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WHEN THE CONSTITUTION SPEAKS:

**A Legal Appraisal of the Federal High
Court Order Directing INEC to Deregister
Five Political Parties**



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INTRODUCTION

On 15th June 2026, Justice Peter Odo Lifu of the Federal High Court sitting in Abuja delivered a judgment with significant implications for Nigeria's political landscape ahead of the 2027 general elections. In Suit No. FHC/ABJ/CS/2637/2026 — instituted by the Incorporated Trustees of the National Forum of Former Legislators — the court ordered the Independent National Electoral Commission (INEC) to deregister five registered political parties: the African Democratic Congress (ADC), Action Peoples Party (APP), Action Alliance (AA), Accord Party (AP), and Zenith Labour Party (ZLP).

The ground for the order: each of the five parties failed to meet the minimum electoral performance thresholds stipulated under the Constitution. This article examines the constitutional and statutory framework that informed the judgment, assesses its legal soundness, identifies its genuine points of appellate vulnerability, and considers the broader implications for Nigeria's democratic architecture.

THE CONSTITUTIONAL FRAMEWORK: SECTION 225A

The legal bedrock of this judgment is Section 225A of the Constitution of the Federal Republic of Nigeria, 1999, as introduced by the Constitution (Fourth Alteration, No. 9) Act, 2017. That provision empowers INEC to deregister a political party on any of the following grounds:

- (a) Breach of any of the requirements for registration;
- (b) Failure to win at least 25% of votes cast in one State of the Federation in a Presidential election, or in one Local Government of the State in a Governorship election; or
- (c) Failure to win at least one ward in a Chairmanship election, or one seat in the National or State House of Assembly election.

The operative word in Section 225A is 'shall' — a term of mandatory obligation under settled principles of constitutional construction. Unlike a mere power, a 'shall' provision creates a non-discretionary duty. Where the constitutional threshold is met, INEC is not at liberty to demur. This was the nub of the court's reasoning, and it is legally correct.

Notably, the reason deregistration was elevated from the Electoral Act 2010 into the Constitution itself was deliberate and instructive. Prior to 2017, INEC's deregistration power derived from statute. Parties successfully challenged those deregistrations on the ground that a statutory provision could not validly curtail the constitutional right of free association under Section 40. The Fourth Alteration resolved that impasse by anchoring the power in the Constitution itself — placing it beyond that particular line of attack.

THE PLAINTIFF'S CASE AND THE COURT'S DECISION

The suit was brought by way of originating summons, seeking, among other reliefs, a declaration that INEC was constitutionally obligated to deregister political parties that failed to satisfy the performance benchmarks in Section 225A, and an order compelling INEC to act accordingly. The Attorney-General of the Federation was joined as a party.

The plaintiffs averred that each of the five affected parties had consistently failed to meet the minimum electoral thresholds following the 2023 General Elections and subsequent by-elections. They further contended that INEC's continued recognition of these parties was unlawful and inimical to the integrity of the electoral system. Having heard the matter and finding that the defendants did not effectively rebut the plaintiff's case, Justice Lifu upheld the reliefs sought.

Beyond the primary deregistration order, the court also restrained the affected parties from participating in future elections — including the 2027 general elections — and from conducting primaries, rallies, campaigns, or other political activities pending compliance.

ASSESSMENT: WHAT THE JUDGMENT GETS RIGHT

The core deregistration order is constitutionally defensible. The plaintiffs correctly identified a genuine constitutional obligation that INEC had left dormant. The five affected parties had demonstrably failed the Section 225A threshold following the 2023 elections. INEC's prolonged inaction was itself arguably an unconstitutional omission. In directing the Commission to fulfil its constitutional mandate, the court acted well within its supervisory jurisdiction.

The political character of the consequences however significant does not alter the legal analysis. A constitutional provision does not suspend itself on account of political inconvenience. The deregistration of parties that command little or no electoral support reflects the underlying legislative intent: to ensure that the Nigerian political space is occupied by parties that are genuine electoral participants, not administrative shells.

POINTS OF GENUINE APPELLATE VULNERABILITY

The judgment is not, however, beyond challenge. Three issues merit close attention on appeal.

First, locus standi. Nigerian courts have consistently applied rigorous standing rules in electoral litigation. The threshold question is whether a forum of former legislators possesses a sufficient legal interest, beyond general civic concern, to compel the deregistration of political parties is live and may prove decisive at the appellate level.

Second, the ancillary restraining orders. While the deregistration power itself is constitutionally grounded, the orders barring the affected parties from all political activities pending deregistration are more exposed. Political parties retain their legal personality and the associational rights that flow from Section 40 of the Constitution until they are formally deregistered by due process. An interim restraint of that breadth, imposed as a precondition to rather than a consequence of deregistration, raises legitimate fair hearing and constitutional questions that the Court of Appeal will likely examine carefully.

Third, the conjunctive versus disjunctive construction of Section 225A. The sub-provisions of Section 225A — paragraphs (b)(i), (b)(ii), (c)(i),

and (c)(ii) raise the unresolved interpretive question of whether a party must fail on all grounds to qualify for deregistration, or whether failure on any single ground is sufficient. This question was live in earlier litigation arising from INEC's 2020 deregistration exercise and remains unsettled. Its resolution could affect which of the five parties validly qualify for deregistration under the judgment.

POLITICAL CONSEQUENCES AND THE PATH FORWARD

The political ramifications of this judgment are immediate and far-reaching. The deregistration of the ADC removes the platform of a leading opposition presidential aspirant for 2027. The Accord Party's deregistration directly unsettles the re-election bid of an incumbent state governor whose election is scheduled for August 2026. These consequences will accelerate defection activity and political realignment across the opposition spectrum.

An appeal and an urgent application for a stay of execution is virtually inevitable. The stay application will be the most consequential immediate legal battleground, particularly in view of the August 2026 Osun State governorship election timeline. The Court of Appeal will need to balance the constitutional mandate to enforce Section 225A against the democratic imperative of not disenfranchising parties and their members ahead of imminent elections, pending the determination of substantive grounds of appeal.

CONCLUSION

Today's judgment is a constitutionally grounded intervention in a space that Nigerian electoral law has long left underenforced. Section 225A was designed precisely to prevent the proliferation of moribund parties that participate nominally in democracy without genuine electoral commitment. Justice Lifu's core order gives effect to that design.

The vulnerabilities that exist lie not in the deregistration power itself, but in the scope of the ancillary reliefs and the question of the plaintiff's standing. These will define the appellate journey of this matter — and that journey, given what is at stake politically, is only just beginning.

Enebeli & Partners Legal will continue to monitor developments in this matter and provide timely updates as the appellate process unfolds.

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