VERIF. CODE : 12-1820876-8983282-10384609
ENCLOSURE NO. : 2
PAYMENT AMOUNT: RM 16.00

In the High Court of Sabah and Sarawak at Kota K

(Judicial Review Application No. BKI-25-43-12/2025 **……… of 2025)**

Puan Portia Tham Ong Leng
Senior Assistant Registrar
Digitally Signed by PORTIA THAM ONG LENG
E-KEHAKIMAN SABAH & SARAWAK
Signing Date:05.01.2026 10:04:14 +0800

IN THE MATTER OF

Order 53 Rule 3(2) of the Rules of Court 2012;

AND IN THE MATTER OF

section 25(2) and the Schedule to the Courts of Judicature Act 1964 (powers of judicial review, including certiorari, mandamus and declarations);

AND IN THE MATTER OF

Article 113 of the Federal Constitution (functions and duties of the Election Commission);

AND IN THE MATTER OF

sections 8, 9, 10, 11 and 32 of the Election Offences Act 1954 (Act 5) (treating, undue influence, bribery, and statutory grounds affecting the validity of an election);

AND IN THE MATTER OF

the conduct, administration, decisions, acts and/or omissions of the Election Commission of Malaysia in relation to the Sabah State Election for the State Legislative Assembly constituency N.37 KARANAAN, held on 29 November 2025, including the declaration and gazettement of the returned candidate.

VERIF. CODE : 12-1820876-8983282-10384609****ENCLOSURE NO. : 2
To verify the true copy of the document received, please access this link. URL Link: https://ekss-portal.kehakiman.gov.my/portals/verify/

BETWEEN

NAOMI @ NEOMI FRANCIS

(NRIC No.: 661212-12-5074) **… Applicant**

AND

SURUHANJAYA PILIHAN RAYA MALAYSIA

(Election Commission of Malaysia) **… 1st Respondent**

DATUK MASIDI MANJUN

(Returned candidate for N.37 Karanaan) **… 2nd Respondent**

Statement

(Pursuant to Order 53 Rule 3(2) of the Rules of the Court 2012)

1. Parties

1.1. The Applicant is **Naomi @ Neomi Francis**, a Malaysian citizen and a **duly nominated independent candidate** who contested the N.37 Karanaan state constituency in the 2025 Sabah State Election. The Applicant was listed on the ballot as an independent candidate for Karanaanen.wikipedia.org. She is a voter in Ranau and a community activist. (Hereinafter "the Applicant").

1.2. The 1st Respondent is the **Election Commission of Malaysia (Suruhanjaya Pilihan Raya, "SPR")**, a constitutional body established under Article 113 of the Federal Constitution charged with the conduct and supervision of elections in Malaysia. The 1st Respondent and its officers were responsible for administering the

To verify the true copy of the document received, please access this link. URL Link: https://ekss-portal.kehakiman.gov.my/portals/verify/

Sabah state election on 29 November 2025, including the polling and result in N.37 Karanaan. The 1st Respondent is sued in its official capacity as the authority whose decision and conduct in relation to the Karanaan election result are challenged herein.

1.3. The 2nd Respondent is **Datuk Masidi Manjun**, the candidate of the Gabungan Rakyat Sabah (GRS) coalition who was declared the **winner of the N.37 Karanaan seat** in the 2025 Sabah election. The 2nd Respondent was the **returned candidate** for Karanaan as announced by the 1st Respondent on 29 November 2025. He is named as a Respondent as the successful candidate whose purported election is the subject of this challenge, and as an interested party who would be affected by the reliefs sought.

2. The Decision Challenged

2.1. The decision to be reviewed is the **declaration and gazettement of the election result for N.37 Karanaan** by the 1st Respondent, whereby the 2nd Respondent was declared the winner. The official result was announced on 29 November 2025 (polling night) and subsequently **gazetted** by the 1st Respondent in early December 2025 (Government Gazette, around 8 December 2025). The 2nd Respondent was declared as the duly elected State Assembly member for Karanaan with a significant majority of votes. The Applicant was an unsuccessful candidate in that election, having ostensibly lost to the 2nd Respondent.

2.2. The Applicant seeks to quash the said decision/result on the grounds that it was **tainted by illegality, irrationality and procedural impropriety**, in that the election was not conducted in accordance with the law and constitutional requirements for a free and fair election. The **integrity of the result is impugned** due to extensive electoral misconduct and offenses (detailed below) that **vitiated the outcome**. The Applicant further challenges the **inaction and/or failures of the 1st Respondent** to uphold its duty in preventing such misconduct, which amount to a breach of the Applicant's legitimate expectations and a violation of election laws.

3. Reliefs Sought

3.1. Upon obtaining leave, the Applicant will seek the substantive reliefs set out in the Notice of Application, namely: **certiorari** to quash the Karanaan election result, **mandamus** to compel a fresh election, and **declaratory orders** that the said election

VERIF. CODE : 12-1820876-8983282-10384609****ENCLOSURE NO. : 2
To verify the true copy of the document received, please access this link. URL Link: https://ekss-portal.kehakiman.gov.my/portals/verify/

result is void due to **bribery, treating, undue influence, and non-compliance with electoral laws**, as well as a declaration of the **1st Respondent's breach of constitutional duty** to ensure a fair election. The specific reliefs are enumerated in items (1)–(5) of the Notice of Application above and are incorporated herein by reference.

3.2. The Applicant also seeks any further orders that are just and necessary to give effect to the primary reliefs, including any **consequential orders** (for example, an injunction or stay preventing the 2nd Respondent from taking oath or exercising the functions of the office pending the determination of this matter, if the Court deems it appropriate). The Applicant prays for costs to be in the cause.

4. Grounds of Application (Summary of Facts and Legal Grounds)

This application is premised on the following main **grounds**, which are elaborated in the supporting Affidavit:

4.1. Pervasive Corrupt Practices (Bribery, Treating, Undue Influence): The election for N.37 Karanaan was **vitiated by extensive corrupt practices** committed in connection with the campaign and polling, primarily **vote-buying/bribery**, as well as **treating** of voters and acts of **undue influence**. Credible evidence (including police reports and sworn witness statements) shows that, on the eve of polling, **cash payments of RM100–RM200** were distributed to voters in Karanaan by agents of the 2nd Respondent, with clear **inducements to vote** for the 2nd Respondent. For example, a known agent of the 2nd Respondent, one **Datin Nadiatul Ladiah binti Kassim**, openly handed out cash to voters while conveying that the money was an "**amanah from Datuk Masidi**" (a trust/mandate from the 2nd Respondent) and that only those who supported the 2nd Respondent would receive it. Multiple voters have sworn affidavits attesting that they **received money** (RM100 or RM200 each) **with instructions to vote for the 2nd Respondent** or his allied party, which is a classic case of **bribery** under Section 10 of the Election Offences Act. There is also evidence that voters were **provided free meals and goodies at campaign events** (constituting **treating** under Section 8 of the Act) and were subjected to **coercive messages** implying they would lose out on benefits if they did not vote for the 2nd Respondent (a form of **undue influence** under Section 9). These corrupt practices were **widespread and systematic** rather than isolated, and were carried out or **abetted by the 2nd**

Respondent's agents in at least four different localities in Karanaan (as detailed in the Affidavit). Accordingly, the **statutory grounds for avoiding an election** due to corrupt practices are satisfied – **both Section 32(c) of the Election Offences Act 1954** (corrupt practice by the candidate or his agents) and **Section 32(a)** (general bribery/treating so extensive as to likely affect the result) are invoked.

4.2. Serious Election Irregularities and Non-Compliance with Procedures: In addition to the above, there were material **irregularities in the conduct of polling** in Karanaan on 29 November 2025 that amount to **non-compliance with electoral laws and regulations**. Notably, the Applicant's polling agent was **denied access to a polling station** at the beginning of polling by an election official, preventing the Applicant from monitoring the polling process for a significant duration. Furthermore, the Applicant's agents were not provided with **required forms (Form 14 – "Statement of the Poll")** at certain polling streams after vote counting, **in breach of the mandatory procedures** under the law. Such actions (or omissions) by election officers constitute a failure to conduct the election in accordance with the **principles of transparency and fairness** required by the Elections Act 1958 and the Conduct of Elections Regulations. The **1st Respondent's officers thus fell into **procedural impropriety** and **illegality** by not adhering to the proper process. The **non-compliance** was not trivial; it **undermined the integrity of the count and result**. Under **Section 32(b) of the Election Offences Act**, an election can be declared void if there was non-compliance with provisions of any written law relating to the conduct of the election **and** it appears that the non-compliance affected the result. Here, the irregularities – such as unmonitored polling (due to the agent's exclusion) and potential mishandling of result forms – **affected the Applicant's rights and could have affected the results announced**, thus meeting the threshold of Section 32(b).

4.3. Breach of Fundamental Rights and Legitimate Expectations: Free and fair elections are a cornerstone of the Federal Constitution and democratic process. The **integrity of the electoral process** is protected by law to ensure citizens (and candidates) can exercise their rights under conditions free of bribery, intimidation, and fraud. The events in Karanaan – rampant vote-buying, coercion of voters, and official laxity – amount to a **breach of the constitutional guarantee of a free and fair election**. Although Article 118 of the Constitution stipulates that election disputes be resolved by an election petition, the Applicant is invoking the **supervisory jurisdiction**

of this Honourable Court via judicial review to address **administrative wrongs** by the 1st Respondent and **illegality by the 2nd Respondent** that have thwarted the very purpose of a fair election. The Applicant had a **legitimate expectation** that the election would be conducted honestly and in accordance with election laws, an expectation fostered by the law and the 1st Respondent's public duty. That expectation was **frustrated** by the failure of the 1st Respondent's agents to prevent obvious electoral offenses and to ensure a level playing field. The **doctrine of legitimate expectation and procedural fairness** thus comes into play – the Applicant expected (and was entitled to) an **impartial, law-compliant electoral process**, but instead was subjected to one marred by illegality and bias toward the 2nd Respondent. This Honourable Court has jurisdiction to vindicate the Applicant's rights by reviewing the actions/omissions of the 1st Respondent and granting appropriate relief, especially since the alternative remedy (an election petition) would be inadequate to address the **administrative lapses of the EC** itself. The **public interest** in a clean election further militates in favour of the Court's intervention.

4.4. Compliance with Statutory Requirements: This application **complies with Order 53** in form and timing. The impugned decision (gazettement of results) occurred in December 2025, and this application is brought well within 3 months thereafter, as well as within the **21-day period** applicable to election challenges (by analogy to the Election Petition Rules). All **procedural pre-requisites** (including the filing of this Statement and a verifying Affidavit) are fulfilled. Given the gravity and urgency, the Applicant respectfully prays that the Court grant leave and expedite the substantive hearing.

4.5. The **evidence in support** of these grounds is detailed in the Applicant's Affidavit in Support, accompanied by exhibits **NF-1** through **NF-5** (police reports and statutory declarations from witnesses). For the purposes of leave, the Applicant submits that a **prima facie case of reasonable suspicion of illegality** is established: the facts show a **pattern of electoral offenses** (cash-for-votes, etc.) that, if proven, **would invalidate the election result** under the law. The attached evidence includes direct accounts from voters and the candidate (Applicant) herself, which strongly support the allegations. There is **no alternative effective remedy** available to the Applicant, other than recourse to this Honourable Court's supervisory jurisdiction, because the integrity of the election process itself is at issue (implicating the 1st Respondent's performance

of its public duty). It is therefore just and proper for leave to be granted so that the matter can be heard on its merits in the interest of justice.

Dated 26th December, 2025.

Digitally Signed by PRISKILA AKWILA SINEM
E-KEHAKIMAN SABAH & SARAWAK
Signing Date:26.12.2025 13:20:21 +0800

.....

PRISKILA AKWILA ADVOCATES

Solicitors for the Applicant

This **STATEMENT** is filed by Messrs Priskila Akwila Advocates, Advocates & Solicitors for the Applicant whose address for service is at 8-1, 8th Floor, Suria Sabah Shopping Mall, 1, Jalan Tun Fuad Stephens, 88000 Kota Kinabalu, Sabah, Malaysia.