

# THE ELECTORAL COMMISSION

## REPUBLIC OF FIJI

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Ref: Election Mode Meeting Number 03/22

Decision Number 27/22

Appeal No: A10/22

The Electoral Commission has received an Appeal against the decision of the Supervisor of Elections ["SoE"] to disqualify the nomination of Mohammed Rieaz Khan.

The Appellant asserts that he is duly qualified to be nominated under the Electoral Act 2014 ["Act"].

The Electoral Commission noted that, in order to qualify for nomination, a candidate must meet the requirements of section 23 of the Electoral Act, 2014 which states the following;

*23.— (1) A person is not eligible to be elected as a member of Parliament unless duly nominated as a candidate in the election.*

*(2) A candidate for election to Parliament may be nominated by a registered political party or nominated as an independent candidate in accordance with the procedures prescribed in this Act.*

*(3) A person is not eligible to be nominated as a candidate unless he or she is a registered voter, and a person who has been disqualified from voting by an order of a court under section 151 shall for this purpose be regarded as not registered to vote.*

*(4) A person is eligible to be nominated as a candidate for election to Parliament only if the person—*

*(a) is a citizen of Fiji, and does not hold citizenship of any other country;*

*(b) is registered in the Register of Voters;*

*(c) is ordinarily resident in Fiji for at least 2 years immediately before being nominated;*

*(d) is not an undischarged bankrupt;*

*(e) is not a member of the Electoral Commission, and has not been a member of that Commission at any time during the 4 years immediately before being nominated;*

*(f) is not subject to a sentence of imprisonment when nominated;*

*(g) has not, at any time during the 8 years immediately before being nominated, been convicted of any offence under any law for which the maximum penalty is a term of imprisonment of 12 months or more; and*

*(h) has not been guilty of any offence under a law relating to elections, registration of political parties or registration of voters, including any offence prescribed under this Act.*

*(5) For the purposes of subsection (4) (c), a person shall only qualify to be ordinarily resident in Fiji for at least 2 years immediately before being nominated, if that person has been present and living in Fiji for an aggregate period of not less than 18 months out of the 2 years immediately before being nominated; and*

*(6) Notwithstanding anything contained in subsection (5), any person who has been out of Fiji for official Government business or duties or has been holding an official Government position in any other country, shall be deemed to be ordinarily resident in Fiji for the purposes of subsection (4) (c).*

*(7) For the purpose of verification, the Supervisor may make enquiries and, where necessary, require the person to provide the necessary authorisations and declarations to the relevant authorities to assist with the enquiries.*

The Electoral Commission, upon receipt of the Appeal, required the SoE to provide all the documents that were obtained by him during the verification process of the nomination of the Appellant. These documents and the evidence provided by the Appellant were carefully scrutinized to determine if the Appellant has met the requirements set out in section 23.

In our findings, the Electoral Commission notes that the Appellant satisfies the requirement of section 23 of the Electoral Act and therefore the Electoral Commission has decided that the Appeal is upheld and the Electoral Commission directed the Supervisor of Elections to place the Appellant's name on the Register of Candidates.

Dated this 15<sup>th</sup> day of November 2022



Mukesh Nand

***Chairperson of the Electoral Commission***