ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS OR IDENTIFYING PARTICULARS OF THE FIRST APPLICANT. THE COURT FILE, INCLUDING THE E-FILE, IS NOT TO BE ACCESSED OR SEARCHED WITHOUT LEAVE OF A JUDGE.

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU ROHE

CIV-2026-404-3340
[2026] NZHC 3686

UNDER	the Judicial Review Procedure Act 2016, Part 30 of the High Court Rules 2016 and the Electoral Act 1993
IN THE MATTER	of an application for judicial review
BETWEEN	A REFUGEE First Applicant
	RAINBOW PATH CHARITABLE TRUST Second Applicant
AND	ELECTORAL COMMISSION Respondent

Hearing:	24 November 2026 and joint memorandum dated 25 November 2026
Counsel:	P Sundar and S Dalley for the Applicants D J Perkins, Z R Hamill, HTN Fong and MKH Jones (via VMR) for the Respondent
Judgment	25 November 2026

RESULTS JUDGMENT OF GAULT J

This judgment was delivered by me on 25 November 2026 at 4:00 pm pursuant to r 11.5 of the High Court Rules 2016.

Registrar/Deputy Registrar

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[1] The urgent issue in this judicial review application against the Electoral Commission is whether a refugee is allowed to vote in the 2026 general election. This turns on the meaning of the term "resident for electoral purposes" in ss 73 and 74 of the Electoral Act 1993 and in particular whether a refugee holding a temporary entry class visa is "obliged by or under [the Immigration Act 2009] to leave New Zealand … within a specified time" under s 73(b)(ii) of the Electoral Act.

[2] The issue is urgent given the Electoral Commission's declaration of the official election results is due this week. The applicants commenced the proceeding on 18 November 2026 and requested an urgent hearing. The Electoral Commission supported the request. During a telephone conference with counsel on 20 November 2026, I allocated a hearing on 24 November 2026 and made timetable directions. The Electoral Commission indicated that for the first applicant's votes to be included in the official count in the general election (if the application is successful), it would require at least a results decision from the Court by close of business on 25 November 2026.

Factual background

[3] The facts are not in dispute. The first applicant (A) is a [REDACTED] citizen. A arrived in New Zealand in December 2023 and has not left since.

[4] On 24 February 2026, Immigration New Zealand (INZ) issued a decision recognising A as a refugee in New Zealand.

[5] On 15 June 2026, INZ granted A a temporary work visa (a temporary entry class visa) that expires on 30 April 2031.

[6] On 24 June 2026, A applied for electoral registration. The Electoral Commission assessed A as qualified and registered him in the [REDACTED] District, sending him written confirmation of his registration on 26 June 2026.

[7] On 28 September 2026, INZ lodged A's application for a permanent resident visa. INZ indicated it would endeavour to allocate the application to a case officer within seven months.

[8] On 17 October 2026, the Electoral Commission emailed A an EasyVote card.

[9] On 28 October 2026, the Electoral Commission identified an error in its data-matching with INZ whereby A's application for electoral registration (and that of others) was checked against historic rather than current immigration information. As a result, the check did not identify A as a person who was lawfully in New Zealand by virtue of holding a temporary entry class visa.

[10] On 3 November 2026, A cast an ordinary vote in the 2026 general election in the [REDACTED] District.

[11] The same day, the Electoral Commission removed A from the electoral roll. The following day, 4 November 2026, the Electoral Commission wrote to A advising that he must be removed from the electoral roll because he was not a New Zealand citizen or resident for electoral purposes. The Electoral Commission referred to an issue with matching enrolment information with INZ data and apologised for mistakenly adding A to the electoral roll.

[12] Later the same day, A replied to the Electoral Commission requesting a review of his case and providing further information.

[13] After considering the further information, on 6 November 2026 the Electoral Commission confirmed that A was not qualified to register. Regrettably, this was not communicated to A at the time.

[14] On 9 November 2026, A's lawyers provided further information to the Electoral Commission.

[15] On 19 November 2026, the Electoral Commission replied to A's lawyers, reiterating its position that A was not eligible to enrol or vote.

The judicial review proceeding

[16] The statement of claim raises three grounds of review:

(a) error of law;

(b) removal was not authorised by, and did not follow the process in, the Electoral Act; and

(c) the decision was procedurally unfair and unreasonable.

[17] The argument focused on error of law. The applicants did not pursue the procedural grounds.

[18] By joint memorandum filed today, the parties agree that, for the purposes of s 73(b)(ii) of the Electoral Act, a "protected person" under pt 5 of the Immigration Act who holds a temporary entry class visa is in the same position as the first applicant.

Result

[19] Accepting the first applicant is recognised as a refugee in New Zealand and cannot be deported except in the limited circumstances set out in s 164(3) of the Immigration Act, his current visa has an expiry date. In terms of s 73(b)(ii) of the Electoral Act, he is obliged by or under the Immigration Act to leave New Zealand within a specified time. Therefore, he is not currently a resident for electoral purposes qualified to be registered as an elector. Nor is he entitled to vote in the 2026 general election.

[20] Accordingly, the application for judicial review is dismissed.

[21] My reasons will follow.

[22] I make an order prohibiting publication of the name and identifying particulars of the first applicant. He is to be referred to only as "a refugee". I also direct that the court file is not to be accessed without leave of a Judge.

Gault J

Solicitors / Counsel:
Ms P Sundar and Mr S Dalley, Dalley Sundar, Auckland
Mr D J Perkins, Ms Z R Hamill and Ms MKH Jones, Crown Law, Wellington
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