IN THE COURT OF APPEAL OF THE SUPREME COURT OF JUDICATURE

APPELLATE JURISDICTION

**CIVIL APPEAL NO. OF 2018**

BETWEEN:

**ZULFIKAR MUSTAPHA**

Appellant

-And-

**THE ATTORNEY-GENERAL** Respondent

**NOTICE OF APPEAL**

1. TAKE NOTICE that the Appellant/Applicant being dissatisfied with the decision more particularly stated in paragraph 2 hereof of the **Honourable Chief Justice (ag) Madam Justice Roxane George S.C.** dated 8th day of June, 2018, in High Court Action No. 2017-HC-DEM-CIV-FDA-1643, doth hereby appeal to the Court of Appeal upon the grounds set out in paragraph 3 hereof and will at the hearing of the Appeal seek the reliefs set out in paragraph 4 hereof.

AND THE Appellant/Applicant further state that the names and addresses including their own and of the persons directly affected by the appeal are those set out in paragraph 5 hereof.

1. The whole decision is complained of.

3. AND FURTHER TAKE NOTICE that the following are the grounds of appeal:

**Grounds of Appeal**

1. The Learned Hearing Judge erred and misdirected Herself in law in construing Article 161 (2) of the Constitution of the Cooperative Republic of Guyana;
2. The Learned Hearing Judge erred and misdirected Herself in law in construing Article 161 (2) of the Constitution of the Cooperative Republic of Guyana by failing to give effect to the intentions of the framers of the said Article;
3. The Learned Hearing Judge erred and misdirected Herself in law when Her Honour failed to apply or failed to properly apply the purposive canon of interpretation in construing Article 161 (2) of the Constitution of the Cooperative Republic of Guyana;
4. The Learned Hearing Judge erred and misdirected Herself in law when Her Honour misconstrued and misinterpreted the role of the Leader of the Opposition in Article 161 (2) of the Constitution of the Cooperative Republic of Guyana in so far as Her Honour’s interpretation or misinterpretation has reduced the role of the Leader of the Opposition to being merely perfunctory;
5. The Learned Hearing Judge erred and misdirected herself in law by omitting to review or properly review the exercise of the power and discretion which Article 161 (2) reside with the President of the Cooperative Republic of Guyana in rejecting three (3) sets of names submitted to him by the Leader of the Opposition pursuant to the said Article in order to determine whether the President exercised that power and discretion lawfully and reasonably and not irrationally, capriciously, whimsically and influenced by irrelevant and extraneous considerations and not guided by relevant considerations;
6. The Learned Hearing Judge erred and misdirected Herself in law by ruling that the President has the power to reject a list of six (6) names submitted to him by the Leader of the Opposition pursuant to Article 161 (2) of the Constitution of the Cooperative Republic of Guyana;
7. The Learned Hearing Judge erred and misdirected Herself in law when Her Honour failed to pronounce on whether the President of the Cooperative Republic of Guyana has the power to request more than one list of six (6) names from the Leader of the Opposition pursuant to Article 161 (2) of the Constitution of the Cooperative Republic of Guyana;
8. The Learned Hearing Judge erred and misdirected Herself in law when Her Honour failed to take into account the first and the second list of names submitted by the Leader of the Opposition upon the request of the President of the Cooperative Republic of Guyana pursuant to Article 161 (2) of the Constitution;
9. The Learned Hearing Judge erred and misdirected Herself in law by finding that the President of the Cooperative Republic of Guyana is empowered to reject the list as unacceptable although one or more persons on that list is or are acceptable to the President;
10. The decision of the Learned Hearing Judge is wrong, misconceived and erroneous in law as it has destroyed a delicate but fundamental balance in the composition of the Guyana Elections Commission which the framers of the Constitution intended to repose in a Chairman appointed by a formula captured in Article 161 (2) of the Constitution which ensures that such a Chairman enjoys the confidence and acceptance of both the Leader of the Opposition and the President;
11. The decision of the Learned Hearing Judge is wrong, misconceived and erroneous in law as it allows the President of the Cooperative Republic of Guyana to reject a list of names submitted to him by the Leader of the Opposition pursuant to Article 161 (2) of the Constitution and make a unilateral appointment of a person of his own choosing;
12. The Learned Hearing Judge erred and misdirected Herself in law by ruling that the President of the Cooperative Republic of Guyana lawfully and properly invoked the proviso to Article 161 (2) of the Constitution;
13. The Learned Hearing Judge erred and misdirected Herself in law by failing to correctly and properly construe and interpret the circumstances when the proviso to Article 161 (2) of the Constitution can be activated;
14. The Learned Hearing Judge erred and misdirected Herself in law by failing to impugn the appointment of Mr. Justice James Patterson as Chairman of GECOM after Her Honour ruled that reasons are required to be provided by the President for the rejection of the list submitted by the Leader of the Opposition pursuant to Article 161 (2) of the Constitution and after having ruled that the President provided no such reasons.

That the ruling and/or decision of the Learned Trial Judge be reversed and wholly set aside and that judgment be granted in favour of the Appellants/Plaintiffs in accordance with their Statement of Claim.

5. Persons directly affected by this Appeal:

**NAMES: ADDRESS:**

**ATTORNEY-GENERAL** 95 Carmichael St.

North Cummingsburg  
Georgetown

**ZULFIKAR MUSTAPHA** 41Robb Street

Georgetown

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**MOHABIR ANIL NANDLALL MP**

Attorney-at-Law for the Appellant/Applicant

Dated at Georgetown, Demerara

This 11th day of June, 2018

This Notice of Appeal is filed on behalf of the Appellants/Plaintiffs by **MR. MOHABIR ANIL NANDLALL**, **MR. DEVINDRA KISSOON**, **MR. MANOJ NARAYAN**, **MRS. SASHA S. MAHADEO-MARAYAN, MR. RAJENDRA R. JAIGOBIN & MS. ANURADHA DEODASINGH,** Attorneys-at-Law whose address for service and place of business is at their Chambers, Mohabir A. Nandlall & Associates, ‘Bhagwati Chambers’,217 South Road, Lacytown, Georgetown, Demerara.

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**MS. ANURADHA DEODASINGH**

**ATTORNEYS-AT-LAW FOR THE APPELLANT**