

**IN THE HIGH COURT OF FIJI**  
**AT SUVA**  
**ANTI-CORRUPTION DIVISION**

**CRIMINAL CASE NO. HACD 008 of 2022**

**FIJI INDEPENDENT COMMISSION AGAINST CORRUPTION**

vs

**VIJENDRA PRAKASH**

**Counsels:** *Mr. Aslam R. and Mr. Nand A with* - *for Prosecution*  
*Mr. Work J. and Mr. Hickes D*

*Mr. Nandan S. and with Ms. Dean S.* - *for Defendant*  
*Mr. Prakash R*

*Date of Trial: 19<sup>th</sup> September – 21<sup>st</sup> November 2022*

*Date of Judgment: 09<sup>th</sup> December 2022*

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**JUDGEMENT**

**A. INTRODUCTION**

1. The accused in this matter, **VIJENDRA PRAKASH**, was charged with one count of tendering **FALSE INFORMATION TO A PUBLIC SERVANT** and one count of **OBTAINING FINANCIAL ADVANTAGE** by the **FIJI Independent Commission Against Corruption**, as below:

**FIRST COUNT**

*Statement of Offence (a)*

**False information to public servant:** Contrary to **Section 201(a)** of the **Crimes Act No. 44 of 2009**.

*Particulars of Offence (b)*

**VIJENDRA PRAKASH** on or about 11<sup>th</sup> February 2019 at Suva in the Central Division gave Viniana Namosimalua the Acting Secretary General to the Parliament of Fiji a person employed in the Civil Service false information that her permanent

place of residence is in Waidracia, Vunidawa, Nabuni, Naluwai Naitasiri which he knows to be false knowing it to be likely that he will thereby cause Viniana Namosimalua to approve allowance claims submitted by him which Viniana Namosimalua ought not to do if the true state of facts with respect to the permanent place of residence of **VIJENDRA PRAKASH** were known to her.

## **SECOND COUNT**

### *Statement of Offence (a)*

**OBTAINING FINANCIAL ADVANTAGE**: Contrary to **Section 326(1)** of the **Crimes Act No. 44 of 2009**.

### *Particulars of the Offence (b)*

**VIJENDRA PRAKASH** between 1<sup>st</sup> August 2019 and 31<sup>st</sup> March 2020 at Suva in the Central Division engaged in conduct namely submitted Allowance Claims to the office of the Acting Secretary General to the Parliament of Fiji and as a result of that conduct obtained a financial advantage amounting to \$33,670.00 from the office of the Acting Secretary General to the Parliament of Fiji knowing or believing that he permanently resides at Lot 1, Omkar Road, Narere, which is a place less than 30 kilometers away from the place of Parliament or Committee as per the **Parliamentary Remunerations Act 2014** and therefore was not eligible to receive the said financial advantage.

2. When these charges were red over to the Accused in open Court on 04/02/2022, the Accused understood and pleaded not guilty to the charges. The trial of this matter on the above counts commenced on 19/09/2022 and proceeded till 21/11/2022.
3. For the prosecution case **23** witnesses gave evidence and marked **74 (PEX1 – PEX74)** documents, which included admitted documents by the Defense (**PEX1 – PEX25**). At the end of the prosecution case, since the Court was satisfied that a prima facie case has been established against the Accused, acting under **Section 231** of the **Criminal Procedure Act of 2009**, the Defense was called from the Accused and the standard options available to the Accused for his Defense were spelt out. For the Defense case, the Accused gave evidence under oath and was cross-examined by the prosecution. Further, **12** more witnesses were summoned to give evidence for the Defense case. On both the Prosecution and the Defense making final submissions on 23/11/2022, this case was fixed for the judgement.

## **B. BACKGROUND**

4. The Accused in this matter, **Mr. VIJENDRA PRAKASH**, was an honourable member of the current Parliament of the Republic of Fiji representing the **Fiji First** Party. He has been actively involved in political activity in the Republic of Fiji since

1999. Before entering into politics, **MR. VIJENDRA PRAKASH** had been a school teacher and the principal in several schools.

5. To provide for remuneration and allowances for the Members of Parliament of Fiji, including His Excellency the President of the Republic of Fiji, the Legislature has passed and published in the Gazette of 03<sup>rd</sup> October 2014 the **Parliamentary Remuneration Act of 2014**. The Schedule to this Act provides provisions in relation to the SALARY together with ALLOWANCES and BENEFITS available for the honourable members of Parliament at the time.
6. In this regard, under **Part B** of this **Schedule**, Allowances and Benefits available for the Members of Parliament are clearly highlighted as below:

*“Members of Parliament (including Deputy Speaker, Government/Opposition Whip and Leader of the Government in Parliament and excluding the Prime Minister, Ministers, Speaker and the Leader of the Opposition)*

1. *Accommodation Allowance – For meeting of Parliament or Committee, if the member permanently resides at any place more than 30kilometres away from the place of the meeting of Parliament or Committee, then the member shall be entitled to an allowance of \$350 per day plus \$30 per meal.*
2. *Traveling Allowance – For meetings of Parliament Committee, if the member permanently resides at any place more than 30km from the place of the place of meeting of Parliament or committee, then the member shall be entitled to cost of travel by the most direct route and from the meeting. Allowance in respect to motor vehicles shall be payable at the following rates-*
  - (a) *Vehicles of up to and equal to 200cc – 50 cents per kilometer and;*
  - (b) *Vehicles of 200cc or over -60 cents per kilometer.”*

7. To facilitate the execution of allowances and benefits available for the Parliament members under **the Parliamentary Remuneration Act of 2014**, subsequent to taking the oath of office and the oath of allegiance by the Parliamentarians to the New Parliament on 26/11/2018, the office of the Secretary General to the Parliament had conducted two induction programs for the Parliamentarians to detail Parliamentary procedures that should be followed in relation to swearing – in and the administrative procedure in day to day activities. At the second induction, Parliamentarians have been

requested to provide a Declaration affirming their personal details that could assist the determination and calculation of their eligible allowances and benefits by the Office of the Secretary General to the Parliament.

8. In compliance with this request, **MR. VIJENDRA PRAKASH** had provided his **Member of Parliament Declaration Form (MPDF)** dated 27/11/2018, certified by a Commissioner for Oaths, to the then Acting Secretary General to the Parliament. This Declaration is an admitted fact by both parties, which is marked by the Prosecution as **PEX3 (a)**. However this MPDF has not been accepted by the office of the Acting Secretary General, because no one permanent address had been available and the Accused had been informed of the requirement. Consequent to that Accused had tendered **PEX4 (a)**, dated 11/02/2019, where the permanent address stated was **Waidracia, Vunidawa, Naluwai, Naitasiri**. This has been followed by a Statutory Declaration of the Accused, which was marked **PEX4 (b)**. On the information provided in **PEX4 (a)**, the Office of the Secretary General to the Parliament had made reimbursement payments to **MR. VIJENDRA PRAKASH** on accommodation claims submitted by him.
9. The charges filed in this case by the **FIJI Independent Commission Against Corruption** against **MR. VIJENDRA PRAKASH** revolve around the accommodation claims tendered to the Office of the Acting Secretary General to the Parliament by **MR. VIJENDRA PRAKASH** on the premise that his permanent place of residence is **Waidracia, Vunidawa, Naluwai, Naitasiri**, as per **PEX4 (a)** and **PEX4 (b)**, and the resultant payments made to him by the Parliament.

#### **A. THE LAW**

##### **C (1) – BURDEN AND STANDARD OF PROOF**

10. In proceeding with the trial in this matter, this Court was mindful that as recognised by **Section 14 (2) (a)** of the **Constitution** of Fiji, the Accused should be presumed innocent until proven guilty according to law.
11. Further, in establishing the charges tendered in the Information for trial, the burden was on the Prosecution to prove them beyond reasonable doubt. Each contested element of each count required to be proved beyond reasonable doubt by the Prosecution and this burden never changed and never shifted to the Accused.

##### **C (2) - ELEMENTS OF THE OFFENSES CHARGED**

12. In relation to the two counts against the Accused in this trial, the elements of the offenses can be detailed as, below:

**Count 1 – Tendering False Information to a Public Servant – Section 201(a) of the Crimes Act 2009**

- i) The Accused person (**MR. VIJENDRA PRAKASH**) gave information;
- ii) To a person employed in the Civil Service;
- iii) That he knew or believed to be false;
- iv) Knowing it to be likely that the Accused person will cause the person employed in the Civil Service to do anything which she ought not to do or omit if the true state of facts respecting which such information was given were known to her.

**Count 2 – Obtaining Financial Advantage - Section 326(1) of the Crimes Act 2009**

- i) The Accused person (**Mr. Vijendra Prakash**)
- ii) Engages in conduct, namely submitted claims; and
- iii) As a result of the conduct, obtains financial advantage for herself from another person; and
- iv) Knowing or believing that he was not eligible to receive that financial advantage under the Parliamentary Remunerations Act of 2014.

13. In order to establish the guilt of the Accused for Count 1 & Count 2, the Prosecution must prove beyond reasonable doubt all the elements as elaborated above. However, by the agreed facts between the parties and by submissions made by counsel for both parties in Court, parties have agreed to some of the elements of these two counts. As a consequence, under **Section 135** of the **Criminal Procedure Act of 2009**, such admitted elements need not be established by the Prosecution in this trial to prove the guilt of the Accused.

**C (3) – ELEMENTS OF THE COUNTS AGREED BY BOTH PARTIES**

14. The following elements of the Counts in the Information are agree by the Prosecution and the Defense. Thus, Prosecution did not have to establish these elements.

**Count 1**

- i) The Accused person gave information;
- ii) To a person employed in the Civil Service.

**Count 2**

- i) The Accused person
- ii) Engages in conduct; and
- iii) As a result of the conduct, obtains financial advantage for himself from another person; and

#### **C (4) - ELEMENTS OF THE COUNTS CONTESTED BY THE DEFENSE**

15. Consequent to following the pre-trial procedures laid down in **Section 289** of the **Criminal Procedure Act of 2009**, the Prosecution and the Defense have managed to narrow down the elements that need to be proved by the Prosecution beyond reasonable doubt to the elements below for the two counts in the information filed by the Prosecution.

##### **Count 1 – Tendering False Information to a Public Servant – Section 201(a) of the Crimes Act 2009**

- i) The Accused knew or believed that the information he provided to the Acting Secretary General to the Parliament to be false;
- ii) Knowing it to be likely that the Accused person will cause the person employed in the Civil Service to do anything which he ought not to do or omit if the true state of facts respecting which such information is given were known to her.

##### **Count 2 – Obtaining Financial Advantage - Section 326(1) of the Crimes Act 2009**

- i) The Accused knew or believed that he was not eligible to receive that financial advantage consequent to the false information provided by him.

#### **B. PAYMENTS MADE TO THE ACCUSED BY THE PARLIAMENT PURSUANT TO CLAIMS MADE BY HIM AND INFORMATION PROVIDED TO THE ACCUSED BY THE PARLIAMENT OF THE CLAIMING PROCESS**

16. To confirm the payments made to the Accused, as per **PEX2** to **PEX24**, which are agreed documents by the parties, the Prosecution led the evidence of **Mrs. Viniana Namosimalua**, who was the **Acting Secretary General of the Parliament of Fiji** during the time in issue. Since the charges filed in Court stems from the information received from the Accused and payments made to the Accused by the office of this witness, this Court considers it pertinent to succinctly stipulate the evidence given by this witness in Court, where he stated as below:

- “I was the Acting Secretary General to the Parliament of the Republic of Fiji. I was first appointed in September 2014 when the Parliament resumed, just prior to the election. There was an election in 2018 and thereafter I was the Secretary General for that Parliament. I left the S/G position in 01/2021. I was the SG for 2019/2020.
- I was the Secretary to the Cabinet before.
- I was appointed by the Constitutional Officers Commission (COC) as the S/G, as per **Section 79** of the Constitution. I was the Chief Admin officer of Parliament. I reported to the Speaker. For the purpose of the Constitution and the Crimes Act, I was a civil servant.

- Appointment Letter from the President – **PEX50** – My first appointment to this office.
- I was the S/G from 2014 to 2017 on this first appointment.
- Second appointment letter dated 13/09/2017 as the Acting S/G, letter of appointment is **PEX51**.
- After the election of Parliament in 2018, just before the sittings, there were 2 inductions for Parliamentarians. Swearing in form 51 Parliamentarians took place in the chamber of Parliament on 26/11/2018. **Mr. Vijendra Prakash** was one of the new Parliamentarians from Fiji First party. First induction was at the Grand Pacific Hotel on 23/11/2018 and the second induction was at the Warwick Hotel. At the first induction, members were told the swearing in procedure and admin procedure, I was present at this induction and I made a presentation. Second induction was to introduce parliamentarians' to the admin processes like claims and allowances and what we give them. This was done by heads of our units.
- At the swearing – in, I presided at the swearing – in, where there was an oath of office and an oath of allegiance. Parliamentarians sign this oath before me. These documents are kept in the Secretary General's office.
- By this oaths they are standing up to say that we are Honorable Members and they will abide by the responsibilities of that office as members of Parliament and swearing and declaring that they will hold up that position they are swearing on.
- **PEX1(a)** – Oath for taking office
- **PEX1(b)** – Oath of allegiance
- I have signed these two documents as the Acting Secretary General and this is in relation to Honorable **Vijendra Prakash**. Honorable member also has signed these Oaths on 26/11/2018.
- The second induction was from December 4<sup>th</sup> to the 6<sup>th</sup>. I was not a part of this workshop. This was conducted by my senior management led by the Deputy Secretary General.
- **PEX49** – These are the guidelines given to Parliamentarians. The idea was to give Parliamentarians necessary instructions on their entitlements and how they can access them. This provided provisions how they can be entitled to claims.
- **PEX49** provided information about the MPDF. The idea was to obtain the information of Parliamentarians that was needed to comply with the law.
- We had to do a declaration of this nature prior to Parliamentary sittings to obtain their information. MPDF was signed by MPs and handed over to my office. Every MPs had to provide MPDF to obtain entitlements under the PRA of 2014.
- When the MPDF is sent to my office that is kept in my office for administrative purposes. I don't go through all the details of MPDFs, but do a basic check.
- During the 2<sup>nd</sup> induction MPDF was to be explained and I am sure it was done.
- After the induction, I would write to the honorable members and inform them of their entitlements.
- **PEX52 (a) / (b)** - These are letters dated 10/12/2018, which was signed by me. **PEX52 (a)** is a letter that withdraws the first letter apologizing for the mistake. **PEX**

**52 (b)** is the letter that provides details of their entitlements. This was address to Honorable **Vijendra Prakash** informing of his entitlements as a Parliamentarian. This letter details all his allowances, including accommodation, travel, sitting allowances, superannuation and overseas travel in laymen's terms. This letter translated the provisions of the **Parliamentary Remunerations Act of 2014**. In this Act there is a Schedule that details the entitlements of the members of Parliament. From this I obtained details to be included in **PEX52 (b)**.

- With regard to **accommodation allowance**, it is mentioned in (b) that those who reside at any place more than 30 kilometers away from the place of meeting of Parliament or Committee then they are entitled to an allowance of \$350 per day plus \$30 per meal.
- With regard to **travel allowance**, it was mentioned in (c) that members who are residing any place more than 30 km away from the place of the meeting of Parliament will be entitled to this allowance.
- Para (d) speaks about committee sitting allowances, which is \$200 per day.
- Paragraph 3 informs whom to contact if they have doubts.
- By way of my letter dated 10<sup>th</sup> December 2018 I think I advised **Honorable Vijendra Prakash** of all his entitlements, salary etc. This letter was hand delivered to **Honorable Vijendra Prakash**.
- **PEX3 (a)** – This is the declaration of Honorable **Vijendra Prakash** signed on 27/11/2018, his birthday is 14/10/1956. In this he has provided 2 addresses as his permanent residence. I had accepted this, but permanency was to be determined by the supporting documents. But supporting documents were not sufficient, thus this MPDF was not accepted.
- PEX3 (b) and PEX3 (c) – these were supporting documents
- PEX4 (a) (b) (c) (d), PEX28 were provided, where PEX28 was the needed certification.
- PEX28 – Certification for MPDF of the Accused dated 11/02/2019, here he states that his permanent address is Waidracia, Vunidawa, Nabuni, Naluwai,, Naitasiri.
- PEX4 (a) – MPDF of Vijendra Prakash, dated 11/02/2019. **PEX28** and **PEX4 (a)** contains the same content, where **PEX4 (a)** had attachments. This is the MPDF of **Vijendra Prakash**. According to this, details are:  
Address: Waidracia, Vnidawa, Nabuni, Naluwai, Naitasiri.  
Business address- P.O. Box 70 Vunidawa, Naitasiri.  
Postal address: P.O. Box 70, Vunidawa, Naitasiri.  
Car: Toyota Sprinter  
Next of kin: Kusumlatha Prakash  
Relationship: Wife  
Phone: 9316389  
Address: Lot 1 Omkar Rd, Narere, Nasinu.
- **PEX4 (a)** was the MPDF that was ultimately accepted from Vijendra Prakash signed and dated 25/02/2019.



- **PEX4 (b)** – This is a Statutory Declaration signed by Vijendra Prakash on 25/02/2019, which I have endorsed. As a result this has been combined with the other provided forms to constitute the final document, such as **PEX4 (c)** and **(d)**.
  - At the end the Permanent address was accepted as Waidracia, Vunidawa, Naitasiri. In this regard I accepted his explanation in the stat/dec of him moving to this address.
  - Thereafter, claims were facilitated on the basis **Vijendra Prakash’s** address was Waidracia, Vunidawa, Naitasiri.
  - I have not received any questions of verification from the **Vijendra Prakash**.
  - I have received names from the PM and AG of Parliamentarians who were wrongfully claiming, but Vijendra Prakash was not in this list.
  - Then I ventured to clarify matters.
  - **PEX53** – This is the Letter I wrote to the SG on 24/02/2020 of the problems of claims. Staff informed me of the problems of claims. These staff members were privy to the claims. By looking at the claim forms they had felt that there were incorrect claims. By this letter, I informed the Solicitor General and sought advice that some Honorable members for the purposes of claiming allowances under the Act, have made declarations that they permanently reside at their property more than 30km away from Parliament, even though they are known to be living more habitually at the property that is within the 30km.
  - **PEX25** – This is the response to my letter, dated 09/03/2020. This states as what is important is not whether property is owned, but where the Parliamentarian permanently resides. That is where he lives the most part of the year.
  - **PEX54** – I needed to know what I should do, so I wrote again to thee SG. I told the SG that I am going to meet the politicians and inform them. I received a phone call from AG to complaint to the FICAC. After informing the speaker, I made a complaint to FICAC about this issue, since I did not have the investigative authority to do any investigation, I went to the authorities.
  - I physically visited some of the MPs in the list before complaining to the FICAC.”
17. To demonstrate to Court that required training was conducted for the Parliamentarians of the administrative and financial procedures of Parliament and the requirement to provide their details to facilitate allowances under the **Parliamentary Remuneration Act of 2014**, Prosecution led the evidence of two witnesses who were instrumental in providing information to the Parliamentarians at the inductions conducted.
18. In this regard, Prosecution first led the evidence of **Rukalisi Dileqa Vecena (PW12)**, Senior Protocol Officer of the Department of Legislature of the Parliament of Fiji. She testified that there were 2 inductions to Parliamentarians in 2018. First one was at GPH and the 2<sup>nd</sup> was a retreat induction at Warwick Hotel and she was involved in the second induction on the 4<sup>th</sup> and 5<sup>th</sup> of December 2018, where they introduced the Department of Legislature to the Parliamentarians with the participation of all the elected members, as confirmed by the maintenance of an attendance register.

19. According to her, Parliamentarians had to sign a registration form on both days next to their name with the photograph and they were provided training packages on registration, which included administrative and finance documents as submitted in this trial as the agreed document **PEX49**. Referring to the documents marked **PEX47 and PEX48**, she stated that they were the attendance forms signed by **MR. VIJENDRA PRAKASH** confirming his presence at the induction on the 4<sup>th</sup> and the 5<sup>th</sup> of December 2018. She informed Court that she made a presentation regarding inter-Parliamentary procedures and the former Director of Services of her Department, Mrs. Atalaite Rokosuka, made the presentation on the training package given to the participants (**PEX49**).
20. Giving evidence in Court **PW13 Mrs. Atalaite Rokosuka** informed that she was working at the Department of Legislature of the Parliament from 12/2014 to 03/2019 as the Director of Corporate Services. She further stated that she ensured the effective management of HR and management of Finance/Resources, which included training staff and she reported to the Secretary General of Parliament. She affirmed that in 2018 December there was a training done for the members of Parliament to educate them of processes and procedures utilized in Parliament and at that training she made a presentation to the Parliamentarians on allowances, their entitlements and electronic units given to them.
21. According to her, an Information Booklet that was marked at the trial **PEX49** had been given to the Parliamentarians at the workshop that laid out steps and procedures they needed to follow in applying for allowances. This document had been titled 'Members of Parliament Administrative/Financial Services and IT'. She further confirmed that the booklet was created since Parliament Administration had to inform the Parliamentarians of their allowances under the **Parliamentary Remunerations Act of 2014**.
22. She affirmed that she made a presentation at their second induction on the procedures' of payments and allowances and whom the Parliamentarians could contact, if they had problems. She testified that in her presentation she referred to allowances and claims and though there was a discussion with the Parliamentarians and the entire administrative team comprising managers, there had been no questions about the Permanent Residency asked by Parliamentarians. She further alluded that she mentioned about the MPDF at this presentation, as well. She claimed that she mentioned about their Permanent Residency, since the main purpose of the Declaration was to get their details. She affirmed that the member's Declaration was used by the Secretariat for verification of their permanent residency for allowances.
23. As stated above, by the information in the **Members of Parliament Declaration Form** tendered to the office of the Acting Secretary General of Parliament by the Accused marked **PEX4 (a)** and **PEX4 (b)**, the Accused informed the Parliament that his permanent place of residence was **Waidracia, Vnidawa, Nabuni, Naitasiri**. The location of permanent residence of the Accused made him eligible to claim

accommodation allowances under the **Parliamentary Remunerations Act of 2014**, since that locality was more than 30km away from the Parliament in Suva.

24. In addition, Prosecution led the evidence of **Mr. Saruwesh Narayan**, who was the Senior Finance Officer of the Parliament of Fiji during the time in issue, responsible for supervising the finance team and processing all allowance payments to Parliamentarians. According to him, the process starts from the Member of Parliament completing and submitting the required forms. Senior officer appointed by the party has to certify the GP8 and GP21 forms before the claims are submitted to the Secretary General's office. Then the Secretary General signs the claim form with acquittals and gives them to the Finance Unit.
25. Once the claim is received by the Finance Unit, they verify the Parliamentary sitting dates and travel acquittals with submitted GP8 and GP21 forms. If there are discrepancies in the GP8 and GP21 forms, Finance Unit amend the claims. Finally Finance Officer and the Senior Finance Officer sign the claims. Thereafter, the forms go to the vouchering clerk and then to the FMIS clerk to enter into the system. Lastly, it goes to the payment processing clerk and he will electronically transfer the money to the Parliamentarian.
26. According to the witness, the Declarations of Parliamentarians with their details are given to the Secretary General in the first instance and **PEX4 (a)** and **PEX4 (b)** are the declaration and supporting documents of the Accused relied on for administration of claims. By these documents, the Accused has given his permanent residence as Waidracia, Vunidawa, Nabuni, Naluwai, Naitasiri.
27. Further, the Court was surprised to hear from this witness that he has filled **PEX5 (a)** and **PEX5 (b)** for the Accused on his request and thereafter, these forms have gone through the usual process and finally come to him for certification, which he had done. Therefore, the claim forms of the Accused had been filled by this witness and finally certified for payment by himself. In this regard, for opposition Parliamentarians who were tried in the Court, the Court noticed that forms were filled by party office of Parliamentarians and the Accounts Unit of the S/G's office payments were scrutinized and approved by this witness for payments after doing alterations to amounts claimed. Therefore, the Court sees a fundamental violation of due process and principles of natural justice expected when dealing with public money by the action of this witness in filling up and finally approving the claim forms by himself with regard to MP **Vijendra Prakash**. There is also a fundamental mistake is the claims of the Accused filled by this witness, since though the Accused mentioned he was travelling daily from Waidracia, Naitasiri, claims had been put for accommodation, where the entitlement is of a higher value.
28. Therefore, this Court needs to highlight the dissatisfaction of this Court of the conduct of the Chief Financial Officer of the office of the Secretary General to the Parliament. In this regard, this Court sees that it should not recoil to respond when it notices follies

in the practices of prestigious institutions in our society. In this regard, this Court noticed that the Chief Financial Officer had filled the claim form of this Accused under the wrong category and finally approved payments for these claims himself in violation of a fundamental principle of Natural Justice that no man should be the judge in his own cause or “*nemo judex in sua causa*”. In this regard, this Court is of the view that necessary action should be taken to streamline this process.

**E. EVIDENCE LED IN THE TRIAL IN RELATION TO THE CONTESTED ELEMENTS BY THE PROSECUTION AND THE DEFENSE**

29. From the evidence led at the trial by the Prosecution and the Defence, the Court needs to determine whether the Prosecution managed to prove each contested element of each count beyond reasonable doubt or whether the Defence created a reasonable doubt in relation to any of the contested elements in any of the counts, warranting the acquittal of the Accused for that Count. To achieve this objective, the Court intends to analyse the impact of the Prosecution and Defence evidence led in the Court on the contested elements of each Count.

**Prosecution Case to Establish the Contested Elements**

30. In the trial, the Prosecution held the position that during the material times to the information filed in Court, the accused had a residence that was owned by himself at **Lot 1, Omkar Road, Narere, Nasinu** as his permanent place of residence and his permanent place of residence during the time in issue was not **Waidracia, Vunidawa, Nabuni, Naluwai, Naitasiri**. In this regard, Prosecution was of the view that **Lot 1, Omkar Road, Narere, Nasinu** was the matrimonial home of the accused and his wife, which was readily available for the accused prior to, during and after the offending period. In addition, Prosecution claimed that the accused had knowingly provided details of the property **Lot 1, Omkar Road, Narere, Nasinu** as his permanent address to several official organisations to be included in official documents. Therefore, Prosecution intended to establish their position through the evidence of witnesses representing these statutory organisations, as below.
31. In this regard, the interactions of the Accused with the **Department of Immigration of Fiji** was first brought to light. For their end two witnesses from the Fiji Immigration Department were called. In giving evidence as **PW4, Ms. Sanjana Mala Singh** informed Court that she is an immigration officer in the passport unit of the department, where they issue passports to citizens, including renewals. She informed that she went through the records of **Vijendra Prakash** in their possession and gave a screen shot to FICAC, including arrival cards. Referring to the two documents in **PEX29**, she recognized that **PEX29 (a)** as the receipt issued for receiving the passport renewal application from Vijendra Prakash, which was issued on 08/12/2016. Referring to **PEX29 (b)**, she confirmed that it was the passport renewal application form of **Vijendra Prakash**, dated 25/12/2016, where the Residential Address is **Lot 1 Omkar**

**Road, Nasinu** and the corresponding address is P.O. Box 8018A Nakasi. Further, he affirmed that for the application **Viendra Prakash** has provided a certification with his signature and thumb print confirming the information provided.

32. To further demonstrate the interactions of **Vijendra Prakash** with the Department of Immigration of Fiji, Prosecution led **PW5 Taranaivini Savou**, Senior Immigration Officer, who has been working in the department for 30 years. According to him, he is responsible for overall operation of the border control section in the Suva division that includes the Nausori Airport. He mentioned that every citizen coming to Fiji has to provide an Arrival Card, designed for all passengers arriving into the country to provide information. According to him, in the card, in 1.3 you have to mention your permanent address and in 1.8 you need to mention your address in Fiji. In the second page of the Arrival Card, there is a declaration that needs to be made by the passenger. The declaration states that the information given in the arrival card is true and correct in every respect. Further, he mentioned that below the signature, it is mentioned in the card that making a false declaration is an offence.
33. He further gave evidence referring to several arrival cards given by **Vijendra Prakash** during the contested period in the information to the border control. Referring to **PEX31 (a)** he confirmed that it is an arrival card produced on 12/12/2019 by passenger Vijendra Prakash holding passport number is 1055737. In the document permanent address mentioned in (1.3) is lot 1, Omkar road, Narere. Address in Fiji mentioned in (1.8) is also lot 1 Omkar Road Narere. As per **PEX31 (b)**, he mentioned that it was the Arrival Card tendered by Vijendra Prakash on 10/11/2019 at the airport. In 1.3 address is lot 1 Omkar Road Narere. In 1.8 the address in Fiji is lot 1 Omkar Road, Narere. Further, in relation to **PEX31 (c)** dated 17/01/2019, he affirmed that it is the Arrival Card of Vijendra Prakash produced on arrival. In 1.3 address is lot 1 Omka Road, Narere and in 1.8 the address in Fiji is lot 1 Omkar Road, Narere. In referring to **PEX31 (d)**, dated 16/03/2018, he affirmed that it is the Arrival Card tendered to the border control by Vijendra Prakash on arrival. In 1.3 address is Nasinu, Fiji. In 1.8 the address in Fiji is lot 1 Omkar Road, Narere, Nasinu. Further, in relation to **PEX31 (e)**, dated 02/02/2018, he affirmed that it is the Arrival Card tendered by Vijendra Prakash at the airport. In 1.3, the address is lot 1 Omkar Road Narere and in 1.8 the address in Fiji is lot 1 Omkar Road, Narere. In cross-examination, he confirmed that in 1.3 and 1.8 of the Arrival Card what is ask for is permanent address and not permanent residential address.
34. The interactions of the Accused with **Fiji Elections Office** was highlighted next. For the purpose, Prosecution led the evidence of **PW6, Mesake Dawai**, and **PW7, Jasmine Kumar**. According to **PW6**, under **Section 24** of the **Political Parties Registration, Conduct Finding and Disclosures Act of 2013**, upon filing nominations for the General Election by political parties, contestants for the election are required to submit within 7 days a declaration of their assets and liabilities to the Elections Office to be publicized in the papers and the gazette. In this regard, the Accused had submitted the agreed document **PEX2** to the Fijian Elections Office. In the document the Accused had mentioned his residential address as **Lot 1, Omkar Road, Narere, Nasinu**.

Further, in **PEX2** the Accused had declared of his ownership of a house at **Lot 1, Omkar Road, Nasinu** valued at FJ\$ 600,000. The declaration in **PEX2** has been dated 01<sup>st</sup> October 2018 and at the end of the declaration, the Accused had signed a statutory declaration declaring that the information provided in **PEX2** is true, as required by law.

35. According to **PW7, Jasmin Kumar** from the Fijian Elections Office, she had been responsible for the voter registration in her official capacity. According to her, in 2012 there had been a data capture form used to register voters by her office. She recognized **PEX32** as a data capture form used in 2012. **PEX32** had been registered on 18/07/2012 for the voter **Vijendra Prakash**, where his date of birth was 14/10/1956 and for ID the driving license 310997 had been provided. Further, the voter had provided the address as **Lot 1 Omkar Road, Narere, Nasinu**. Referring to **PEX33**, the witness identified that it was the electronic voter registration for **Vijendra Prakash** in their system with a photograph of the voter. As per the document, the polling venue allocated to the voter after discussion that was close to his residential address had been Ahmadhiya Muslim College, Narere.
36. The witness further confirmed that on 11/04/2022 the address and the polling venue of Vijendra Prakash had been changed in their system. In that, the address was changed to Waidravu, Vunindawa, Naitasiri and the polling venue was changed to Vunidawa Sanatan Primary School. Therefore, from 18/07/2012 to 10/04/2022 the address of Mr Vijendra Prakash in the system of Fijian Election office was Lot 1, Omkar Rd, Narere, Nasinu and the polling venue is Ahmadhiya Muslim College in Narere. Considering these documents in her official custody, the witness confirmed Court that as per the electronic voting system, the residential address of the Accused during 2014 and 2018 elections and during the years 2019 and 2020 was Lot 1 Omkar Road, Narere, Nasinu and his polling venue was Ahmadhiya Muslim College, Narere.
37. For the Prosecution case, the tax returns tendered by the Accused during the period in issue for the trial and the personal information provided by him to **Fiji Revenue and Customs Services (FRCS)** was led in Court through **PW9 Dineshwar Gounder**. According to the witness, he has been working as the head of Debt and Returns Management of FRCS, where he ensure the recovery of debt from full tax payers and look after the tax returns of taxpayers, where tax returns are lodged by the taxpayers and FRCS have them processed and assessed. He informed Court that a Tax Return is a declaration of a taxpayer on his or her financial income for the particular financial year, where during 2016 to 2021 these tax returns had to be physically filled by individual tax payers by completing **Form B**.
38. Referring to the document marked **PEX37**, the witness recognized that this was the tax return for **Vijendra Prakash** for the year 2017. He confirmed that in this document the Residential address stated is **Lot 1 Omkar Road, Narere, Nasinu** and the postal address is P.O. Box 8018A Nakasi. Further he informed Court that there is a declaration in page 7 which is signed by **Vijendra Prakash** and the form informs the taxpayer that it is an offence to make false tax returns. According to him, **Vijendra Prakash** has signed on 14/08/2018 and that **it is mentioned on the form that Postal or Residential address has not changed since the last tax return lodged**, and

therefore they have continued with the previous address provided that was **Lot 1 Omkar Road, Narere, Nasinu**.

39. Further, recognizing documents marked **PEX38, PEX39 and PEX 40** as tax returns of **Vijendra Prakash** for the years 2018, 2019 and 2020 respectively, he highlighted that in these documents two residential addresses had been provided by the relevant tax payer, i.e. Lot 1 Omkar Road, Narere, Nasinu and Waidravo, Vinidawa, Naitasiri. The postal address mentioned had been P.O. Box 8018A Nakasi. Further he informed Court that there is a declaration in page 7 of these documents which had been signed by **Vijendra Prakash** on 21/05/2020, 21/05/2020 and 21/03/2022 respectively. He emphasized that the form (form B) informs the taxpayer that it is an offence to make false tax returns and since **Vijendra Prakash** has confirmed on these forms that **his Postal or Residential address has not changed in the years 2018, 2019 and 2020 since the last tax return lodged**, for all official purposes **FRCS** has continued to use the previous residential address provided, i.e. **Lot 1 Omkar Road, Narere, Nasinu**.
40. The next government organization with which the Accused had interactions highlighted was the **Land Transport Authority (LTA)**. In giving evidence in Court **PW10 Margaret Gray** alluded that she is the complaints officer at the LTA, where commenced work in 2019. She informed Court that in her unit they collect complaints and do investigations, in addition to facilitating renewal of license applications. Referring to the document marked **PEX44** he mentioned that it was a driving license renewal application for 1 year tendered by **Vijendra Prakash** signed on 19/02/2019. According to her, the residential address provided by **Vijendra Prakash** is Lot 1, Omka Rd, Narere. For LTA purposes this was the applicant's home address. If they couldn't contact the applicant by phone or email, they will try to locate him at their residential address. As per document marked **PEX45**, she mentioned that it was the signed license renewal application form submitted by **Vijendra Prakash** to LTA on 06/02/2020 to renew the license for 3 years. In the application, the residential address provided was Lot 1, Omka Rd, Narere. She further emphasized that if the address of the applicant has been changed, then that has to be informed within 4 days by the applicant, where failure is an offense.
41. Explaining the document marked **PEX46**, the witness stated that the document is a snapshot of the LTA system in relation to the **Vijendra Prakash**, where the license number is 310997. He further explained that the residential address of the Accused in the LTA system, as provided by the accused in his license applications, is Lot 1, Omkar Road, Narere and the information in the system has not been updated since 6/02/2020.
42. Further, with the intention of demonstrating that the accused had maintained his permanent residence at Lot1, Omkar Road, Narere, Nasinu, Prosecution led the evidence of few witnesses representing other government organizations, such as, Nasinu City Council and FRCS tax payer data base, the Court did not find such evidence having any relevance to establish the elements of the Counts in the information filed in the Court.

43. In addition to leading evidence of witnesses representing government and other organization with whom the Accused had interactions to demonstrate that his actual residence was **Lot 1, Omkar Road, Narere, Nasinu**, Prosecution led the evidence of several lay witnesses from **Waidracia, Naitasiri** with the expectation of confirming that the permanent residence of the Accused during the time in issue was not **Waidracia, Vunidawa, Nabuni, Naluwai, Naitasiri**.
44. For their end, Prosecution led the evidence of **Emoni Yamoyamo (PW16)**. According to him, he lives in Navula farm in Naitasiri where he was brought up. After living in Suva for some time he has been living in the farm for the last 12 years. He claimed to be a dairy farmer. Giving evidence, he further claimed that **Vijendra Prakash** also has a farm in Nabuni next to his farm. He had known **Vijendra Prakash** for over 12 years, where his farm is 123 acres next to his farm, which has cattle and ginger crops with a house in the farm. He stated that no one lives in the house, since every time she goes there the house had been empty. According to her, in 2019 and 2020, **Vijendra Prakash** had come to her farm at least once a week. Anyhow, during the last 3 weeks he has been coming every other day to her farm. She was confident that **Vijendra Prakash** did not live in the farm as long as she can remember and if Vijendra Prakash was living in the farm they will know that in their small village.
45. To further establish the Prosecution stance, Prosecution led the evidence of **PW17 Mrs. Akanisi Tinaiverewala**. Giving evidence she stated that she lives in Waindracia village, Naitasiri for more than 40 years and that she is a housewife living with her son and grandson. She claimed to know **Vijendra Prakash** for more than 40 years, as he was brought up at their place since they were neighbors and his father is her cousin. According to her, Vijendra Prakash has been living in Omkar Road with his wife and children for about 25 years. She confirmed that she has been to the residence of the Accused for weddings and that she went there last year. She further confirmed that the Accused has two farms in her village and that he had been to these farms many a times. She alluded that there is a house in the farm, where a caretaker lives with her family for over 10 years. She also stated that she knows the brother of the Accused, Dhirendra Prakash, who has a separate farm. According to her the farm is about 250 meters from her house, where there is a family house. Vijendra Prakash will come to visit his farm at least 2 times a week and during the week-end and leaves back to Omkar Road.
46. In facing cross-examination and answering queries of her knowledge of the whereabouts of the Accused, the witness admitted that she has a nephew named Vimal Deo in Navua living with his family, where he would spend most of his time in 2018, 2019 and 2020 helping with her two children. But she confidently told the Court that though she was spending time in Navua during that period, he came back to her village Waidracia on Friday and went back on Monday, so that he spent some time in Waidracia every week.
47. The next witness summoned by the Prosecution from **Waidracia, Naitasiri** was **(PW18) Elike Latilati**, who was the caretaker of the farm of the Accused. According



to him, he has worked at Master Vijen's milking shed in Waindravo for 40 years. He has been living in the house in the milking farm for 14 years with his wife and grandchildren. Further, he claims that his nephew and his family had been living in the other house in the farm for about 12 years and work for Master Vijen. He stated that he and his nephew milk the 20 cows in the farm in morning and afternoon, where they transport the milk to Rewa Dairy Company. He also mentioned that he does other work in the farm, like fencing and that he is paid wages for his work. According to him, **Master Vijen lives in Omkar Road with his wife** and he knows this because at times he goes to Omkar to collect money. He confirmed that he has been to Omkar on numerous occasions and he knows that the Accused had been living in Omkar Road all the time he was living in the farm, which is for 14 years or more. He affirmed that he goes there 3 to 4 times a year, where he remembered that he went there in last 2 months to give some cash. He alluded that Master Vijen comes to the farm at least 3 times a week and if he doesn't stayover in the family house, he will return to Omkar Rd. In that, Master Vijen will come at around 10am and return by 4pm. He confirmed that if he needed to meet the Accused, he would catch the bus and go to Omkar. The Court was impressed with the demeanor and deportment of the witness in giving evidence in chief

48. However, in cross-examination, when questions were asked by the Defense from the witness referring that they were the instructions given by **Vijendra Prakash**, the witness stated that in 2018 the Accused will not spend more than 3 nights in Omkar road. In 2018 Accused was spending most of the time in Vunindava and sleeping more nights in the family farm. In 2019 Master Vijen was spending most of his time in his family home in Vunindawa. I know that the Accused used to stay in his family home, but can't specify how long. In this regard, the Court noticed a significant difference in the demeanor of the witness during the evidence in chief and cross examination, which warrants further analysis.
49. The final witness for the Prosecution was **PW23, Milika Cakacaka**, the investigating officer from FICAC. In relation to the document marked **PEX32**, the witness recognized the document as the data capture form of **Vijendra Prakash** from the Fijian Election Office database. She confirmed that the phone number of **Vijendra Prakash** in the document is 9291566. She further recognized **PEX36** and **PEX41** as tax returns of **Vijendra Prakash** for the years 2016 and 2021 that she came across during her investigations. She confirmed that in these two documents also the mobile number mention by the Accused is 9291566. In addition, referring to **PEX44** she identified that it was the LTA application of **Vijendra Prakash** that she investigated. She confirmed that in the application also the phone number mentioned by the Accused is 9291566. Referring to **PEX45**, he mention that there was a LTA application submitted by **Vijendra Prakash** in 2020, where he has mentioned his personal phone number 9291566 and the official phone number 9904509. Further, the witness identified **PEX63** and **PEX62** as Vodafone records in relation to the personal phone number and official phone number of the Accused.
50. In considering all the calls made by **Vijendra Prakash** during the time in issue, as per **PEX63** and **PEX62**, she claimed that she prepared a comprehensive summary of the

outgoing calls made by the Accused during August 2019 to April 2020 depicting the locality of the base station where the calls were picked and presented the summary by way of graphs, where she obtained the assistance of a graphic officer to present the data by way of a colorful presentation on a monthly basis. For their analysis, she had considered 4137 calls made by **Vijendra Prakash** by both of his phones during 274 days. In this regard, they have given coloring in the graph, as below:

- Green: Calls made within the vicinity of Omkar in the Suva Nausori corridor.
- Red: In the vicinity of Vunidawa, Naitasiri.
- Blue: Other calls made within Fiji.
- Purple: Calls made from overseas
- Red arrow: Represents same day calls from Nakasi and Vunidawa at different times.

51. The witness also testified that in preparing the summary of the phone calls made by the Accused between August 2019 and April 2020 she took into consideration international travel records and claims submitted by **Vijendra Prakash** to Parliament in identifying the Parliamentary sittings, in addition to information about Parliamentary workshops that took place during that period. As the final outcome of the investigations done in relation to the movement of **Vijendra Prakash** unearthed through his phone records, the witness marked the summary of movements of the Accused as claimed by the Prosecution as below:

- PEX67 (a): Graph of movements of Vijendra Prakash in August 2019
- PEX67 (b): Graph of movements of Vijendra Prakash in September 2019
- PEX67 (c): Graph of movements of Vijendra Prakash in October 2019
- PEX67 (d): Graph of movements of Vijendra Prakash in November 2019
- PEX67 (e): Graph of movements of Vijendra Prakash in December 2019
- PEX67 (f): Graph of movements of Vijendra Prakash in January 2020
- PEX67 (g): Graph of movements of Vijendra Prakash in February 2020
- PEX67 (h): Graph of movements of Vijendra Prakash in March 2020
- PEX67 (i): Graph of movements of Vijendra Prakash in April 2020

52. Above mention witnesses were the main witnesses who gave evidence to establish the Prosecution claim that the permanent residence of the Accused was not **Waidracia, Vunidawa, Naluwai, Naitasiri** and thereby to assert that the Accused knew or believed that the information he provided to the Acting Secretary General to the Parliament of his permanent residence was false.

### **Evaluation of Prosecution Evidence**

53. To establish the Prosecution case against **Vijendra Prakash** that he provided false information to the Acting Secretary General of Parliament that his permanent residence was in **Waidracia, Vunidawa, Naluwai, Naitasiri**, Prosecution led witnesses representing statutory organizations to demonstrate the interactions of Vijendra Prakash with these organizations and the information he had provided as his permanent

residence, evidence of witnesses from Waidracia, Naitasiri to emphasize the frequency of the presence of the Accused at that locality and the evidence of official and personal phone records of the Accused to demonstrate that he was mostly using his phones in Nausori, Suva area and was using the phones rarely in Vanidawa, Naitasiri, revealing the Accused was mostly in Nausori, Suva than Vanidawa, Naitasiri. Therefore, the Court will evaluate this evidence to determine how much Court can rely on this evidence in reaching the final conclusion.

Evidence of witnesses representing statutory organizations

54. In this regard, evidence was led of two witnesses representing the Department of Immigration Fiji, where witness **Sanjana Mala Singh** claimed that the Accused had provided Lot 1, Omkar Road, Narere as his residential address in the passport renewal application on 08/12/2016 and witness **Taranaivii Savou** testified that on Arrival Cards submitted by the Accused to Fiji border control on 12/12/2019, 10/11/2019 and 17/01/2019 he had mentioned Lot 1, Omkar Road, Narere as his permanent address and his address in Fiji, where the Accused had signed a declaration confirming that the information is true and correct in every respect, accepting that making a false declaration is an offence.
55. To demonstrate the interactions of the Accused with the Fijian Election Office, Prosecution led two witnesses. Witness **Mesake Dawai** informed Court that in the declaration of assets and liabilities submitted by the Accused on his nomination to contest the election of 2018 he had mentioned his residential address as Lot 1 Omkar Road, Narere, Nasinu and informed that he owns the property. Further, it was confirmed by witness **Jasmine Kumar** that in registering to vote in 2012, the Accused had submitted Lot 1, Omkar Road, Narere, Nasinu as his residential address and chosen Ahmadhiya Muslim College as his polling station close to his residence. During 2018 to 2020, these details had remained the same for administration and voting in the FEO system without any change.
56. In relation to tax returns tendered by the Accused during 2018, 2019 and 2020 to Fiji Revenue and Customs Services, Prosecution led the evidence of **Dineshwar Gounder**. This witness informed the Court that the Accused had maintained his residential address as Lot 1 Omkar Road, Narere, Nasinu in his tax returns of 2018, 2019 and 2020, where the Accused had signed these tax returns accepting that it is an offence to make false tax returns.
57. The last witness led in evidence in this category was a witness representing the Land Transport Authority. In this regard, Margaret Gray informed the Court that in the license renewal applications submitted by the Accused on 19/02/2019 and 06/02/2020 the residential address mentioned by the Accused is Lot 1 Omkar Road, Narere. She further emphasized that under the regulations of LTA, if the address of the applicant has been changed, that change had to be informed within 4 days, where the failure was an offense and no such change had been informed by the Accused.
58. All the above detailed witnesses representing statutory bodies gave evidence in Court in their official capacity referring to document that were in the custody of these

organizations. Therefore, the Court didn't find any reason for these witnesses to lie to the Court. Further, Defense did not propose falsity of the evidence given by these witnesses and challenge the testimony of any official witness on those lines. Right throughout the Defense cross-examination the one question that reverberated was whether there was a requirement to mention the permanent residential address of the applicant in these statutory forms or was it just the residential address. For this question, almost all the official witnesses who gave evidence promptly informed that the requirement was residential address for administrative purposes.

59. In addressing the question raised by the Defense, in considering the evidence of other Prosecution witnesses and the Defense case, the Court has to determine, as per the definition given by the Court to "permanent residence", whether the Accused maintained a permanent residential address in one locality and a separate distinguishable residential address in another locality at the same time.

Evidence of lay witnesses for the Prosecution from Waidracia, Naitasiri

60. The first witness led in the category by the Prosecution was **Emoni Yamoyamo**, who had been maintaining a farm next to the Nabuni 123 acre farm of the Accused for the past 12 years. He claimed that the Accused came to his Nabuni farm in 2019 and 2020 at least once a week, but he did not reside in the farm.
61. The next witness for the Prosecution from Waidracia, Naitasiri was **Mrs. Akanisi Tinaiverewala**, who was the aunt of the Accused living in Waidracia for the past 40 years and knowing and associating the Accused as a family member. She confirmed that the Accused has two farms in her village and the brother of the Accused has a farm and a family house close to her house in the village. However, she confirmed that the Accused has been living in Omkar Road with his wife and children for about 25 years. She further confirmed that she has been to the residence of the Accused for functions and she went there last year. She very confidently informed the Court that Vijendra Prakash will come to visit his farm at least 2 times a week plus during the week-end and leave back to Omkar Road. In cross-examination though she admitted that she would spend more time with her nephew's family in Navua during 2018, 2019 and 2020 helping with his two children, she told the Court with conviction that she came back to her village Waidracia on Friday and went back on Monday to make sure that she spent some time in her village.
62. This witness was a close relative of the Accused, who knew the accused from his childhood and who maintained a cordial relationship with the Accused and his family. Apart from questioning the witness of her knowledge of the whereabouts of the Accused during 2018 – 2020 due to her presence in Nawua for family commitments, which she promptly and astutely answered in detail, Defense did not challenge her evidence. In this regard, Defense did not question this witness, who had time-tested interactions with the Accused and his family, the Defense position of the Accused having his permanent residence in Waidracia, Naitasiri and visiting his family home in Omkar Road, Narere for business purposes. The Court observed that during cross

examination she was very prompt and precise in responding to questions, where she generally gave direct and concise answers to questions. The demeanor and deportment of the witness was extremely consistent with of a truthful witness. Therefore, the Court has no reason to disbelieve the position espoused by this witness.

63. The last witness summoned as a lay witness from Waidracia, Naitasiri to give evidence for the Prosecution case was **Eliki Latilati**, who had been the caretaker of the farm and living in the farm house owned by the Accused in Waidracia for 14 years. He had been employed by the Accused for work in his milking shed for 40 years. With regard to evidence of this witness Court observed a significant difference in the manner and the subsistence of his evidence in Court during the examination in chief and cross-examination by the Defense.
64. In this regard, in giving evidence in chief he testified that he and his nephew milk the 20 cows in the farm of the Accused in the morning and in the afternoon, where they transport the milk to Rewa Dairy Company. He informed Court that **Master Vijen lives in Omkar Road with his wife** and he knows this because at times he has gone to Omkar to collect money. He confirmed that he has been to Omkar on numerous occasions and he knows that the Accused had been living in Omkar Road all the time he was living in the farm for the last 14 years. He alluded that Master Vijen comes to the farm at least 3 times a week and if he doesn't stayover in the family house, he will return to Omkar Rd. On a personal note, he confirmed that if he needed to meet the Accused, he would catch the bus and go to Omkar Road. In this regard, the picture he created before the Court was that the Accused lived in Omkar Road with his family, but as an owner of farms in Waidracia, Naitasiri he visited the farms at least thrice a week and assisted them with the work and returned to Omkar Road family residence.
65. However, during cross-examination by the Defense the stance of this witness entirely changed. In this regard, questions were asked by the Defense from the witness, without any objection from the Prosecution, referring that they were the instructions given by **Vijendra Prakash** to the counsel. At this point the witness agreed that in 2018 the Accused will not spend more than 3 nights in Omkar road and in 2018 Accused was spending most of the time in Vunidava and sleeping more nights in the family farm. Further, he agreed that in 2019 **Master Vijen** was spending most of his time in his family home in Vunidawa.
66. Considering the above, the Court considers that it is the duty of Court to consider the position in Common Law in accepting the answers obtained by the Defense by utilizing this form of questioning. In this regard, few of the questions raised by the Defense and answers given by witness Eliki Latilati, who was an employee of the Accused for 40 years were, as follows:

Defence: These are the instructions of Mr. Vijen. Master Vijen instructs me that in 2018, he was spending most of his time in Vunidawa, correct?  
Witness: Yes.

Defence: He also instructs me that in 2018, at most nights, he was sleeping at the family farm?

Witness: Yes My Lord.

Defence: He also instructs me that he used to visit Omkar sometimes in 2018 but wouldn't spend more than 3 days there, correct?

Witness: I agree My Lord.

Defence: In fact in 2019, Master Vijen was spending most of his time at the family home in Vunidawa, correct?

Witness: Yes I agree My Lord.

67. To accept the answers given by the witness to this line of cross-examination, the Court referred to the Common Law position espoused in **ARCHBOLD (2022)**<sup>1</sup>, a position also pronounced by the **Privy Council** of the **United Kingdom** in the case of **Randall v R [2002] UKPC 19; (2002) 2Cr App R. 17**. As quoted in **ARCHBOLD**<sup>2</sup>, the position is as below:

*“An advocate must not in the course of cross-examination state matters of fact or opinion, or as what someone else has said or is expected to say. Defending counsel on occasion break the rule by saying e.g. “the defendant’s recollection is” or “the defendant will say” or “my instructions are that.....” The time to make such a statement is in an opening speech, not in cross examination. Nor is it permissible to evade the rule by putting the statement in the form of a question e.g. “What would you say if the defendant were to say?”*

68. In considering the above position in Common Law, the manner in which the Defense counsel cross-examined witness **Eliki Latilati** is exactly what is not accepted in Common Law jurisprudence. Therefore, complying with Common Law legal literature, this Court should not take into consideration answers obtained by the Defense by the unacceptable manner of cross-examination that put undue pressure on the witness **Eliki Latilati** expecting employer anticipated answers from the employee. Therefore, the Court will disregard the answers obtained in this manner in cross-examination. Considering the evidence in chief of witness **Eliki Latilati**, he categorically testified in the Court that **Master Vijen lives in Omkar Road with his wife for the past 14 years** and he knows this because he has gone to his house in Omkar Road for work related matters to meet him. He also alluded that Master Vijen comes to the farm at least 3 times a week and if he doesn't stayover in the family house, he will return to Omkar Road. Considering all the evidence led in this trial through 36 witnesses, the Court perceives that this witness was in the best position to testify of the involvement of the Accused with his farm and his presence in the farm, since he had worked for the Accused for 40 years in Waidracia. This witness testified in Court as a typical villager who has come before Court to tell the truth, until he was put under undue pressure in cross-examination. Following the well-

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<sup>1</sup> 200<sup>th</sup> Anniversary Edition (SWEET & MAXWELL, 2022)1627

<sup>2</sup> Ibid.

established legal literature in Common Law, this Court accepts the evidence given by this witness in evidence in chief.

Evidence of phone records of the two phones used by the Accused

69. By the evidence led by the Prosecution under this heading, it was intended to demonstrate that the Accused had been present in Omkar Road, Narere, Nasinu area much than in Waidracia, Naitasiri during any given month of the offending period. To establish this position, Prosecution led the evidence of **Milika Cakacaka**, the investigating officer from FICAC in this matter. Giving evidence in Court, she informed Court that she considered the Vodafone records of Vijendra Prakash's personal phone number 9291566 marked **PEX63** and Vodafone records of Vijendra Prakash's official phone number 9904509 marked **PEX62**. She claimed that in making an analysis of these records, she considered 4137 calls made by **Vijendra Prakash** by both of his phones during 274 days between August 2019 and April 2020. Further, for easy comprehension of the analysis she made, she had presented this summary by way of graphs with colorful presentation of the calls made based on the locality the calls were made on a monthly basis, during the period in issue.
70. As the final product of the analysis, she marked in Court 9 graphs from **PEX67 (a)** to **PEX67 (i)** for the months from August 2019 to April 2020. When these graphs were marked by the Prosecution the Defense objected for these being admitted as evidence. In admitting these graphs, the Court made reference to a decision of the **Australian Court of Criminal Appeal** in the case of *Reg. v Mitchell [1971]*<sup>3</sup>, where it was stated as below:
- “The chart was nothing but a convenient record of a series of highly complicated cheque transactions which had been proved by other evidence, and was likely to be of considerable assistance to the jury, had they all been accountants, doubtless after considerable time they could have prepared such a chart for themselves. The use of such charts and other time-saving devices in complicated trials of this kind is a usual and desirable procedure and is encouraged by the courts.”*
71. In relation to the above graphs marked in Court by the Prosecution, the Court see that they are nothing but a colorful presentation of the summary of calls made by the Accused according to Vodafone records produced in the Court as **PEX63** and **PEX62**.
72. In addition to the above, Prosecution marked 2 other documents as **PEX70 (a)** and **PEX70 (b)** as a succinct breakdown of the total number of calls made from phones used by the Accused during the 274 days in issue in the information filed by the Prosecution. By **PEX70 (b)**, it was depicted by the Prosecution that out of 4137 calls made from the phones used by the Accused during this period, only 202 calls had been made from Vunidawa vicinity. Therefore, it was claimed by the Prosecution in the final submission that though the Accused had claimed his Permanent Residence to be Vunidawa, Naitasiri to Parliament in **PEX4 (a)** & **PEX4 (b)**, he has not resided permanently at that locality.

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<sup>3</sup> *Vic Rp.5; (1977) VR 46, at pp. 59-60*

It was further claimed that in contrast, the Accused had made most of the calls during the 274 days in issue, as evident from **PEX67 (a)** to **PEX67 (i)**, from Omkar Rd, Narere, Nasinu area, i.e. close to his residence located there. Therefore, it was the position of the Prosecution that the Accused had not been residing in Vunidawa, Naitasiri as claimed to the Parliament.

73. Though it was initially claimed that the Defense is contesting the Vodafone records filed by the Prosecution through expert evidence, the evidence of call records was not challenged by the Defense. In this regard, neither the FICAC investigating officer nor the witness from Vodafone who gave evidence in relation to Vodafone base stations in Fiji and how phone calls were recorded were cross-examined claiming a different stance than what was depicted in Court by the Prosecution. Further, in cross-examination the Accused admitted many details as stipulated in these call records pertaining to calls made by him.

### **Defense Case to Challenge the Contested Elements**

74. In this trial, for the Defense case the Accused gave evidence under oath and was cross-examined by the Prosecution and 12 other witnesses were summoned to give evidence for the Defense.
75. The foundation for the Defense case in this matter was built on the movements of the Accused during the period in issue and the reasons for these movements of **Mr. Vijendra Prakash**, as claimed by him in his evidence. This position was thoroughly questioned by the Prosecution during his evidence. Therefore, the Court find it pertinent to layout succinctly the evidence of the Accused in detail, which was recorded on 4 days, as below:

### **“Evidence in Chief**

- I am a farmer, dairy and crop farmer for 40 years. I farmed in Netasiri, Vunidawa.
- I was a teacher and an administrator before.
- In 2011 I bought another farm because I needed more space.
- In 2009 I was living in Vunidawa, but I was not spending all the time there. I went there 4-5 days a week. This include nights, as well. When not in Vunidawa I was in Omkar Lot 1 in Narere.
- 2009-2018 I was living in Vunidawa, Nethasiri. But this was not the only place. Most of the time I was in Vunidawa, but occasionally I came to Omkar Rd, Narere.
- In Vunidawa I would spend time in my family home, I also spent with Mhendra Kumar and Ritesh Narayan. I also stayed few nights at my farm in Nambuni. My Serea farm is a dairy and a crop farm. I have also constructed in the farm 2 manages premises made of concrete with water and electricity. I have stayed in these houses on some nights.
- In Nmbuni farm I repaired the existing house, the house does not have electricity and water. Workers use to stay there when working on the farm.
- I build another house in the interior of the farm.



- My family home in Vunidawa is owned by my younger brother. This is made of concrete with 2 rooms, a kitchen a sitting room with toilets. Out of the two rooms one is for me and the other is for my brother.
- In 2019 and 2020, my younger brother and I lived in this house, where I had keys to this house. But after the lockdown in 2020 I came to Omkar in considering my health condition.
- Rithesh Narayan is my cousin who lives next to my farm in Serea.
- After farm duties in Serea, I used to come to the house of Rithesh Narayan.
- I was elected to Parliament in 2018. I filled **PEX3 (a)** and mentioned my permanent residence in this document to best of my knowledge.
- In **PEX4 (a)** I didn't mention Omkar Rd house as my residence, since I was explained of the permanent address at the 2<sup>nd</sup> training. This was not accepted by SG's office, since Statutory Declaration was missing and I filed the Statutory Declaration by **PEX4 (b)**.
- In Vunidawa, apart from farming, I am a lay preacher and the chairperson at the Naluwai Chilling Centre limited and I am also a trustee of the Vunidawa School. I am a director of the board of the Vunidawa hospital.
- PEX55 is the Nabuni farm, PEX58 (a) is the lease of farm 3392, PEX59 is lease of farm 3392.
- There is a double storied house and a single storied house in lot 1 Omkar road and a dairy shop in the front. There are EFL accounts dedicated to every building. These are under my name. At the moment bills are paid by occupiers of the rented units.
- PEX26 is the lease for Omkar Road, which I acquired in 2010. In 1998 I was living here with my children and wife.
- PEX5 – PEX24 – These are the claim forms submitted by me to the Parliament.
- I got Sruvesh Narayan to fill PEX5A for me, I got her assistance to fill all my claims.
- After the Parliamentary meetings I will go back to the farm. If it is before 9 pm I will drive myself, if later, I will get a driver and have a nap on the way. I really needed to be at the farm, since lot of theft was happening there of dalo and cattle.
- I will go to Omkar Rd to hear the grievances of the people. I did not spend nights there.
- During week-ends I wrap up things in the farm and come to Omkar Road.
- My official phone was not always with me. But at least 85%.
- In Vunidawa Vodafone connectivity was very week. Up to Sawani there was good connectivity. But from Sawani to Naqali on the way to Vunidawa connectivity was week.
- Before pandemic, I will deliver stuff to Omkar road shop once or twice a week.
- PEX2 – This was needed to contest the election. Address is lot 1 Omkar road, Nasinu. I have used this address since 1998 and it was the convenient address.
- PEX29 (b) – I filled this form. I have mentioned lot 1 Omkar Rd, Nasinu as my address, since this is the most convenient address where somebody will be there. I spent some time here.
- PEX31 (a, c, d, e) – I have put lot 1 Omkar Rd, since this was the most convenient address. I was not residing at this address. For my understanding Permanent address means where I can be contacted.

- PEX31 (b) – here the permanent address is lot 1 Omkar Rd, Narere. Address in Fiji is Vunidawa. This is after the induction. But in filling forms after the induction, I have still gone back to mentioned Omkar Rd as my address.
- PEX32 – This is the data capture form for Immigration Department. I have mentioned lot 1 Omkar Rd as my address.
- PEX33 – This is the data capture form Fiji Elections office. In this the address is Vunidawa.
- PEX35 – This is customs office data capture form. Address is 1 Omkar Rd, Narere.
- PEX36 – PEX41 – Income tax returns from 2016 to 2021. PEX36 and PEX37 I have filled my residential address as lot 1 Omkar Rd. After the training in Parliament, I decided to put both these address.
- PEX42 – Town Council rate payer’s history. My wife has always paid these rates.
- PEX44 – LTA renewal form. I have mentioned lot 1 Omkar Rd as the residential address.
- PEX45 – LTA renewal form. I have filled this form. Residential address is lot 1 Omkar Rd, Nasinu, since this was the convenient address.
- I didn’t give false information in the MPDF forms.
- I have mentioned Omkar Rd in statutory forms, since that was the convenient address. In the Parliamentary form I had to put the Permanent place I reside.
- The difference between residential address and where I permanently reside is where I spend most of the time.

### **Cross - examination**

- Almost all my lifetime I spent in Vunidawa. Since 2009, up to 60% to 75% of my time I spent there.
- If I am not in Parliament I will be attending to the farm or attending to farm activity.
- On a daily basis I have to come out of the farm to attend to the farm requirements.
- In a day I will be there in the farm about 6 – 16 hours on a farm day that is 65% of my time.
- I was born and raised in Vunidawa. I have 16 siblings. We were living in the family house in the farm 3390 now owned by my brother, where I live now with my brother.
- I studied at Vunidawa primary school and Saraswathi Secondary School in Nasouri.
- After school I started employment first as a Clerk at a spare parts shop. I started University studies in Chandigarh University, India. I returned in 1981 with a degree in science, i.e. Biology and Chemistry.
- I was employed as a teacher in 1982. I did a certificate in Education in USP. I have a post graduate qualification in Biology.
- I taught in Lomaivuna High School till 1989. I was transferred to Lami High school, I think it was 1990. We were living in the shop in Waidravo, Serea. Thereafter, I was transferred to DAV Boys College in Samabula and we were living in lot 1 Omkar Rd. We moved to Omkar Rd in 1991. Till 1999 I was teaching in Saraswati College and resigned and came to politics. I was not successful and came back to teaching at Maris Brothers High school. This practice continued for a while till 2009. Since 1996 I had a farm in Vunidawa and after retiring went to full time farming in Vunidawa.

- At that time my family moved to Omkar Rd and kids started going to school around.
- Between 2009 and 2018 I was doing full time farming. I was elected to Parliament in 2018.
- My activities outside farming took me to get involved in several organizations.
- My activities as school president was always outside Vunidawa.
- I am the secretary of the largest Hindu body in Fiji “Sanathan Sabha”, this organization is de-centralized. Headquarters are in Suva. This is an important organization.
- I was the president of the Gopal Sadhu Humanitarian Mandir.
- I can walk to the Mandir in 5 minutes. In 2019 I would have gone to the Mandir about 10 times.
- I was in Parliament for about 2 years. I was in the Public Accounts committee. The committee dealt with the public money and the utilization of public money.
- I am an educated person who dealt with important activities.
- Mahendra Kumar’s shop in Vunidawa I was managing while teaching.
- From 1991 to 1998 the Omkar road house had 3 rooms comfortable for my family. There was a one bed room house in this property, as well
- These houses were destroyed by fire in 1998. Then we built a two storied house, starting in 1999 and completed in 2001. Thereafter, a one bedroom house was built in 2017. Dairy/vegetable shop was built in 2016.
- In the two storied building there are 2 flats. 3 bedrooms in the bottom flat and 4 bedrooms in the top flat. Very seldom I had meals with my family.
- Wife and children were living in Omkar road after we moved there. My family were always there, it was I who moved out.
- I was raised in 3390 farm and I bought the lease for 3392 in 1996. Farm 3390 was managed by my brother. In 3392 I built two farm houses. This was for the farm manager and for me to stay.
- In farm 3390 is where we have the family house where I have a room and laborer’s quarters in the property.
- During my teaching time I used to come to the farms from Omkar.
- I acquired Nabuni farm in 2011. There was a rundown house which I repaired. I built another house on this farm.
- From arm 3390 to farm 3392 it will take 10 minutes on foot, it’s about 1km. From farm 3392 to Nabuni farm it will be about 1km, as well.
- All the farm houses were not to make my matrimonial residence.
- I was working as the special administrator for local government areas. I am not aware whether I had the power of the Mayor. I was above the CEO. Legal matters were decided by the legal team. After I resigned I became a farmer.
- Though I went for other work of the farm, I was living in Vunidawa. My brother was looking after the farm in the property where the family house is since 2005.
- I didn’t lock my room in our family house when I was living there in 2019 and 2020.
- My brother was there in the farm full-time. Only I and my brother lived in this house. For the family house in farm 3390 we had our own water supply. Apart from the two sitting rooms, the other areas were segregated.
- The house where my farm manager lived was compartmentalized for children to study. The houses in this farm had electricity.

- Nabuni farm houses had no electricity or water.
- Next to my farm there was Bobby's shop. There was a room I use in this building. Bobby's shop was a two storied building, this was next to my farm.
- Next to my Farm Ritesh Narayan, my cousin had a house. This was next to Bobby's shop. So in this area there were 8 specific places I could live. But I spent most of the time in Waidracia farm.
- I occasionally stayed in farm 3392 and rarely in Nabuni farm. I spent most of the time in my family house. Most of my belongings were in the family home. When I am in the family house, either I or my brother cooks.
- All my Parliamentary work was done at the Family house. From 2011 to 2018, I didn't stay weeks in Omkar Road. Week-end I would go to Omkar, I may spend a night or two in Omkar.
- All my formal cloths were in Vunidawa. From Omkar to Vunidawa it will take 45 minutes, if there is traffic it will take more.
- When I filled **PEX3** I didn't have good idea about Permanent residence.
- Most of the time I have mentioned lot 1 Omkar Rd, Narere in statutory documents I made.
- **PEX4 (a & b)** – I don't agree that I was trying to provide a vague picture to Parliament through this document.
- I omitted Omkar in **PEX4**, since I was educated of the permanent residence at the 2<sup>nd</sup> induction.
- From 1991 to 2009, I spent time in Omkar Rd, Narere.
- I build the shop in 2016, where it was initially a vegetable sales place. In 2019, I converted that to a shop selling farm items. My son was the proprietor of the shop. I have no connection to the shop business. Initially, my daughter's family lived on the upper floor and thereafter another family lived.
- I still came back to Omkar road to be with my family, it remained as my home to spend time with wife and children. I had a separate room. When my health was deteriorating I came back to Omkar Rd and my wife and children looked after me. I spent the lock-down period at Omkar Rd.
- Since the 2021 lock-down I spent all my time in Omkar Rd and went back. Omkar remained my residence. I went to Vunidawa for farming and social activities. Most of my social activities were in Vunidawa.
- I used the two phones in Fiji most of the time, I made the calls from these phones all the time.
- Once I signed the claims I give it to the Fiji first office. Also my 20 claims went through the Fiji first office, most off the time I gave it to the officer in the Fiji first office.
- It was easier for me to get the form and get it filled from Saruwesh Narayan.
- I will sit with him and fill the form and sign it thereafter. Even with GP21, I filled the form with Saruwesh the same way. When I informed Saruwesh that some information filled where wrong, Saruwesh corrected that.
- I was not ignorant to fill the form, but I intended to get assistance from Saruwesh.
- I was not informed that I should not be claiming subsistence, because of that I claimed subsistence for travelling up and down to my farm.

- PEX63 – 9291566 – this is my personal phone – I agree my movement started on 01/08/2019 from Nakasi and went to Vunidawa and came back to Narere.
- On 02/08/2019 I was in Suva and Nausori and didn't go to Taulevu.
- On 03/08/2019 I was not in Taulevu during day time.
- On the 4<sup>th</sup> I was not in Taulevu. I was largely in Nacasi area.
- So for these 4 days the calls had been made from my phone from towers from Omkar area according to Vodafone records.
- So I was not present in Taulevu during these days doing farming and my calls were made from Omkar area.
- So, during this time I was physically around Omkar Rd.
- During Parliamentary days I used to go back to Vunidawa.
- During 5<sup>th</sup> August 2019 to 9<sup>th</sup> August 2019 I used to come from Vunidawa to Parliament.
- From 5<sup>th</sup> August to 8<sup>th</sup> August all the calls had been made in Omkar area.
- On the 9<sup>th</sup> August I went to Vunidawa and I am back in Nakasi on the 10<sup>th</sup> in the morning. I came there to sell dairy items.
- I came back to Nakasi on Sunday the 11<sup>th</sup>. I spent the entire day time in around Nakasi.
- 12-15 August I was at the Perl resort, where I started from Omkar.
- On the 16<sup>th</sup> my first call is from Nakasi and the last call is from Nakasi. I was not physically present in Vunidawa. I went to Vunidawa in the night.
- On the 16<sup>th</sup> last call was from Nakasi and I agree that the first call on the 17<sup>th</sup> is from Nakasi and the last call is also from Nacasi.
- On the 18 the first call is from Omkar Rd and the last call is also from Nacasi. On the 19<sup>th</sup> the first call is from Omkar Rd at 6.49 am.
- I agree that during August I left Omkar Rd late and came back to Omkar Rd early in the morning.
- I had to be at Vunidawa during night time to make sure that milking is properly done and farm items are not stolen.
- I agree that late afternoons and early morning there were no calls in the first 20 days of August 2019 from Vunidawa area.
- On the 21<sup>st</sup> August the first call was from Omkar and the last call was also from Nakasi.
- On the 22<sup>nd</sup> the first call in the morning was from Omkar and the last call at 22.23 is from Taulevu.
- On the 23<sup>rd</sup> I was in Vunidawa during the daytime where the first call was at 11.04 from Taulevu.
- On the 24<sup>th</sup> the first call is from Omkar and during day time in Nacasi and the last call is also from Nakasi.
- 25<sup>th</sup> the first call is from Narere and the last call is from Makoi, near Omkar.
- 26<sup>th</sup> the first call is from Nakasi. I would have been in Omkar. From Omkar I went to Natadola. Till the 29<sup>th</sup> I had a workshop.
- On the 29<sup>th</sup> I left Natadola and my last call was from Makoi.
- On the 30<sup>th</sup> first call is from Nakasi and the last call is from Nausori.
- On the 31<sup>st</sup> from 7 am my movements are in Nakasi area and during mid-day I travel to Taulevu.
- Sometimes I have left my phone at the dairy shop and other people will answer.
- I attend to my Parliamentary work from my home in Omkar Rd sometimes.
- Shop is the only place I met people as an MP. There was a separate table for that.

- I did not write to the S/G of Parliament of my daily travel to Vunidawa. I didn't advise the S/G verbally. I didn't verify from the person who made the 2<sup>nd</sup> induction.
- I was not aware whether it was wrong to go to the Accounts division to fill-up my claims.
- In relation to September 2019, on 7 occasions out of 97 calls I have made calls from Vunidawa. From 9<sup>th</sup> to the 14 I had only made one call from Vunidawa.
- From the 14<sup>th</sup>, I made my next call to connect from Taulevu on the 19<sup>th</sup>. From the 19<sup>th</sup> to 22<sup>nd</sup> there were no calls made by me for Taulevu base to connect.
- Out of 30 days in September 2019, my movement had only been captured on 7 occasions from Vunidawa. On other days I travelled to Vunidawa, but I only made calls from where there was reception.
- In 3392 farm there is reception in 2 places and in 3390 and Nabuni farm there is only one place having reception.
- **PEX70 (a)** – As this states, out of 274 days 80 days I was in parliament and committees. For local workshops and overseas travel it was 20 days. There were 174 ordinary days. Out of the remaining days, calls were made from Vunidawa vicinity on 50 days, out of which on 8 days I was also in Parliament.
- Though you claim that total outgoing calls during this period were 4137 and I had made only 202 calls from Vunidawa and the percentage of calls is 4.88%, I can't agree with that since I haven't done the calculation.
- I use a Mahindra from September 2019. I had a sprinter before, but rented a vehicle for transport.
- For my travel to Vunidawa, most of the time I used Kings road. From Serea to Omkar Rd it's about 50 km. I would be travelling 500km to 600km a week.
- Using RAV 4 and for my transport I would be spending \$30 - \$40 per day, for a week \$150 - \$200 for fuel.
- For Mahindra it was around \$1200 a month for my transport
- For month of August 2019 I paid about \$2000 for using vehicles. When I was using the Mahindra I was spending about 14,400 per year for transport.
- With dairy plus crops I was earning enough money to cover this cost from my farming business.
- This income was high in 2019 compared to 2018 and 2017. In 2020 it was low due to lockdown. From crops and cash crops I could earn about \$30,000 to \$40,000. It is not stated in tax returns, since sometimes you make a loss and it is not consistent.
- **PEX2** – I was holding 50% share of the car rental.
- Residential address I provided in **PEX2** was lot 1 Omkar Road, Narere, Nasinu. This is the address I can be contacted most, since there is more conveniently.
- I didn't declare any other house, but declared the farm.
- Lot 1 Omkar Rd was a residence, out of choice I put this as my residential address in PEX2.
- PEX32 – This is my hand writing, information given to FEO. The only residential address given here was Omkar Rd on my choice. By this time I owned all the farms.
- PEX33 – I chose a place close to Omkar Rd to cast my vote. I didn't chose a place close to Vunidawa.
- PEX44 – I only signed there. I have put Omkar Rd as residential address.
- PEX45 – I have put Omkar Rd as my residence.
- Residence means most convenient place I could be contacted. If it is Vunidawa, It will be difficult to locate me. Omkar will be the most convenient. Vunidawa was not convenient. Omkar was not my habitat.

- PEX29 (b) - Residential address given by me is Omkar Rd. In 2016 I was residing in Omkar.
- For Elections Office, LTA and Immigration Department I have given Omkar Rd as residential address for convenience to contact me. In these forms I said the truth that my residential address is Omkar but I resided in Vunidawa.
- PEX31 (a-e) – In all my arrival cards I have mentioned Lot 1 Omkar Rd Narere as my permanent address. I didn't mentioned Vunidawa, since it was not my permanent address but I resided there.
- Even after the 2<sup>nd</sup> induction I mentioned Omkar Rd as my residence.
- In PEX31 (b) I mentioned Vunidawa as my address in Fiji. In PEX31 (a) I have mentioned Omkar Rd as my address in Fiji.
- When the requirement was residential I used Omkar Rd, when the address is permanent that is also Omkar Rd. My permanent address and residential address is the same, Lot 1 Omkar Rd. Therefore, my permanent residential address will be Omkar Rd.
- PEX36 – PEX41 – In all these documents I have mentioned that my residential address did not changed and it remained the same. My residential address remained as lot 1 Omkar Rd.
- PEX39 – This is my tax return for 2019. In this, the travelling expenditure I have mentioned is \$2980, though we calculate now it to be \$14,400. I was covering a lot of this with my Parliamentary travel, which is not included in the tax return for 2019. The travelling included here is only transportation of fertilizer and daily feed, which is 2 to 3 times a week.
- I learnt about the FICAC investigation through media. I did not speak to my neighbors about this case.
- I build the Omkar Rd for my wife and children. Omkar Rd remained as my Permanent residence though I farmed in Vunidawa and resided there.”

76. By the above evidence, the Accused claimed that he resided in Vunidawa, Naitasiri during the time in issue for this trial, though his Residential Address was lot 1 Omkar Road, Narere. Therefore, his firm position was that he did not submit false information to the Acting Secretary General to the Parliament by **PEX4 (a)** and **PEX4 (b)**. In alluding this position the Accused also highlighted this Court the below positions:

- Accused informed Court that he recognized a distinction between the two English phrases “Resident” and “Residential”, where he considered resident to mean where you live the residential address to be where one can be contacted by others.
- Accused claimed that he mentioned his residential address as lot 1 Omkar Road, Narere to statutory organizations, since it was the convenient address where he could be contacted. Further, he mentioned that to his knowledge residential address meant where one can be contacted by others.
- He emphasized that he had to be at Vunidawa, Naitasiri in the night, since theft of dalo and cattle was taking place in his farms and he had to be present at his farms to minimize the threat caused by larceny in his farms.

- He further stressed on the poor phone connectivity in Vunidawa area, where phone call couldn't be made or received from everywhere in the farms. In this regard he alluded that there were few specific spots in the farm where calls could be made or received.
- He also informed Court that when he was in Vunidawa he attended to milking the cows in his farm, where he had to start his day by about 5.00 am. This was highlighted as another reason why he had to be present in his farms in Vunidawa, Naitasiri.

77. The second witness for the Defense was **(PW2) Rishil Sidharth Dular**, the youngest son of the Accused. Giving evidence he admitted that the Accused was his father and he resides in Omkar Rd with his mother, where the Accused maintains a separate room. He claimed that Omkar Road property has 3 structures. 2 story flat, a shop and a one bed room house. He stated that he ran the shop in this property with 2 full-time employees from 2018 to 2020. He alluded that the Accused was residing in Vunidawa most of the time and came to Omkar during week-ends. According to him, Waidracia farm is where Accused does milking and Nabuni farm is where he has crops. He claimed that in 2009 Accused moved to Vunidawa to attend to farms and this continued till 2018 and after 2018 election Accused used to go up and down to Vunidawa every day.
78. According to him, during Parliamentary time, the Accused had come in the morning and drop the farm produce at the shop in Omkar Road. In cross-examination he mentioned that he was not very much campaigning with his father in 2018, but he supported him. Referring to **PEX72** he admitted that he posted this on his facebook page in 2018 and this description was true. He confirmed that if this information was not true, he wouldn't have shared this on facebook. He admitted that he mentioned that the Accused was residing in Nasinu in this post. Later though he claimed that it was wrong, he admitted that he didn't correct this. He agreed that Omkar was the home of the Accused and he and his mother were living there.
79. The next witness for the Defense **(DW3)** was the younger brother of the Accused, **Dhirendra Prakash**. He stated that he lives at Waidracia in Vunidawa in the house built by his parent's for 3/4<sup>th</sup> of his life, which he admitted to be only 1/3<sup>rd</sup> during cross-examination. He claimed that **Vijendra Prakash** runs dairy and cash crop farms in Vunidawa, where he has 2 farms, farm 3392 he got from his parents and another farm he bought. He further claimed that in 2009 to 2017 Accused was spending most of his time in Vunidawa, about 5 days a week, and in 2018 Accused was spending time between Vunidawa and Omkar. According to him in 2019 and 2020 Accused was still staying at the family house in Vunidawa and attending Parliament and after Parliament he came back to the family house. In 2020 after the lock down the Accused had come back to Omkar Road. He affirmed that if you're doing full time dairy farming it is difficult to do other work. In relation to security issues in farms of items being stolen, he affirmed that there are no security issue in farms in Vunidawa, for both cattle and crop farms.



80. The 4<sup>th</sup> witness for the Defense (**DW4**) was **Ulamila Bukainima**. She stated that she knows the Accused because his son is her boss in the dairy shop at Omkar Road, where she had been working since 2018. In her view, this was a market in 2018 and then made a shop in 2019, where she worked from 7am to 4pm from Monday to Friday and sometimes on Saturday. She confirmed that she will only recognize the presence of the Accused if his vehicle was parked near the shop when he brings farm produce. To her knowledge in 2019 Accused had a Toyota and in September 2019 he got a Mahindra. She claimed that though she can't remember the date of her marriage and her husband's date of birth or the month the Accused got sick in 2020, she can remember that the Accused bought the Mahindra in September 2019. She claimed that in 2018, 2019 and early 2020 the Accused was living in Vunidawa and she knows this because the Accused brought his farm produce to her shop. She confirmed that she has been to Vunidawa 2 times this year, but she didn't go there in 2018, 2019 and 2020 to know where the farm produce was brought by the Accused.
81. **Roneel Dular Prakash** gave evidence next for the Defense as (**DW5**). According to this witness, the Accused is his uncle who lived in Vunidawa looking after his business. In 2018 and 2019 the Accused had been living in Vunidawa and he had been living in Nacasi. He alluded that prior to March 2020 he would travel to Omkar Road and the Accused will not be there and would be in Vunidawa. For this end he claimed that from 2009 onwards he would visit Omkar Road every 3 weeks during weekends and notice the absence of the Accused. However, he agreed that the matrimonial home of the Accused is Omkar Road. He further agreed that though he mentioned that in 2018, 2019 and 2020 the Accused was in Vunidawa, it was what he heard from others and as a lawyer he is aware that it is Hearsay. He further agreed that as for his personal knowledge he had limited information about the whereabouts of the Accused and of the activities in Vunidawa.
82. As 6<sup>th</sup> witness for the Defense (**DW6**) **Shelvin Sami** gave evidence. He claimed that he knew the Accused because he delivered vegetables to him and he has known him for 12 years. This witness stated that he sells vegetables in the market, where his kids aged 17, 16 and 14 help with the business. He claimed that he also does carpentry, which he did for the Accused renovating the cowshed in Vunidawa in 2018 and every year. He informed Court that he drove the Accused, since he used to get late with his friends in the shop and he dropped him at Vunidawa and stayed over in the living room of the family house of the Accused. For this purpose, for his recollection, in 2018 he had driven the vehicle of the Accused 2-3 times every week to Vunidawa. He also claimed that when they go to the farm they check all the farms, though he hasn't heard of any theft in the farms. He further alluded that he did farm work for the Accused, like milking cows.
83. The next witness for the Defense (**DW7**) was **Vishwa Jeeth Singh**. He claimed that he knows the Accused because he is driving his wife's taxi for 5 years, a business she operates from lot 1 Omkar Road. For this purpose, he further claimed that he would go there once a week and meet Rishi or sometimes Mrs. Prakash. He confirmed that he only met the Accused at the Christmas party at Omkar Road. He alluded that in 2018 he visited Lot 1 Omkar Road 3, 4 times a week and sometimes in the evening for grog sessions,

where shop staff and Rishil were there. He testified that in 2019 also he was driving the taxi, where he visited Lot 1 Omkar very often, 3, 4 days a week during daytime and in the night. According to him, in 2019 Accused will come to Omkar Road after Parliament for 1, 2 hours in the night, where the Accused would meet people and after that he would drive the Accused to his farm in Vunidawa. He informed Court that on his trips to Vunidawa he would stay over, either in the sitting room of Mr. Vijen's house or in Bobby's house. He further declared that he would go to the farms of the Accused, since there was plenty theft happening. However, though he claimed that he was in and out of the shop of the son of the Accused, he didn't know what was sold at the shop.

84. The 8<sup>th</sup> witness for the Defense (**DW8**) was **Ashwin Pranil Chand**. This witness was the son-in-law of the Accused. According to him, in 2018 he had been living in lot 1 Omkar Road since the first quarter of that year and for 2 more years. He claimed that he lived in the top flat with his family and the bottom flat was occupied by his mother-in-law and brother-in-law. He stated that in year 2018 and 2019, the Accused was there in the property mainly in the weekends and he will also see him in the evenings during week days sitting with his people on the porch or the shop, but he wouldn't know what the Accused would do after that. However, he alluded that he was told that the Accused will go to Vunidawa, where he has a farm of dairy and crop. He affirmed that on a normal day he would come home at around 6pm or 7pm, therefore he will only see the happenings at Omkar early in the morning or late afternoon, where he sees the Accused, but he was not keeping an eye on the Accused all the time. He also confirmed that he would see the Accused in the property more than Rishil in this property.
85. The next witness for the Defense (**DW9**) was **Avinash Singh**. This witness informed Court that he knows the Accused because he was his tenant since 10/2019 to 11/2021 in the property owned by the Accused in Omkar Road. He stated that before Covid restrictions, he has rarely seen the Accused, where he saw him in the morning between 7am and 8am delivering vegetables and at around 7 pm, where he used to come and meet people in the porch. According to this witness, since he had shift work he didn't see the Accused much. In this regard, he stated that on a typical week, he does 3 nights and 3 days, where day shift was from 7 am – 8 pm and the night shift start at 7pm till 8 am. He confirmed Court that he didn't have the opportunity to find out whether the Accused was living in Omkar, since during daytime he didn't know what was happening in Omkar Road, as either he was working or after a night shift he was sleeping and when he is doing nights, he didn't know what is happening at Omkar at all. As a result, overall, he didn't have time to check who is living where in his neighborhood.
86. The next witness for the Defense (**DW10**) was **Mahendra Kumar**, a dairy farmer from Vunidawa. According to him, he knows the Accused since they are relations. He informed Court that he had a shop in Vunidawa, which he sold in April 2020, but he still has a dairy and dalo farm and carrier business in Vunidawa. He claimed that the Accused started dairy farming big scale after he retired and lived in Vunindawa, Waindravo Indian settlement with his brother in the family house. He testified that **Vijendra Prakash** has a wife and children, who lived in Omkar Road and the Accused went there during the weekends. He further claimed to have seen the Accused going to his farm 4 to 5 days a

week and later the Accused came to his shop every day to drink grog, but he normally didn't see the Accused during the day time in 2018, 2019, 2020. He further mentioned that during his time in Vunidawa he had no security concerns for his dairy or dalo farms.

87. Eleventh witness for the Defense (**DW11**) was **Ritesh Narayan**, who testified in Court and stated that he is a dairy/dalo farmer and a shop keeper in Serea, Naitasiri and the first cousin of the Accused. He claimed that he had known the Accused all her life and in 2018 Accused was staying 4 to 5 days in the family house in Waidracia and he knows that since when he used to come they had grog sessions in the afternoon. He affirmed that Accused used to come and work in the farm, where they had grog at the shop or the family house. He stated that in 2018 he worked in the shop owned by Bobby, where two days in a week the Accused will stay at Bobby's shop every second week and one or two nights in his house during week days. He alluded that in 2019 Accused used to work in the farm during the day, where he will give medicine to calves, and will come to his shop around 6 to 7 in the night and they will have a grog sessions. He further confirmed that he has visited the family house of the Accused in Omkar Road and knows the family. Referring to his social work, he informed that he is the president of the Vunidawa Sanatan School, where the Accused is a trustee.
88. Witness **Raktneesh Kumar (PW12)** gave evidence for the Defense next. He stated that he knew the Accused for about 25 years, since he lives in lot 2 Omkar Road and the Accused has a family house in lot 1 Omkar Road. According to this witness, he knows the Accused from 1992 and he happens to be a close friend. Further, he mentioned that he and the Accused were office bearers of the Rewa Sanatan Sabha and maintained close interactions for official work, where he used to meet the Accused once or twice a week in 2018 and 2019. He informed that after having meetings with him, Accused left Omkar Road and told him that he is going to his farm in Vunidawa, but he has no personal knowledge of this farm.
89. The last witness for the Defense (**DW13**) was **Ram Brij**, dairy farmer from Waidravo, Naitasiri. According to him, he knew the Accused since he was small and they are related. He stated that he was from Vunidravo settlement and in 2018 he was living there and the Accused was also living there in his family house. He claimed that in 2018 he was the manager of the Primary school and he went to the family house of the Accused in the night 1 to 2 time a week to discuss about a new construction, where the Accused and his brother were holding high office in the school committee. He further claimed that the Accused lived in Waidravo in 2019 and early 2020, where he has gone to his house for the same reason as 2018. He alluded that he will see the Accused 2-4 times in a fortnight. He further mentioned that during day time he was busy in the farm, but sometimes once a week he has seen the Accused working with the laborers, but he had no idea what he does other times and he didn't know whether the Accused traveled to Vunidawa every day.

90. Further, at the time of making final submission for the Defense, an objection was raised against the information filed in this matter that claiming that Count 1 has not been drafted to accommodate the text in MPDF forms to make an allegation against the Accused.

### **Evaluation of the Defense evidence**

91. At the very onset, this Court intends to address the objection raised by the Defense at the time of making final submissions. In this regard, at the time this objection was made 36 witnesses had given evidence at this trial and the Prosecution and the Defense cases were closed. Therefore, this Court make reference to **Section 214 (1)** of the **Criminal Procedure Act of 2009**, which states as below:

*“214(1) every objection to any information for any formal defect on the face of it shall be taken immediately after the information has been read over to the accused person and not at a later time”.*

In view of the above statutory provisions, this Court holds that this objection has no merit or statutory provisions to consider at this juncture.

92. To establish the position of the Defense that **Vijendra Prakash** did not provide false information to the Acting Secretary General to the Parliament in **PE4 (a)** and **PEX4 (b)** that he permanently resided at **Waidracia, Vunidawa, Naluwai, Naitasiri**, Defense led 13 witnesses, including the Accused. In evaluating the Defense case, this Court intends to analyze the evidence given by Defense witnesses and consider the acceptability of that evidence and the impact it caused to the Prosecution case.
93. In testifying in this Court for 4 days, the Accused informed this Court his position and the reasons for certain action taken by him. In this regard, most importantly he attempted to make a distinction between the two words of the English language “Residential Address” and “Permanently Reside”. For this end, he informed Court that “Residential Address” means where you could be contacted by others and “Permanently Reside” means where you permanently live. In addressing this issue, this Court referred to definitions provided by the **Concise Oxford English Dictionary** for these two words. In this regard, the word “Reside” is defined as, *“have once permanent home in a particular place”*<sup>4</sup> and the word “Residential” is defined as, *“designed people to live in, providing accommodation in addition to other services”*. Therefore, this Court perceives that the primary consideration of these two words are where somebody lives and there is no particular emphasis on ability to contact.
94. Regarding this issue in cross examination the Accused stated, *“when the requirement was residential I used Omkar Rd, when the address is permanent that is also Omkar Rd, but I permanently resided at Vunidawa.”* To consider the Accused to perceive the existence of a difference of the meanings of these two words, this Court is compelled to consider the circumstances subjectively. In this regard, **Vijendra Prakash** is not just a common man you will find on the street. He holds a first degree in Science from a prestigious

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<sup>4</sup> Concise Oxford English Dictionary, (Oxford University Press, Twelfth Edition).

University in India and a post graduate diploma from the University of South Pacific, where the medium of education had been English. Further, he had been a teacher and a school principal with a lucrative career in the Department of Education of Fiji for 25 years before becoming a Parliamentarian. In this background, this Court finds it highly unlikely that the Accused misunderstood the meanings of the two English phrases “Permanently Reside” and “Residential address” to have two different meanings and apply them accordingly in his day today activities. Further, as mentioned before, the Accused had admitted that when the requirement is “permanent address” or “Residential address” he use the same address.

95. In giving evidence, the Accused admitting that he provided his residential address as lot 1 Omkar Road, Narere to several Statutory Organizations, like the Immigration Department of Fiji, the Fiji Election Office, the Fiji Revenue and Customs Services and Land Transport Authority of Fiji, since it was the convenient address where he could be contacted. In this regard, this Court discerns that in providing this address the Accused had no expectation of these Statutory Authorities contacting him back and tendering any item physically or engaging in any further correspondence. Further, though the Accused claimed that in these forms he provided his residential address as lot 1 Omkar Road, Narere for connectivity purposes, in many of these forms he had also given his phone number for contacting purposes. Therefore, without procrastination, this Court refuse to accept the explanation given by the Accused that he mentioned his address to Statutory Bodies as lot 1 Omkar Road, Narere astutely for connectivity purposes, but he resided elsewhere.
96. According to the Accused one of the main reasons why he had to be in Waidracia, Vunidawa in the night was because theft of dalo and cattle taking place in his farms and his presence was needed to address that. However, according to the evidence of the brother of the Accused **Direndra Prakash (DW3)**, who lives in the family house with the Accused sharing many things with the Accused, there is no theft happening in these farms, either dalo or cattle, and it is very secure locality for farmers. Further, according to **(DW10) Mahendra Kumar**, a relative of the Accused and a dairy farmer residing in Vunidawa till 2020, he had no security concerns for his dairy or dalo farms till 2020. Still further, according to **(PW6) Shelvin Sami**, though he claimed that he drives the Accused to Vunidawa several times a week, he informed this Court that when he takes the Accused to Vunidawa in the night they go to the farms to check, though he hasn't heard of any theft in the farms. In this light, several witnesses who gave evidence to corroborate the claim of the Accused of his permanent residence in Waidracia, Vunidawa have contradicted the Accused of his security concerns to be present at Vunidawa often in the night. Therefore, this Court has no hesitation to reject the claim of the Accused of his need to be in Vunidawa in the night.
97. When giving evidence, as per the Vodafone records for the months of August 2019 and September 2019, Accused echoed throughout his evidence that phone connectivity in Vunidawa was very week. This position was confirmed by several Defense witnesses. However, in testifying in this Court **(DW10) Ritesh Narayan**, a dairy farmer and the first cousin of the Accused living in Vunidawa informed Court that in 2018 and 2019 there

were no phone connectivity issues in Vunidawa and the connectivity was good. He said with confidence that the connectivity issues came only very recently, since the phone tower was blocked. Therefore, the claim of the Accused of poor phone connectivity in Vunidawa during the time in issue does not stand ground. Moreover, this evidence also sheds light to the reason for the Defense not challenging Prosecution claim based on **PEX67 (a) to PEX67 (i)** of the whereabouts of the Accused during the time in issue based on Vodafone call records.

98. Further, in giving evidence, the Accused claimed that **(PEX17) Eliko Lati Lati** was the caretaker of his dairy farm, who also lived in the farm with his wife and grandchildren. The Accused also claimed in his evidence that when in Waidracia farm he starts his day very early at 5 am and does early milking. However, in his evidence **Eliko Latilati** told this Court that when the Accused comes to the Waidracia farm at 10 am he helps them with fencing and planting taro, where milking of the 20 cows in the farm is done by himself and his nephew in the morning and the afternoon. In this regard, this witness didn't mention the Accused milking cows in the morning and this position of **Eliko Latilati** was not challenged by the Defense.
99. As analyzed above, this Court perceives that the evidence of the Accused was riddled with vital contradictions with other Defense witnesses that questions his explanations for his conduct and his evidence comprised of implausible improbabilities. Therefore, this Court rejects the evidence of the Accused overall without any indecision.
100. In considering the evidence of **(DW2) Rishil Dular**, this Court noticed that he mentioned that the Accused lived in Vunidawa from 2009 and commuted between Omkar Road and Vunidawa after 2018 election till early 2020, though residing in Vunidawa. However, he admitted in Court that he uploaded a posting on facebook of true information about his father in 2018, where he mentioned that the Accused resides in Nasinu. Further, he admitted that this posting was not removed. With this development, the natural question that arises before this Court is how truthful can this witness be when he states in this Court that his father was residing in Vunidawa since 2009, when he has informed the public at large on social media before a general election where the local votes count that his father was residing in Nasinu. Further, this Court observed the demeanor of this witness when he was challenged with this position at cross-examination, where he blamed officials of his father's party for providing false information that he blindly published. In this light, this Court perceives that it is perilous to accept his evidence.
101. Witness **(DW3) Dhirendra Prakash** commenced evidence by stating that he had lived 3/4<sup>th</sup> of his life in Vunidawa, but in cross-examination he admitted that he lived in Vunidawa only 1/3<sup>rd</sup> of his life, since he was a school teacher working in many schools in Fiji. In evaluating the evidence of this witness what was perceptible to this Court was the noticeable contradictions of his own evidence and significant contradictions with the evidence of other witnesses. In his evidence, he informed Court that in 2019 and early 2020 the Accused was staying at the family house in Vunidawa and looked after his farms, while attending Parliament. In his evidence he further mentioned that the Accused

had a very active social life in Vunidawa, in addition to being a full-time farmer and he was a concerned Parliamentarian, which included his involvement in:

- Ramayan Preaching
- Acting as a school trustee of Sanatan Primary School
- Director of Rewa Dairy Cooperative Company
- Member of the Vunidawa Hospital Board
- Member of the Vunidawa Drainage Board

In the same tone sentiment, he informed this Court that if you are doing full-time dairy farming you can't do other work. Therefore, while stating that the Accused was a large scale dairy farmer looking after his farms during the time in issue and you can't do other work when you are a full-time dairy farmer on one end, on the other end he also mentioned that the Accused was a very active social worker and a Parliamentarian during the same time. In relation to his contradictions with other Defense evidence, he specifically mentioned this Court that he had no security issue in cattle farms and cash crop farms in Vunidawa, a position that contradicted with the evidence of the Accused, where the Accused categorically mentioned that addressing the theft taking place in his farms in Vunidawa as the main reason for him to be there every night. Therefore, with the mentioned infirmities in the testimony of this witness, this Court finds it unsafe to rely on his evidence.

102. In this trial, the first element that has to be established for the first Count by the Prosecution is that the accused knew or believed that the information he provided to the Acting Secretary General to the Parliament as to his permanent place of residence by **PEX4 (a)** and **PEX4 (b)** to be false. In this regard, the permanent place of residence provided by the Accused in these documents was **Waidracia, Vunidawa, Naluwai, Naitasiri**. Therefore, Prosecution led evidence to demonstrate that the Accused was not permanently resident in **Waidracia, Vunidawa, Naluwai, Naitasiri** and led evidence of several representatives of Statutory Organizations claiming that the Accused had not provided this address as his residential address. Moreover, Prosecution led phone record evidence of the Accused claiming that Accused had rarely been at this locality. However, no specific evidence was led by the Prosecution to establish that the Accused was permanently residing in **Lot 1 Omkar Road, Narere**, since that was not necessary to establish the required element.
103. However, for the Defense case evidence was led of several witnesses with the expectation of demonstrating that the Accused did not permanently reside in Lot 1 Omkar Road, Narere, where these witnesses had a very scant idea or had heard from others of the presence of the Accused in Waidracia, Vunidawa, Naitasiri, but had not seen themselves. Therefore, these witnesses stood no ground to challenge the prima-facie case of the Prosecution that the Accused did not permanently reside in **Waidracia, Vunidawa, Naluwai, Naitasiri**. As a consequence, this Court sees no purpose in evaluating their evidence any further.

104. In this regard, **(DW4) was Ulamila Bukainima**, who has heard that the Accused brings farm produce from his farm in Vunidawa and had never seen this farm or the presence of the Accused in Vunidawa during the time in issue. Further, this Court noticed that this witness had come to Court to recite in Court a pre-planned story, since she claimed of having a bad memory and couldn't remember the day she got married, her husband's birthday and when the Accused got sick in 2020, but she very well remembered that the Accused bought the Mahindra vehicle in September 2019 and this vehicle was not present at Lot 1 Omkar Road, Narere confirming to her that the Accused was not there. **(DW5)** for the Defense was **Roneel Prakash**, who agreed that though he mentioned that in 2018, 2019 and 2020 the Accused was in Vunidawa, it was what he heard from others and as a lawyer he is aware that it is Hearsay and had no personal knowledge of this information as to the presence of the Accused in Vunidawa. **(DW8) was Ashwin Chand** and this witness gave evidence of what he saw in lot 1 Omkar Road when he came back home after work around 7 pm daily. He further alluded that he was told by others that the Accused will go to Vunidawa every evening, where he has a farm of dairy and crop. However, he had no personal knowledge of the presence of the Accused in Vunidawa. On the same tone of sentiment **(DW9) Avinash Singh** informed Court of the limited instances he managed to see the Accused at Lot 1 Omkar Road with his busy working schedule when he was a tenant in this property. This witness had no firsthand knowledge about the presence of the Accused in Waidracia, Vunidawa. **(DW12) Raktresh Kumar**, as the resident of lot 2 Omkar Road, Narere spoke about his work with the Accused for Rewa Sanatan Sabha and the interactions he had with the Accused for this end. He mentioned about meeting the Accused in Lot 1 Omkar Road, Narere, but he had no knowledge to inform this Court of the farm activities and the permanent residence of the Accused in Waidracia, Vunidawa.
105. **(DW6) was Shelvin Sami**, who claimed to have driven the Accused to Vunidawa in the night. He claimed that he was a vegetable trader who ran his outlet on the street initially with his 3 young children and he claimed also to be a carpenter. Though he claimed that he used to do farm work in Vunidawa, like milking cows for the Accused, the caretaker of this farm categorically mentioned that it was himself and his nephew who did the milking. This witness also mentioned that he drives the Accused to Vunidawa about 3 times a week and stayover, without being an employee of the Accused and without any mention about how his own vegetable business is operating in the hands of his three young schooling age kids. Further, the Court also noticed the demeanor of this witness, how he described the specifics of the family house of the Accused. Therefore, all in all, this Court is not comfortable to accept the improbable evidence of this witness.
106. **(DW7) Vishwa Jeath Singh** had been a taxi driver employed by the wife of the Accused during the time in issue, who visited Lot 1 Omkar Road premises 3 to 4 times a week to meet Rishi Dular or Mrs. Prakash for work related issues. Further he claimed that he drove the Accused to his farm in Waidracia, Vunidawa some nights and stayed over in the family home of the Accused owned by Dharendra Prakash. Strangely, though he claimed that he was such a frequent visitor to the property in Lot 1 Omkar Road for several years to meet the owner of the shop, in cross-examination he affirmed that he didn't know what type of merchandise was sold in this shop, though there was a billboard



outside the shop mentioning the nature of the shop, marked **PEX68 (a)** at the trial. Further, this witness was not mentioned as a driver visiting his property with the Accused by **Dhirendra Prakash**. Therefore, with these impossibilities in this evidence, this Court was compelled to reject is evidence.

107. **(DW10)** was **Mahendra Kumar** who claimed to be a dairy farmer from Waidracri, Vunidawa and a relative of the Accused. Commencing his testimony, he informed this Court that he had a very poor memory, due to a recent surgery. In further confirming this to the Court, he testified before Court that he could not attend the wedding of the son of the Accused in 2021, since he was running his shop in Vunidawa. However, in his own evidence, he admitted that he sold his shop in 2020. Moreover, this position was further affirmed by **(DW11) Ritesh Narayan**, when he informed Court that he bought Mahindra Kumar's shop in 2020. His memory issue was further confirmed in the cause of his evidence when he spoke of the retirement of Vijendra Prakash and Dhirendra Prakash, who were living in the same village as him. In this regard, firstly, he stated that Dhirendra Prakash retired before the Accused, but Dhirendra Prakash informed Court in his evidence that he retired 6 years after the Accused. In this light, this Court finds it insecure to accept a witness of this nature in a highly contested trial as the current trial.
108. Considering the testimony of **(DW11) Ritesh Narayan**, this Court noticed that he had come to Court not to answer the questions asked by counsel, but to tell a pre-determined scripture, the below detailed potion of evidence highlight this:

*Counsel: Right, you told us that you've known Master Vijend all his life. Do you know where Master Vijend was staying in 2018?*

*DW11: Master Vijend has a farm in Nabuni, Naluwai My Lord, that's ginger farm. Family house in Waidracia Naitasiri and another property at Omkar, Nasinu, My Lord. There's also a dairy farm in Serea My Lord. Dairy and dalo farm, My Lord.*

*Counsel: Okay, you've given us location of his dairy and dalo farms, his family home did you say? And a property he has at Lot 1 Omkar Road. Now where of all these places was he staying in 2018?*

*DW11: He used to spend 4 to 5 days in his farm My Lord.*

*Counsel: Could you; where is this farm?*

*DW11: His dairy and dalo farm are in Serea, Naitasiri My Lord. And the ginger farm is in Naluwai, Naitasiri My Lord.*

*Judge: So witness, in which home was he staying?*

*DW11: He used to stay in the family house, My Lord. Waidracia, My Lord."*

109. Further, there were contradictions in the evidence given by this witness in Court *per se* and *inter se* with previous statements made to FICAC. With regard to *per se*, at one point he mentioned that the Accused used to comes to his farm in Waidracia in the morning and works in the farm and in the same evidence he stated that the Accused comes to the farm in Waidracia from Suva in the afternoon to spend the night in the farm and returned

to Suva the next day morning. In relation to *inter se*, in this trial this witness stated that in 2018, 2019 and early 2020 the Accused used to spend his time and stay here in Waidracia. But in cross-examination he admitted that he told FICAC in making a statement that during this period the Accused will visit the farm from Omkar and spend 2 to 3 days and goes back to his house in Omkar. In considering the above highlighted infirmities of the evidence of this witness, this Court finds it unreliable to depend on the evidence of this witness for the final determination of this Court.

110. **(DW13) Ram Brij** testified in Court that he used to visit the family house of the Accused during 2018, 2019 and 2020 about 1 to 2 times a week to discuss about a new construction that was taking place in the Vunidawa Sanatan School as the manager of this project, since the Accused and his brother were holding high office in the school committee. However, giving evidence in this Court, **(DW11) Ritesh Narayan** informed this Court that he was the president of the Vunidawa Sanatan School since 2018 and the construction of the new building was completed in mid of 2019. Therefore, with the evidence available in this Court, there was no reason for this witness to meet the Accused to discuss about the building construction in the school during the time in issue for this trial, since the construction was then complete. With this, this Court can conclude that this witness had been lying in this Court and reject his evidence.

**F) DETERMINATION OF COURT OF THE LIABILITY OF THE ACCUSED FOR EACH COUNT**

**COUNT 1**

111. In venturing to perform this formidable and responsible task, this Court needs to highlight at the very outset, that this duty will be performed by this Court on relying on the evidence led by the Prosecution and the Defense in the well of this Court and not by relying on mere speculations and suppositions that were not established, either on the basis of balance of probability or beyond reasonable doubt, as required by law, by the evidence led in this Court.
112. As identified at the onset of this judgement, there are two contested elements in relation to Count 1, the proof of which needing determination by this Court. Therefore, Court will now venture to consider these two elements in relation to the evidence led in Court.
113. The first contested element of Count 1 is that **the Accused knew or believed that the information he provided to the Acting Secretary General to the Parliament to be false.**
114. According to the Prosecution, the alleged false information of the **permanent residence** of the Accused mentioned in the second MPDF submitted by the Accused to the Parliament on 25/02/2019, marked **PEX4 (a)** and **PEX4 (b)** at this trial, required the Office of the Acting Secretary General to reimburse accommodation claims of the Accused, as per the Schedule to the **Parliamentary Remunerations Act of 2014**.

115. Therefore, before considering the evidence deduced by the Prosecution and the Defense to demonstrate the falsity of the information or truthfulness of the information of permanent place of residence of the Accused tendered to Parliament during the time in issue, this Court needs to determine what is meant by the permanent residence of a person.

### **Permanent Residence**

116. In identifying the required definition for the phrase “Permanent Residence”, Court intends to rely on the definition pronounced by this Court in the case of **Fiji Independent Commission Against Corruption (FICAC) v Nawaikula [2022] FJHC 192; HACD005. 2022S (3<sup>rd</sup> May 2022)**, where the circumstances that led to the prosecution in that matter were very much similar to the facts of this matter, with little variations.

117. Therefore, on relying on the case law and definitions available in Common Law legal literature discussed in the above case, this Court comprehends that the phrase “Permanent Residence” can be prudently defined as, *“a place where a person has his/her usual or settled abode continuously for a considerable period of time, where he/she is not less resident of the place due to his/her absence from time to time for the purposes of business or pleasure.”* However, as identified in **FICAC v Nawaikula [2022] FJHC 192**, this proposed definition will need to be applied strictly subjectively on the facts and circumstances of this case.

### **Analysis and Finding of Court in relation to the first contested element of Count 1**

118. As stated, in relation to this element, what the Court has to determine is **whether the Accused knew or believed that the information he provided to the Acting Secretary General to the Parliament to be false.** In this regard, the contested information provided by the Accused is his place of “Permanent Residence” submitted in **PEX4 (a) and PEX4 (b)**, where he mentioned his permanent residence as **Waidracia, Vunidawa, Naluwai, Naitasiri**. In determining the falsity of the submitted place of residence by the Accused to the Parliament, this Court intends to ascertain whether the Accused **had his usual and settled abode continuously between 01/08/2019 to 30/04/2020** at **Waidracia, Vunidawa, Naluwai, Naitasiri** from the evidence led at this trial.

119. During the trial, Prosecution led direct and circumstantial evidence to establish the disposition of the Prosecution. On the contrary, by giving evidence under oath at this trial, the Accused enunciated the Defense standpoint on his “Permanent Residence” during the relevant period. In this regard, as direct evidence, three lay witnesses who were from **Waidracia, Vunidawa** were led in evidence to establish that the Accused was not permanently residing in **Waidracia, Vunidawa, Naluwai, Naitasiri** at the time in issue.

120. Out of these three witnesses, **(PW16) Akanisi Tinaiverewala** and **(PW17) Elik Latilati** spoke of their personal knowledge about the residence of the Accused in **Waidracia, Vunidawa** and the actual place of permanent residence of the Accused to their personal experience. In this regard, as analyzed earlier, this Court accepted the evidence of these two witnesses, subject to expressed limitations identified by Court.
121. In addition to the above detailed direct evidence, Prosecution through the evidence of two other witnesses representing the Fiji Immigration Department and Land Transport Authority of Fiji (LTA) demonstrated that even after tendering his permanent residence as **Waidracia, Vunidawa, Naluwai, Naitasiri** to the Parliament under the Member of Parliament Declaration Form **PEX4 (a & b)**, the Accused had continued to mention his residential address as **Lot 1 Omkar Road, Narere, Nasinu** in pivotal documents tendered and obtained by him in the process of international travel and interactions with local authorities..
122. In this regard, **(PW13) Taranaivii Savou** from the Immigration Department of Fiji informed Court that on 10/11/2019 and 12/12/2019, as per the documents marked **PEX31 (a)** and **PEX31 (b)**, **VIJENDRA PRAKASH** tendered arrival cards to the border control of Fiji mentioning his permanent address and address in Fiji both as **Lot 1 Omkar Road, Narere**. In this regard, there had been no reference to **Waidracia, Vunidawa, Naluwai, Naitasiri**.
123. According to **(PW10) Margaret Grey** from the LTA who testified in this Court that in the driving license renewal applications submitted by **Vijendra Prakash** on 19/02/2019 and 06/02/2020 marked as **PEX44** and **PEX45** respectively, the Accused had submitted residential address as **Lot 1 Omkar Road, Narere** and had been no mention about **Waidracia, Vunidawa, Naluwai, Naitasiri** as his residence.
124. As per the evidence of these two witnesses from the Immigration Department of Fiji and the Land Transport Authority of Fiji, it is evident to this Court that throughout the offending period, when the Accused was returning home after foreign travel or when the Accused was renewing his driving license, he mentioned his permanent address or residential address as **Lot 1 Omkar Road, Narere**. Therefore, it is perceptible to this Court that the Accused had not mentioned **Waidracia, Vunidawa, Naluwai, Naitasiri** as his permanent or residential address to other government bodies, though he informed the Parliament that he permanently reside at **Waidracia, Vunidawa, Naluwai, Naitasiri**. When the facts are so compelling, this Court can't avoid noticing the falsity of the information provided by the Accused to the Parliament in **PEX4 (a)** and **PEX4 (b)** on 11/02/2019.
125. As detailed above, though 13 witnesses gave evidence for the Defense, this Court had to reject that evidence as scrutinized in the evaluation. Therefore, this Court is of the view that the testimonies of the Defense witnesses were not capable in creating any impact that would amount to creating a reasonable doubt in the Prosecution case against the Accused.

126. From the above analysis of direct and circumstantial evidence led by the Prosecution in this matter, this Court is content that the Accused knew or believed that the information he provided to the Acting Secretary General to the Parliament mentioning in **PEX4 (a)** and **PEX4 (b)** that he “Permanently Reside” at **Waidracia, Vunidawa, Naluwai, Naitasiri** to be false. Therefore, this Court is satisfied that evidence has been led in this Court by the Prosecution to prove and establish this element beyond reasonable doubt.
127. The second contested element in Count 1 that needs to be proved by the Prosecution beyond reasonable doubt is that **the accused knowing it to be likely that he will cause the person employed in the civil service to do anything which he/she ought not to do or omit if the true state of facts respecting which such information is given were known to her.**

### **Analysis and Finding of Court in relation to the second contested element of Count 1**

128. In analyzing the evidence to consider the establishment beyond reasonable doubt of this element, this Court perceives that this element is very much interwoven with the first element of this Count. In this matter, the accused had admitted receiving the contentious payments from Parliament by **PEX05** to **PEX24**, which the Prosecution alleges to have been made by Parliament due to false information submitted by the Accused by **PEX4 (a)** and **PEX4 (b)**.
129. From the evidence led in Court, Prosecution established that the Accused maintained his Residential Address as Lot 1 Omkar Road, Narere in the data bases of many Statutory Organizations without changing that to **Waidracia, Vunidawa, Naluwai, Naitasiri**, as he claims, even disregarding legal obligations under existing laws of the country. However, without any hesitation Accused informed the Parliament by **PEX4 (a)** and **PEX4 (b)** that he permanently reside at **Waidracia, Vunidawa, Naluwai, Naitasiri**. In this regard, there was not even an iota of evidence to show that the Accused had claimed **Waidracia, Vunidawa, Naluwai, Naitasiri**. as his Permanent Residence or Residential Address to any other organization, except the Parliament with apparent ulterior intentions.
130. For this end, (**PW7**) **Jasmine Kumar** from the Fijian Elections Office (FEO) referring to **PEX32** confirmed, as per the database of the Elections Office, **Mr. Vijendra Prakash’s** address in their records was **Lot 1, Omkar Road, Narere, Nasinu** and the polling venue opted, as per **PEX33**, was Amhadhiya Muslim College, Narere, which details were not changed by the Accused since 18<sup>th</sup> July 2012 until 11<sup>th</sup> April 2022, where the address was changed to **Waidravu, Vunidawa, Naluwai, Naitasiri** and the poling venue was changed to Vunidawa Sanatan Primary School. Therefore, during the time in issue for this trial, the residential address of the Accused had not been **Waidravu, Vunidawa, Naluwai, Naitasiri** in the official records of FEO.

131. Giving evidence in Court, **(PW9) Dineshwar Gounder** confirmed this position with regard to interactions of the Accused with Fiji Revenue and Customs Services (FRCS). In this regard, referring to tax returns tendered by the Accused for the years 2018, 2019 and 2020, marked at the trial as **PEX38, PEX39** and **PEX40** respectively, the Accused had informed FRCS that his residential address remained as Lot 1 Omkar Road, Narere, Nasinu during these years without change and there was no reference to **Waidravu, Vunidawa, Naluwai, Naitasiri**.
132. The next witness summoned by the Prosecution to show this approach of the accused of maintaining his address in government data bases as **Lot 1 Omkar Road, Narere, Nasinu** was **Margret Grey-Ralege** from the Land Transport Authority (LTA). She gave evidence referring to three Prosecution documents, **PEX46, PEX45** and **PEX44**, which referred to the details of the Accused in the LTA database and two applications for license renewal submitted by the Accused on 06/02/2020 and 19/02/2019 respectively. According to this witness, in the LTA database and in the license renewal applications, the Accused had mentioned his address as **Lot 1, Omkar Road, Narere** and has maintained the same details without any change in the LTA data base, though according to law, if the address of the applicant has been changed it had to be informed within 4 days by the applicant, where failure is an offense.
133. Therefore, it is very perceptible with the above evidence that though the Accused had promptly changed his permanent residence in the Parliament records to **Waidracia, Vunidawa, Naluwai, Naitasiri**, with all the other State Organizations he had maintained his residential address as **Lot 1 Omkar Road, Narere**. In this regard, apart from complying with the cardinal responsibility of an honest citizen of adhering to the law of the country, the Accused was not gaining any other additional benefits by changing his address to the locality he claims to be his permanent residence with the other State Organizations. However, if he didn't change his permanent residence with the Parliament to **Waidracia, Vunidawa, Naluwai, Naitasiri**, he wouldn't have been entitled to claim \$ **33, 670** of public money from the Parliament. Therefore, it is evident that the Accused changed the permanent residency in **PEX4 (a) and PEX4 (b)**, knowing that the Acting Secretary General to the Parliament would not approve the payment of a large amount of public money to the Accused, if she knew that the Accused was not residing in **Waidracia, Vunidawa, Naluwai, Naitasiri**.
134. From the evidence analyzed above, this Court can confidently reach the conclusion that the Accused knew that he was likely to cause the Acting Secretary General to the Parliament to authorize the reimbursement of claims he submitted on reliance of the information he provided in **PEX4 (a) and PEX4 (b)**, claiming that his "Permanent Residence" was in **Waidracia, Vunidawa, Naluwai, Naitasiri**.

135. In scrutinizing the interlacing connection between the contested two elements in this Count, this Court intends to take guidance from a **Supreme Court** decision of Fiji in relation to an offence under **Section 135 (a)** of the then **Penal Code** of Fiji, which is a mirror reflection of **Section 201(a)** of the **Crimes Act 2009**. In the case of **Lane v Reginam [1970]**<sup>5</sup>, where it was alleged that the accused tendered false information to a police officer regarding a motor traffic accident, **His Lordship Moti Tikaram JA** stated as follows:

*“The essence of the last ingredient is an intention on the part of the maker to mislead or knowledge on his part that his false statement was likely to mislead the public servant into doing or omitting to do something. Insofar as the present charge is concerned the Prosecution had by inference satisfied the court that the accused knew the likely misleading consequences of his act. Whether the public servant was in fact misled or not is immaterial.”*

136. In the present case also, this Court is satisfied that the Prosecution has by inference proved beyond reasonable doubt that the Accused knew, with the knowledge and information he was exposed to of the Parliamentary and state administrative processes, that he will cause the Acting Secretary General to reimburse his claims, which she wouldn't have done, if she knew that the permanent place of residence the Accused was not **Waidracia, Vunidawa, Naluwai, Naitasiri**.

137. In this light, this Court is content that the Prosecution has proved all the required elements of Count 1 beyond reasonable doubt. On this premise, this Court finds the Accused guilty of Count 1 as charged.

## **Count 2**

138. In relation to this Count, this Court identifies that some of the elements of this Count are already established in the process of addressing the elements in the 1<sup>st</sup> Count beyond reasonable doubt, such as the fact of the Accused providing false information in relation to his permanent residence to the Parliament.

139. Further, some of the elements of this Count have been agreed between the parties, such as the Accused receiving payments from the Parliament for the claims marked **PEX5** to **PEX24** at this trial. Therefore, the only contested element in this Count that needs to be determined by Court is:

- 1) **Whether the Accused knew or believed that he was not eligible to receive that financial advantage consequent to the false information provided by him.**

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<sup>5</sup> Fiji Law Rp 33; [1970] 16 FLR 197 (16 December 1970)

## **Analysis and Finding of Court in relation to the only contested element of Count 2**

140. With respect to this element also, Court needs to consider the facts available subjectively. In this regard, the alleged financial reimbursements had been provided by Parliament to the Accused as per the **Parliamentary Remunerations Act of 2014**. By the time period in issue, the Accused had been in Parliament almost for a year, where he had been a member of the Public Accounts Committee in Parliament dealing with the utilization of public money. Further, the Accused had travelled overseas as a Parliamentarian of Fiji by utilizing public funds. In addition, before joining politics, he had been a civil servant for 25 years, where he had been a school teacher and a principal of leading schools in Fiji. Still further, he had been an administrator in government organizations making decisions affecting common citizens. Moreover, he had played a very important role in social and religious associations in Fiji, where he had been the secretary of the largest Hindu Organization of Fiji, the “Sanathan Saba” and he had been the president of the Gopal Sadhu Humanitarian Mandir. In giving evidence in Court, **Mr. Vijendra Prakash** admitted that he was an educated person who dealt with important activities in this country.
141. In view of the above, this Court cannot consider the Accused to be an amateur in relation to state regulations and the strict procedures need to be followed in accessing public funds allocated for specific purposes. Therefore, it is reasonable for the Court to presume that the Accused was knowledgeable of his eligibility to receive the money he has claimed under the **Parliamentary Remunerations Act of 2014**, especially in view of the training he was provided by Parliament.
142. In this regard, **Mrs. Viniana Namosimalua**, the then Acting Secretary General to the Parliament of Fiji confirmed that just before the Parliamentary sittings in 2018, there were 2 inductions for Parliamentarians, where at the second induction administrative procedures for claims and allowances were explained.
143. As testified by **Mrs. Viniana Namosimalua**, in her evidence, consequent to these inductions, her office had handed over the letter marked **PEX52 (b)** dated 10<sup>th</sup> December 2018 to the Accused, where it clearly detailed that a Parliamentarian would be only eligible for accommodation and traveling allowances if the Parliamentarian permanently resided 30 km away from the place of meeting of the Parliament.
144. Further, as elaborated by Prosecution witness (13) **Atelaite Rokosuka**, she had made a presentation to the Parliamentarians on their entitlement to allowances at the second induction, where she had referred to the procedure and requirements for allowances and claims under the **Parliamentary Remunerations Act of 2014**. She further confirmed that though there was a discussion with the involvement of the entire administrative team



comprising managers at this induction, there were no additional questions about Permanent Residency or quarries about the claiming procedure raised by Parliamentarians.

145. Through the evidence of Prosecution witness (12) **Rukalisi Dileqa Vecena**, Prosecution marked **PEX47** and **PEX48**, where it was demonstrated to Court that the Accused participated at this 2<sup>nd</sup> induction that highlighted the requirement for eligibility for reimbursement of claims that could be tendered by Parliamentarians under the **Parliamentary Remunerations Act of 2014**.
146. Since the Accused had all this information before submitting his claims to the Parliament and since it is now established in this trial that the Accused was not permanently resident in **Waidracia, Vunidawa, Naluwai, Naitasiri** during the time period in issue, this Court can confidently reach the conclusion that the Accused knew that he was not eligible to receive the subject financial advantage consequent to the false information provided by him to the Parliament.
147. On this premise, this Court confirms that the Prosecution has proved the required elements in the second Count beyond reasonable doubt and this Court hold the Accused guilty of the second Count as charged.

### **Verdict of the Court**

148. On the evidence led in this trial, this Court finds the Accused guilty for Count 1 and Count 2, as charged, and convict the Accused on both Counts.
149. You have 30 days to appeal to the Court of Appeal of Fiji.



Hon. Justice Dr. Thushara Kumarage

*At Suva*  
*9<sup>th</sup> December 2022*

- cc: 1. *Office of Fiji Independent Commission Against Corruption, Suva.*  
2. *Office of Reddy & Nandan Lawyers, Suva.*