on the 15th day of December, 1997

In the Matter of Articles 60,162 and 163 of the Constitution
of Guyana.

-and-

In the Matter of the Representation of the People Act,
Chapter 1:03.

-and-

In the Matter of the National Assembly (Validity of
Elections) Act, Chapter 1:04.

BETWEEN:

ESTHER PERREIRA

Petitioner

-And-

1. **CHIEF ELECTION OFFICER**, Lot 1 High and Cowan Streets, Kingston, Georgetown.
2. **DOODNAUTH SINGH**, Chairman of the Elections Commission, Lot 255 Forshaw Street, Queenstown, Georgetown.
3. **JANET JAGAN**, representative of the People's Progressive Party/Civic List of Candidates, State House, Main Street, Georgetown.
4. **HUGH DESMOND HOYTE**, representative of the People's National Congress List of Candidates, Lot 14 North Road, Bourda, Georgetown.
5. **MANSOOR NADIR**, representative of The United Force List of Candidates, Lot 45 Garnett Street, Lamaha Gardens, Georgetown.
6. **RUPERT ROOPNARINE**, representative of The Alliance For Guyana List of Candidates, Tranquility Hall, Mahaica, East Coast Demerara.
7. **HAMILTON GREENE**, representative of the A Good and Green for Guyana List of Candidates, Plot "D" Lodge, Georgetown.

8. **ASGAR ALLY**, representative of the Guyana Democratic Party List of Candidates, Mon Jijou, Canal No. 1 Polder, West Bank Demerara.
9. **HARDATT PERSAUD**, representative of God Bless Guyana List of Candidates, Success, East Bank Demerara.
10. **CHANDRA NARINE SHARMA**, representative of the Justice For All Party List of Candidates, Lot 73 Robb Street, Lacytown, Georgetown.
11. **JOSEPH BACCHUS**, representative of the National Democratic Front List of Candidates, Lot 22 Trotman Alley, Wismar, Linden.
12. **SAPHIER HUSAIN**, representative of the National Independent Party List of Candidates, Broom Hall, Mahaicony, East Coast Demerara.

Respondents

In the Matter of an Application by The Elections Commission.

BEFORE THE HONOURABLE MADAM JUSTICE C.M.C. SINGH

DATED THE 26TH DAY OF JANUARY, 2001

ENTERED THE 2ND DAY FEBRUARY, 2001

UPON the Petition of Esther Perreira, the abovenamed Petitioner, preferred unto this Court on the 25th day of February, 1998, questioning the legality of the National and Regional Elections held in the Republic of Guyana on the 15th day of December, 1997 and the validity of the results declared thereof on the 19th day of December, 1997.

AND UPON hearing Counsel for the Petitioner and for the Respondents and the evidence adduced on behalf of the Petitioner and the evidence adduced on behalf of the No. 1 Respondent;

AND MATURE CONSIDERATION THEREON HAD, THIS COURT DOTH
 DECLARE as follows:-

- (1) That the Elections Law (Amendment) Act No. 22 of 1997 is ultra vires Articles 59 and 159 of the Guyana Constitution, and as a consequence the said Act is null and void.
- (2) That the aforesaid Elections were not conducted in accordance with the provisions of the Representation of the People Act Chapter 1:03 and the said Articles 59 and 159 of the Constitution of Guyana, and are therefore unlawful.

Consequent upon the said declarations stated at (1) and (2) above, **THIS COURT DOTH ORDER** as follows:-

- (3) That fresh National and Regional Elections shall be held in the Republic of Guyana on or before the 31st day of March, 2001.

That of necessity, to uphold the rule of law, to prevent the creation of a legal vacuum with grave consequential chaos and in the interests of effective government, the President and his Cabinet, as presently constituted, shall perform their respective functions of office, not under or by virtue of the declared unlawful National and Regional Elections, **but under and by virtue of the Order of this Court**, from the date of this Order until the date on which fresh National and Regional Elections as aforesaid are held in the Republic of Guyana on or before the 31st day of March, 2001, subject to the following limitations:

- (a) No legislation shall be introduced in Parliament except those required for the proper and timely holding of fresh National and Regional Elections and/or in compliance with the terms of the Herdmanston Accord.
- (b) No substantial contracts for the execution of public works shall be awarded **without the permission of this court.**

- (c) The state owned media shall only be used for election purposes through paid advertisements.
- (5) Parliament, as presently constituted, shall continue to function for the necessary and limited purposes of enacting such legislation as is required for the proper and timely holding of fresh National and Regional Elections as aforesaid and any further working out of the terms of the Herdmanston Accord and shall stand dissolved by Nomination Day.
- (6) Regional Assemblies and Regional Administrations shall continue to function until fresh Regional Elections are held as aforesaid.
- (7) All National and Regional executive acts performed after December 15th 1997 which would otherwise be lawful were it not for their invalidity due to the decision of this court, are temporarily validated until such time as newly elected National or Regional representatives can validate, amend, modify or revoke them according to law, of necessity and in order to uphold the rule of law, to preserve the rights, obligations and other legal effects as if they had arisen under the provisions of valid enactments for such time until they are permanently validated by the new Legislature.
- (8) All legislative enactments including subsidiary legislation and by-laws enacted or made between the December 15th, 1997 to date of entry of this order which would currently be in force, were it not for their invalidity due to the decision of this Court, shall be granted temporary validity and deemed effectual for such period of time until the new Legislature validates such acts permanently.
- (9) The costs incurred in this Petition to be taxed unless otherwise agreed upon and paid by the Guyana Elections Commission, certified fit for Senior Counsel and Counsel for the Petitioner, two Senior Counsel for the 4th named Respondent, and the Attorney-at-law for the 8th named and 12th named Respondents.

(10) This Order shall have full force and legal effect from the date on which it is entered.

(11) Liberty to apply.

VERIFIED A TRUE COPY

[Signature]
ASSISTANT SWORN CLERK



BY THE COURT

[Signature]

REGISTRAR OF THE

Supreme Court of Judicature

REGISTRAR OF THE SUPREME COURT