



RESULTS DECLARATION SPEECH BY CHAIRMAN,

JUSTICE DR CHIFUNDO KACHALE

**FOR THE 16TH NOVEMBER 2023 DEDZA CENTRAL CONSTITUENCY BY-
ELECTION**

17TH NOVEMBER, 2023,

DEDZA RESIDENTIAL TRAINING CENTRE.

Salutations

- Commissioners of the Malawi Electoral Commission
- The Chief Elections Officer, Mr Andrew Mpesi and all staff from the Commission,
- The District Commissioner, Mr Thomas Chigwenembe
- Members of the District Elections Supervisory Team
- The Constituency Returning Officer, Mr Eric Mvula

- Representatives of various political parties and the independent candidate here present,
- Representatives of various Civil Society Organizations,
- Distinguished Invited Guests,
- Members of the Press,
- Ladies and Gentlemen,

Good morning

On Thursday, 16 November 2023, registered voters in Dedza Central Constituency went to the polls to elect a new Member of Parliament for the constituency. From the close of polling, the Commission has been meeting to determine the results brought to it by the Constituency Returning Officer. Now that we have finished, we are ready to announce the official results , but before I do that, allow me to give a brief background to the process.

Background to the Vacancy

Ladies and gentlemen, you might be aware that Dedza Central Constituency fell vacant following the death of its Member of Parliament, Hon Daniel Chiwere

on 17th July 2023. We extend condolences to the bereaved family for the loss of their loved one. May the Lord God Almighty continue to comfort and strengthen the family.

In accordance with section 23(1) of the Presidential, Parliamentary and Local Government Elections Act, the Commission had to organise a by-election to fill the vacancy, so that people should continue to have representation in the National Assembly.

Inspection Of Voters' Register And Registration Of Voters

The new law mandates the Commission to determine the period for voter registration, to be a period of not less than seven days and not more than fourteen days. For this by-election, the Commission opened centres for seven (7) days for voter registration and inspection of the voters register from 2nd to 8th October 2023.

During the exercise, the Commission registered a total of 3,202 new voters of which 1,209 were male and 1,993 were female. This brought the total number of registered voters for this by-election to **47,713** and represented a 7.19 percent increase from the 2019 voter registration total for the constituency which was 44,511.

The Commission also provided access to the voters' register for inspection by voters, representatives of political parties, independent candidate, and observers to verify the entries in the voters' register. This was done in accordance with section 21 (1) and (2) of the Presidential, Parliamentary and Local Government Elections Act. Throughout that period, the Commission did not receive any complaint relating to the status of the voters' register.

Nomination Of Candidates

Distinguished ladies and gentlemen, the Commission made the nomination papers available for collection from 16 September 2023. The new law has brought in a change that requires aspirants to pay a non-refundable fee before collecting the nomination papers. For Dedza Central Constituency three nomination papers were paid for and collected. However, we noted a pattern among the three contestants that they each collected nomination papers on 24th, 25th and 26th October 2023, with a few days to go to the presentation day. While this was still within the time frames and cannot be faulted, the Commission wishes to underscore the importance of paying and collecting nomination papers early in the process. The candidate and his supporters will have ample time to collect and fill the required information and take the nomination papers for pre-inspection by the Returning Officer without time pressure.

On October 31st, 2023, the Commission received the three nomination papers. After reviewing the received nomination papers, the Commission approved all the candidates who had submitted their nominations, and notably, they were all male.

Official Campaign Period

The official campaign period started on 16 September 2023. This was in line with Section 51(1) of the Presidential, Parliamentary and Local Government Elections Act which provides that campaign period should run for 60 days ending 48 hours to the start of polling. So, candidates and political parties were allowed to start campaigning before presenting nomination papers. The official campaign period ended at 6.00am on 14 November 2023.

The Commission extends its commendation to the people of Dedza Central Constituency for their remarkable dedication to upholding law, order, peace, and tranquillity throughout this period. Your steadfast commitment has set a

noteworthy precedent, serving as a beacon for others to emulate. Your conscientious efforts remain ever visible and deeply valued, not only by the Commission but by all involved in the electoral process.

We encourage you to persist in this exemplary conduct, continuing to stand as a shining example for communities far and wide. Your collective contributions significantly contribute to the harmony and success of our democratic process, fostering an environment of mutual respect and cooperation.

Polling, Counting And Results Announcement

Polling took place on the 16 November 2023 from 6.00am to 4.00pm according to the provisions of the new electoral law. All the 60 polling stations opened on time and ran uninterrupted. The Commission operated a call centre where all voter identification related issues were referred to and addressed.

The counting of results commenced immediately after the polls closed at the same polling stations where polling occurred. The results from the polling stations were transported to the Constituency Returning Officer, who subsequently delivered them to the Commission's main tally centre for further processing.

The Commission extends its gratitude to all political parties and candidates who deployed their representatives to polling stations and tally centres to monitor the counting and tallying processes. Their presence significantly contributed to enhancing the transparency and credibility of the entire results management process.

Appreciation To Stakeholders

On behalf of the Commission, I would like to express our sincere appreciation for the support and collaboration we received from the Ministry of Finance, during the recent by-election. The timely disbursement of funds played a crucial role in ensuring the smooth conduct of the electoral process.

We also want to extend our gratitude to the Malawi Police Service for their invaluable role in providing security throughout the by-election. Their dedication contributed significantly to maintaining a secure environment for voters and ensuring the overall success of the electoral process.

The media played a vital role in raising public awareness about the by-election, and we are thankful for their continuous efforts in providing updates during each stage of the process. Their role in keeping the public informed and engaged was instrumental in the success of the by-election.

Our appreciation also goes to the members of the District Election Supervisory Team, the Constituency Returning Officer, and the Multiparty Liaison Committee. Their dedication and hard work on the ground were essential in managing the by-election effectively. We would also like to thank the various political party leaders for their collaboration in the preparation and conduct of the by-election.

I would like to convey my personal commendation to members of the Commission and the dedicated MEC staff. Your professionalism, commitment, and selflessness significantly contributed to the successful management of the electoral process. Well done and let us continue to uphold these standards in our future endeavors.

Lastly, we express our sincere gratitude to all registered voters for their active participation in the democratic process. Your turnout and engagement

demonstrate the true spirit of democracy, and we are thankful for the ultimate love you have shown to your community.

Complaints and Incidences

In accordance with section 65 (h) of the Presidential, Parliamentary and Local Government Elections Act, 2023 the Commission placed Polling Station Complaints Logbooks at all polling stations established in Dedza Central Constituency. The Commission having retrieved and reviewed all Polling Station Complaints Logbooks is satisfied that that all complaints were resolved at the Polling Stations.

However, the Commission wishes to mention and highlight that the Commission received a written complaint from the following Democratic Progressive Party (DPP); Jacob Joseph Kaumphawi – Independent Candidate; and Party and candidates representatives from Chitowo and Kamfundula Polling Centres.

The complaints allege that the candidate representing the Malawi Congress Party (MCP), Mr. Willard Gwengwe, was seen within 100 metres of polling stations established at those centres on the polling day and while voting was in progress. It has also been alleged that the candidate was seen at other polling stations.

It has also been alleged further that the candidate was seen campaigning outside the prescribed period. I must mention that all the parties have submitted the set of similar photographs as evidence of the candidate at the mentioned polling stations.

The Commission has considered the allegations, the reports it has received from the responsible presiding officers and the law that regulates campaign and the prohibition of certain persons at a polling stations.

In accordance with section 82 of the Presidential, Parliamentary and Local Government Act there are certain categories of people who are prohibited from being found at a polling station or within a radius of 100 metres.

The Section 82 reads :

1- “No form of propaganda, campaign material or advertisement shall be exhibited inside a polling station or within a radius of two hundred meters outside a polling station”

2- Unless his or her presence is otherwise permitted under this Act, no person shall, while voting continues, be allowed to be within the premises of the polling station or, to remain within the premises of a polling station, if he or she-

a) Is not a registered voter;

b) Has already voted at that polling station or at any other polling station;
or

c) Is not an accredited party or candidate representative, monitor or observer?

5- the presiding officer shall take all necessary steps to effectively bar or expel from within a radius of 100 hundred meters of a polling station any person who is evidently drunk and disorderly or is carrying a weapon of any kind or is disturbing the order or peace at then polling station.

The meaning of the above provision is that in cases where person is found at a polling station when he or she ought not be at that polling station, the

Presiding Officer has a duty to take steps to expel the person from the polling stations or make the person leave the polling stations if the person is disturbing the order or peace at the polling stations.

I must also mention that under Section 115(c), the Act provides that it is an offence for a person to refuse to leave the polling station after being asked to do so by a polling station officer.

From the reports which the Commission has received from the presiding officers, Mr Gwengwe was requested and made to leave the polling stations and there has been no evidence of any disturbances to the polling process at the polling stations.

However, the Commission has recorded all the other complaints and the circumstances as recorded in the documents which it has reviewed, including the written complaints themselves and wishes to highlight that the electoral law do provide for remedies to the circumstances of these complaints.

Section 119 provides that-

- (1) A person convicted of an offence under this Act for which no other penalty has been specified shall be liable to a fine of K10,000,000 and to imprisonment for five years.
- (2) In addition to the penalty under subsection (1), the court may make an order—
 - (a) where applicable, barring the convicted person from performing the duties of his office in connection with the election;
 - (b) suspending the right of the convicted person to vote in the election or annulling the vote cast by such person; and

(c) having regard to the nature of the activity constituting the offence, give such directions as the court considers to be warranted in the circumstance.

These provisions should be taken seriously as it is clear that after due process within the law that regulates prosecution of electoral offences, the Court may order the payment of a fine, disqualify the candidate from the office or imprisonment. It must be highlighted that the discretion of the court in these matters is also wide enough to cover all other remedies which may include nullification of elections. This is clear from paragraph (c) of the provision which I have just highlighted.

In so far as the question of irregular or illegal campaign is concerned, the commission wishes to emphasize its commitment to ensure that due process is always followed. The alleged breach, being a matter of criminal act, which requires a full criminal trial under ordinary judicial proceedings, the appropriate forum of complaint should be the police as the law enforcement agency. Under section 119 of the Act, where a conviction is obtained, the election results may be nullified and the convict may even lose his right to vote.

Arrest of a Voter.

May I also take this opportunity to inform stakeholders that during polling on 16th November 2023, the police arrested a person by the name of Judith Banda who even though she is not a registered voter presented herself and voted. So far, what has been established is that: she presented her national ID bearing the name Judith Banda. The name on the ID matched with a name of another woman with a similar name who is in the voters' register at Mthandiza Primary School. The genuine voter who is in the voters' register appeared after the impostor had been allowed to vote. The matter was reported to police and Ms Judith Banda, the impostor, was arrested. Since this is an offence under

section 115 (c) (i) (ii) and (iii) of the Presidential, Parliamentary and Local Government Elections Act, the Commission is expecting that the police will investigate the incident and based on the findings decide whether or not to prosecute the suspect.

Examination Of Void Votes

The new electoral law allows the Commission to examine void votes only when there is a possibility of affecting the outcome of an election. Section 96 of the Presidential, Parliamentary and Local Government Elections Act states:

1. At the beginning of the determination of the national result of a general election, the Commission shall take a decision on any matter which has been a subject of a complaint and shall examine the votes which have been classified as void and may affirm or correct the determination thereof at the polling station or district tally centre.

2. Notwithstanding subsection (1), the Commission shall examine void votes only when such votes may have an effect of changing the outcome of the election.

In the Dedza Central Constituency By-election there were 221 void votes and the difference between the winner and the second candidate was 552 votes. With the provision of the law above, the Commission did not examine the void votes because they could not affect the outcome of the election.

Declaration of Results

Distinguished Ladies and Gentlemen, on behalf of the Commission, I will now proceed to declare the results.

The Commission monitored the voting that took place on 16 November 2023. We are satisfied that voting was conducted in an environment where the

electorate were free to elect a candidate of their choice without fear and intimidation. We are also confident that the results we are about to announce reflect the democratic will of the voters. The Commission, therefore, declares this election as a credible one that has met legal requirements and international best practices generally as far as free and fair elections are concerned.

There was a total of **47,713** registered voters in Dedza Central Constituency, out of which 15, 898 turned out for polling representing 33.34 percent voter turnout. Total void votes were 221 representing 1.39 percent. The results are as follows:

1. Willard Alfred GWENGWE (M) representing Malawi Congress Party (MCP) got 7, 913 votes
2. Jacob Joseph KAUMPHAWI (M) Independent candidate got 7, 361 votes
3. Andrew Ndekha Mtunga KOWEDZA (M) representing Democratic Progressive Party (DPP) got 403 votes

Distinguished Ladies and Gentlemen, the Commission therefore declares Willard Alfred Gwengwe who contested as Malawi Congress Party (MCP) candidate the winner in the Dedza Central Constituency By-election.

Concluding remarks

On behalf of all members of the Commission, I extend our heartfelt congratulations on your well-deserved victory in the recent election. Your success is a testament to the trust and confidence that the electorate has placed in your ability to lead and represent their interests.

As you embark on this important journey of public service, we encourage you to approach your responsibilities with diligence and dedication. The promises made during the campaign period are a commitment to the people, and we trust that you will work tirelessly to fulfill them. While celebrating this achievement, please keep in mind the significant responsibilities that lie ahead.

To those who, unfortunately, did not emerge victorious in this by-election, we want to emphasize that in a democratic system, there is always another opportunity. Take this moment to reflect on your campaign, gather feedback from your constituents, and use this experience to better prepare for the next election. Winning is not the sole measure of success in politics; your commitment to your community and your dedication to representing their interests are what truly matter.

Remember, the democratic process is an ongoing journey, and your active participation is crucial to its success. Use this experience as a steppingstone toward future success and be assured that there will be another chance to make a positive difference in the lives of your constituents.

Steps Towards 2025 General Election

Before I conclude I also wish to seize the opportunity to present some of the major activities on the electoral calendar that we anticipate being implemented in 2024. They include:

1. Public Education And Voter Awareness

The Commission will be soon going to the councils to educate the public regarding the new electoral laws, new constituency and ward boundaries including registration centres, and the conduct of the 2025 General Election including the 50%+1 electoral system.

2. Voter Registration:

- a. Voter registration will start in September 2024 and run up to December 2024. Everyone else will have to register as a voter and when coming they will be required to bring their national ID. No options about it.
- b. The legal interpretation of proof of national registration is national ID. Without national ID, even with proof that it was lost and is being replaced, one won't be allowed to register as a voter.
- c. Everyone born on or before 16 September 2007 will be eligible to register as a voter.

3. Announcement Of Nomination Fees:

The Commission will announce the new nomination fees in November 2024. That will be six months to start day for payment of nomination fees and collection on nomination papers. The law has not given criteria on determination of nomination fees but left it to the discretion of the Commission. So, it remains within the mandate of the Commission whether to consult or not before announcing the nomination fees.

With these few remarks I thank you all for listening
May God bless you.