

# ABIA GUBER ELECTIONS 2015 A PLEA FOR JUSTICE FOR DR. IKPEAZU

**THEO NKIRE & CO**  
**Legal Practitioners**

April 14, 2015.  
The Chairman  
Independent National Electoral Commission  
Abuja.

Dear Sir,

## **ABIA GUBER ELECTIONS 2015 A PLEA FOR JUSTICE FOR DR. IKPEAZU**

We act as Solicitors to Dr. Okezie Ikpeazu, the PDP candidate in the gubernatorial elections held in Abia State on the 11th day of April 2015 and it is on his instructions and in his behalf that we now write.

It is our instruction that we most respectfully appeal that you use your good offices to intervene, investigate and reverse the unjust decision to declare the just concluded Abia State Gubernatorial election inconclusive which decision was made by the Abia State Returning Officer, Prof. V. C. Ozumba and Resident Electoral Commissioner, Prof. Selina Okoh (hereinafter: Abia RO and REC respectively). This decision is without any lawful justification since the election threw up a clear winner in the person of Dr. Ikpeazu. The decision has thrown the State into a state of unrest and it is getting more and more difficult to control the youths as the days go by. Only an immediate declaration of Dr. Ikpeazu as the clear winner of that election will restore peace and stability to Abia State and credibility to the electoral process and to INEC.

It is on record that three days after the Gubernatorial and State House of Assembly elections in Abia State, the Abia RO and the REC have mischievously refused and failed to formally declare our client, Dr. Okezie Victor Ikpeazu, the winner of that election citing one unjustifiable excuse after another for the delay. The State RO, initially and without powers from any known law, purported to cancel election results collated from four Local Government Areas – two of which (Obingwa and Osisioma) have some of the highest number of registered voters in Abia State; and they also account for the highest number of votes recorded in the elections. It is instructive that these Local Governments are our client's home base. Why did the Abia RO who is supposed to be an impartial umpire in the electoral process attempt to deprive Dr. Ikpeazu of votes from his home base, including his own vote?

Following protests from various parts of the State and sensing real danger to the internal security of the State, the Abia RO quickly reversed himself and released the election results for the said local government areas. After he reversed himself, the Abia RO cited non-existent disruption of collation by persons unknown, among other flimsy excuses. Interestingly, the Deputy Inspector General of Police (DIG) who personally monitored the elections in the State had told both the print and electronic media (including Channels and CNN) that the elections in Abia State were peaceful, free and fair.

From the results collated from the 17 Local Government Areas of the State, our client is leading his closest rival, Alex Otti of the All Progressive Grand Alliance (APGA) with more than 83,000 votes. Surprisingly, two days after collation was concluded and after their earlier move to cancel the election had failed, the Abia RO and REC, citing non-existent acts of violence and non-compliance with electoral laws, announced the cancellation of results from a number of specified electoral units spread over some eight local government areas and with registered voters totalling some 177,000 votes altogether. They therefore had found reason to declare the Abia State Gubernatorial election inconclusive under the pretext that our client's lead of over 83,000 votes was less than the total number of registered voters in the areas where the results were allegedly cancelled. The simple reason for doing this is to give an undue advantage to their preferred candidate, Alex Otti of APGA and to deny our client of his victory.

It will be recalled that on 13/4/15, after the declaration of results from each of the 17 LGAs in Abia State which showed that our client had clearly won the election by over 83,000 votes, the REC declared a recess and directed that the stage be prepared for the final declaration of the winner and return of our client. Curiously, for over five hours, the REC and RO were nowhere to be found. Unknown to our clients, they were using the recess to perfect their plan to manipulate the results and to pander to the offers and needs of Alex Otti. While this delay was on, Alex Otti, who could not hide his joy at the apparent success of his arrangements with the Abia REC and RO quickly took to his Facebook page to post that his supporters should expect some breaking news.

Soon after Otti's facebook announcement, the Abia REC and RO emerged, only to declare the elections inconclusive and to purport to order supplementary elections in a number of specified PUs carefully selected to favour Alex Otti and to deny our client of the joy of his victory. This was Otti's breaking news, indeed. It will be recalled that the House of Assembly elections were held at the same place and time with the gubernatorial elections. The results for the House of Assembly elections in all those areas where supplementary elections for the Governorship election have been ordered were announced and the winners duly returned without any cancellation or supplementary election. One therefore wonders why the results of the House of Assembly elections from the areas where our client's elections were cancelled remain valid. The question that now arises is: is it within the powers of the State RO to cancel results which have been announced by the presiding Officer at the PUs, Ward Collation Officer at the Ward Collation Centre and the EO at the LG Collation Centre in accordance with Sections 27 and 63 of the Electoral Act, 2010 (as amended), as well as Paragraphs 28, 29, 30 and 31 of the Approved Guidelines and Regulations for the Conduct of the 2015 Elections when there were no complaints or protests by anyone whatsoever at those three levels of the process. See particularly Sections 65 – 68 of the Electoral Act.

S. 68 (1) of the Electoral Act, on the powers of the Returning Officer has received judicial interpretation. In *NWOKOLO VS UBOH* (2012) 17 NWLR (Pt 1330) 604, the Court of Appeal held that a returning officer does not have the power to declare an election inconclusive. The court said:

"The election having been held in Ika North-East L.G.A as borne out by the evidence led, it was for the returning officer to have declared the result of the election by deciding on the scores of the candidates under section 68(1) of the Electoral Act leaving an aggravated party with his options under the Act and not for him to declare the election inconclusive. He had no power to do so. His action was therefore, ultra vires and void." per Nwosu-Iheme J.C.A at page 611 paragraph D to F.

At page 612 paragraphs A-B, His lordship finally stated, "A returning officer should, therefore not act capriciously or contrary to the Law governing the conduct of an election for which the 3rd respondent is responsible and expect to wallow in such capriciousness and illegality"

See also the decisions in:

1. INEC v. Abubakar [2009] 8 NWLR (Pt 1142) 259 at 289-290.
2. Mark v. Abubakar [2009] 2 NWLR (Pt 1124) 79.

In the circumstance, we have our client's instruction to protest against the decision of the Abia State RO and REC and to pray that you reverse the said decision on the following grounds:

1. The Abia RO acted beyond his powers in the cancellation of results of selected Polling units/wards which had been announced by him and also announced at the three levels of PUs, Ward Collation Centre and LG Collation Centres without reference to reports from the Returning officers and the Security agencies posted to the units and centres on election duty and in our (Abia's case) led by a respected Deputy Inspector General (DIG) of Police.
2. As against the erroneous premise upon which the Abia REC based his conclusion that the governorship election in Abia State was inconclusive,
  - i. The DIG reported a violent-free election in Abia State, which he personally monitored. The State RO acted 3 days after based on personal interest, mischief, or immense pressure from the opposition party and jaundiced social media.
  - ii. There is no report of violence or disruption of election in relevant INEC Forms by any Returning Officer in any part of Abia State.
  - iii. There were no marks of or endorsement of rejection as required by section 67(1) of the Electoral Act
3. The State RO acted beyond his powers under the Electoral Act when he cancelled results already collated, announced and declared at three of the four stages in a governorship election process under section 27(1) of the Electoral Act - by the Presiding officer at the Polling units, Ward Collation Officer at the Ward Collation Centres and the Local Government Collation Officer at the Local Government Collation Centres, before the exercise at the State Collation, without due consideration for the Rules and in the absence of any relevant reports from Security agencies and other officers.
4. The Abia RO lacked capacity to selectively cancel gubernatorial election results in the affected Units and Wards when the election results for the Abia House of Assembly conducted at the same time and date (and with ballots cast in the same ballot box as those for the governorship election) in those Units and Wards have been declared and accepted as free and fair by all the parties to the election.
5. Only an Election Tribunal duly constituted under the law can rightfully declare whether or not an election has been conducted in accordance with the Electoral Act.
6. The Abia RO is biased in favour of the opposition. There is no doubt the REC and RO were bought over by the opposition candidate and are therefore biased in his favour; otherwise why would the House of Assembly election results from the areas where supplementary elections have now been purportedly ordered not be affected by the same vice complained of by the REC. The Collation Officer for Obingwa LGA, Mr. David Nwanjuole openly and publicly testified in the presence of all present that the opposition offered him N50 million and he refused. There is no doubt that the Obingwa CO could not have been the only one approached. We have this testimony on a video tape and will be willing to make the tape available upon request. There is no doubt that the Obingwa CO's refusal to accept the inducement may have been the reason no voting unit was cancelled in Obingwa.
7. It is no doubt obvious that when the plan to use the EOs to cancel the elections in the four selected local governments failed, the REC and RO decided to take the precipitate action of ordering supplementary elections in a specified number of units carefully selected to deny our client of his well earned victory.
8. Alex Otti, the APGA gubernatorial candidate is alleged to be a first cousin to the said Abia REC. It is in the public domain that the said Alex Otti had boasted that he had used his connections to effect the REC's transfer from Imo State to Abia State. If this is true, it is against the principles of natural justice that she should ever have been the REC for Abia or continue to be the REC in the light of the havoc she has caused. We invite you, Mr. Chairman to investigate these allegations.
9. In the circumstance, it is our instruction to demand the immediate removal of the REC, Prof. Selina Okoh and the RO, Prof. Ozumba from Abia State. There is no doubt that these officers have compromised their position as election umpires in the Abia State governorship elections 2015. It is therefore our humble petition that you be gracious enough to intervene in the matter by taking immediate steps to reverse the decision of the RO and REC and declare our client, Dr. Okezie Ikpeazu, winner of the gubernatorial elections conducted in Abia State by INEC on Saturday the 11th day of April 2015.

Yours faithfully

Chief Theo Nkire