



**Wanyonyi v Mufutu & 2 others (Civil Appeal E002 of 2022)  
[2022] KEHC 3350 (KLR) (27 May 2022) (Judgment)**

Neutral citation: [2022] KEHC 3350 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
CIVIL APPEAL E002 OF 2022  
WM MUSYOKA, J  
MAY 27, 2022**

**BETWEEN**

**ERICK WAFULA WANYONYI ..... APPELLANT**

**AND**

**GASPER MUFUTU ..... 1<sup>ST</sup> RESPONDENT**

**DEMOCRATIC ACTION PARTY-KENYA ..... 2<sup>ND</sup> RESPONDENT**

**INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION .... 3<sup>RD</sup>  
RESPONDENT**

*(An appeal from a decision of the Political Parties Disputes Tribunal, sitting  
at Kakamega, in PPDT Complaint No. E003 OF 2022, of 14th May 2022)*

**JUDGMENT**

1. The complaint before the Political Parties Disputes Tribunal had been brought by the 1<sup>st</sup> respondent, who was a member of the 2<sup>nd</sup> respondent. His case was that he and the appellant had participated in party nominations, conducted by the 2<sup>nd</sup> respondent, for the position of Member of National Assembly for Kabuchai Constituency, for the party ticket of the 2<sup>nd</sup> respondent. When the results were announced, the appellant was announced winner. The 1<sup>st</sup> respondent was aggrieved, and lodged complaint with the Internal Dispute Resolution Committee of the 2<sup>nd</sup> respondent. They were summoned, via mobile phone text messages, for an appearance before the Internal Dispute Resolution Committee on 22<sup>nd</sup> April 2022. Whereas, the 1<sup>st</sup> respondent appeared, the appellant did not, and the complaint of the 1<sup>st</sup> respondent was heard, and orders made. The first order was to effect that the appellant had not been validly nominated, and the nomination exercise carried out on 18<sup>th</sup> April 2022 was revoked and the certificate issued to the appellant was cancelled. The second order directed the 1<sup>st</sup> respondent be issued with a nomination certificate, as he had fulfilled all the conditions. The Internal



- Dispute Resolution Committee noted that it did not order fresh nominations on account of time constraints.
2. The 2<sup>nd</sup> respondent did not comply with the orders of the Internal Dispute Resolution Committee, whereupon the 1<sup>st</sup> respondent moved the Political Parties Disputes Tribunal, in PPDT Complaint No. E003 of 2022, seeking to have the 2<sup>nd</sup> respondent barred from submitting the name of any other candidate for the Kabuchai parliamentary seat, an order to compel the 2<sup>nd</sup> respondent to comply with the orders of the Internal Dispute Resolution Committee, and an order barring the 3<sup>rd</sup> respondent from accepting or receiving the name of any other person as candidate for Kabuchai Constituency under the 2<sup>nd</sup> respondent except the 1<sup>st</sup> respondent.
  3. In his response to the complaint, the appellant asserted that the nomination exercise conducted on 18<sup>th</sup> April 2022 was in accord with the Constitution of the 2<sup>nd</sup> respondent, and he had been validly nominated. He averred that the appeal by the 1<sup>st</sup> respondent to the Internal Dispute Resolution Committee, was time barred, and had been filed before an unknown entity to the 2<sup>nd</sup> respondent, which lacked jurisdiction to hear and determine the complaint, and its decision was, therefore, null and void. He also averred that he had not been served with the process that was before the Internal Dispute Resolution Committee and the proceedings therein were conducted ex parte. He stated that when he became aware of the said decision, he made an appeal to the 2<sup>nd</sup> respondent, and that decision was revoked, and his nomination as the candidate for the 2<sup>nd</sup> respondent for Kabuchai Constituency was upheld. He further averred that 1<sup>st</sup> respondent had not paid the requisite fees as required by the rules of the 2<sup>nd</sup> respondent, and the Internal Dispute Resolution Committee was neither quorate nor appointed by the National Executive Committee of the 2<sup>nd</sup> respondent. He asserted that he was the person properly nominated as candidate for the 2<sup>nd</sup> respondent for the Kabuchai Constituency seat.
  4. The 2<sup>nd</sup> respondent was served with the process relating to PPDT Complaint No. E003 of 2022, but did not respond.
  5. The 3<sup>rd</sup> respondent, in its response, stated that it was a stranger to the nomination process conducted by the 2<sup>nd</sup> respondent.
  6. The Political Parties Disputes Tribunal framed two issues, which it went on to determine. One, whether the dispute in respect of the nomination had been properly addressed within the internal mechanisms of the 2<sup>nd</sup> respondent, and, two, what orders were available for the Political Parties Disputes Tribunal to make.
  7. On the first issue, the Political Parties Disputes Tribunal considered documents from the 2<sup>nd</sup> respondent on elections, specifically the Election and Nomination Rules of the 2<sup>nd</sup> respondent, as adopted by the party's national executive board on 10<sup>th</sup> November 2021. It was noted that 1<sup>st</sup> respondent had addressed his complaint to the 2<sup>nd</sup> respondent and paid the requisite fees. The matter was heard by the organ of the 2<sup>nd</sup> respondent. On quorum of the organ, the Political Parties Disputes Tribunal noted that the rules did not appear to provide for quorum. It was concluded that the appellant was not justified in arguing that the organ was unknown to the 2<sup>nd</sup> respondent. It was noted that under the rules, it was the 2<sup>nd</sup> respondent who was mandated to constitute the body at the County level, and to channel a complaint lodged before it in writing and duly paid for before the body. It was noted that if the appellant had presented himself before that body, he would have raised the technicalities that he was placing before the Political Parties Disputes Tribunal. The Political Parties Disputes Tribunal ruled that the 1<sup>st</sup> respondent followed the laid down rules in raising his complaint, and both parties were accorded an opportunity to be heard. It was further ruled that the Internal Dispute Resolution Committee ordered the National Elections Board of the 2<sup>nd</sup> respondent to issue the 1<sup>st</sup> respondent



with the nomination certificate, based on the evidence presented before it, as required under the party nomination rules. Finally, the Political Parties Disputes Tribunal ruled that it did not find any fault with the internal party process to which the appellant and the 1<sup>st</sup> respondent were subjected to. It was noted that the decision of the Internal Dispute Resolution Committee was not final, for there was provision for an appeal to the National Appeals Tribunal, and that the appellant did not present any material showing that he ever filed any such appeal against the decision of the Internal Dispute Resolution Committee, and the Political Parties Disputes Tribunal was not persuaded that the appellant had won any appeal against the decision of the Internal Dispute Resolution Committee.

8. On the second issue, the orders to be made, the Political Parties Disputes Tribunal issued orders whose effect was to compel compliance with the orders of the Internal Dispute Resolution Committee of 22<sup>nd</sup> April 2022 and to direct the 2<sup>nd</sup> respondent to issue a certificate to the 1<sup>st</sup> respondent accordingly.
9. After the Political Parties Disputes Tribunal delivered its decision on 14<sup>th</sup> May 2022, the appellant was aggrieved, and filed the appeal herein. The grounds of appeal are that the Political Parties Disputes Tribunal failed to appreciate that the Internal Dispute Resolution Committee had no jurisdiction to make the decision it made, failed to find that the appellant was not served with the process that was before the Internal Dispute Resolution Committee, which resulted in the process being in violation of the rules of natural justice, fell into error in finding that the County Appeals Tribunal had jurisdiction to hear and determine appeals arising from nominations in respect of Members of the National Assembly, fell into error in finding that the 1<sup>st</sup> respondent had presented a valid complaint before a quorate duly entity appointed by the National Appeals Tribunal, found in favour when the 1<sup>st</sup> respondent had not adduced sufficient evidence and disregarded the evidence and submissions of the appellant, and in making a decision which subverted the popular will of the constituents of Kabuchai. He would like the judgment of 18<sup>th</sup> May 2018 set aside, and that he be declared as the validly nominated candidate of the 2<sup>nd</sup> respondent for the Kabuchai Constituency.
10. Directions were taken on 23<sup>rd</sup> May 2022, for the appeal to be canvassed by way of written submissions, to be highlighted. All the parties have filed written submissions, which they highlighted on 26<sup>th</sup> May 2022. Due to constraint of time I shall not recite the written submissions, nor the highlights made on 26<sup>th</sup> May 2022.
11. I shall consider and determine each ground of appeal.
12. Ground 1 of the appeal is on the jurisdiction of the Internal Dispute Resolution Committee as an internal dispute resolution mechanism for the 2<sup>nd</sup> respondent. The appellant argues that that is an alien body, which had not been vested with jurisdiction to handle the internal election disputes for the 2<sup>nd</sup> respondent, and, therefore, it had no jurisdiction to have handled the dispute between him and the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent on the other hand argues that the Internal Dispute Resolution Committee was a creature of the statutes of the 2<sup>nd</sup> respondent, and it had the requisite jurisdiction to do what it did.
13. So, which statutes of the 2<sup>nd</sup> respondent deal with resolution of internal party disputes? In its judgment, the Political Parties Disputes Tribunal was guided by the Election and Nomination Rules for the 2<sup>nd</sup> respondent, and in particular Clause 22.0 on dispute resolution and appeals tribunals, and focused mainly on sub-clause 22.1 on the County Appeals Tribunal. The appellant has cited the same Clause, but argues that the internal dispute resolution mechanism provided for under that Clause is at two levels, the County Appeals Tribunal for disputes relating to nomination of ward representatives, and the National Appeals Tribunal for disputes relating to nomination of national officials, such as the President, Governors, Senators, Members of the National Assembly and the County Woman



Representative. He asserts that the Internal Dispute Resolution Committee is not created under the Election and Nomination Rules, and that the Political Parties Disputes Tribunal appeared to conflate it with the County Appeals Tribunal. On his part, the 1<sup>st</sup> respondent says that the Internal Dispute Resolution Committee is a creature of the National Elections Board, which is mandated by Rule (j) of the Constitution of the 2<sup>nd</sup> respondent to establish ad hoc dispute resolution panels at the branch, sub branch, ward and polling station levels. He says that Rule (j) of the Constitution is replicated in Rule (i) of the Nomination Rules of the 2<sup>nd</sup> respondent, under the powers of the National Elections Board, which provides that the national elections board may establish ad hoc dispute resolution panels at the branch, sub branch, ward and polling station levels. Although the 2<sup>nd</sup> respondent submitted that the Internal Dispute Resolution Committee had no jurisdiction to make the orders it made, it did not cite any statutory basis for that contention. The 3<sup>rd</sup> respondent did not address the issue at all.

14. I will start by looking at the provisions of the Constitution of the 2<sup>nd</sup> respondent on the matter. The Constitution provides for an internal dispute resolution mechanism under Article 23, I shall recite the entire provision for force and effect, it says:

“ Article 23: Internal Party Dispute Resolution Mechanism

Dispute resolution shall be at three (3) levels. Those are Sub Branch, Branch and National. Decisions at the sub branch shall be appealed against at the branch, those of the branch at the National whereas those at the National level; shall be final.

The Internal Dispute Resolution shall be in accordance to the Kenyan constitutional right to fair hearing and fair administration of justice.

Procedure

- a. Complaints against Governor(s), MP(s), Senator(s), and National official(s) shall be held and determined at NEC.
- b. Complaints against County Assembly Representative(s) and branch official(s) shall be heard and determined at BEC.
- c. Complaints against sub branch, ward and polling station officials shall be heard and determined by SBEC.
- d. Once the complaint has been received by SBEC, BEC or NEC; they shall be under duty to inform the accused.
- e. SG/Secretary to SBEC, Secretary to BEC to avail the request to constitute the dispute resolution committee within 7 days upon receipt of the same.
- f. Within 7 days, the party accused may apply in writing to SG or Secretary to the branch or secretary to the sub branch (as the case may apply) for a dispute resolution committee to be constituted to attempt to resolve the dispute.
- g. Upon receipt of the request from the accused party, the SG or Sec to the branch or secretary to the sub-branch shall constitute the dispute resolution Committee instead of disciplinary committee.
- h. When request not received within 7 days, the SG or Secretary to the branch or the secretary to the sub branch shall constitute the disciplinary committee.



- i. Committee shall not have more than 3 members (shoot in/shoot out mechanism to apply – accused party is allowed to have a nominee on the committee).
- j. Within a period of one week if no resolution has been reached at the dispute resolution mechanism level, the SG or Secretary to BEC or secretary to SBEC, shall constitute the disciplinary committee.
- k. The dispute resolution mechanism provided may extend for another 7 days where necessary. The reason(s) for such extension shall be communicated in writing to all parties concerned.
- l. It shall be an act of gross misconduct for nay member of the party to disregard the dispute resolution and disciplinary mechanism under this Constitution and to proceed directly to court or nay other body without exhausting the internal dispute resolution mechanism. Such an act shall earn that member an automatic expulsion from the party. The member so expelled vide this proviso, shall bear the legal costs of the suit filed in any court or any other body.”

15. The Election and Nomination Rules for the 2<sup>nd</sup> respondent provides for disputes resolution at Clause 22.0, which provides as follows:

“ 22.0 Disputes Resolution and Appeal Tribunals

22.1 County Appeals Tribunal

There shall be established a County Appeals Tribunal in every County each composed of five members of the part who shall be distinguished persons of good moral standing in society and of high integrity

Provided that one third of the members of the County Appeal shall be of either gender.

Members of County Appeals Tribunal shall be appointed by the NEB, and approved by the NEC at least 30 days before the commencement of the nomination exercise or Party Elections. The Tribunal shall be guided by the Rules of procedure which shall be formulated the NEB. The NEB shall, at the time of appointment, designate one member of the Tribunal as the Presiding Chairperson.

The County Appeals Tribunal shall determine appeals arising from Polling Station, Sub Branch, Branch party elections, and appeals arising from nominations in respect of County ward representatives.

No member of the Tribunal shall during his/her tenure of office be a Party official or an aspirant in any Party election or nomination.

Any candidate aggrieved by the outcome of Party elections in the Brach, Sub-Branch, or Polling Station shall have the right of appeal to the County Appeals Tribunal within 48 hours of the announcement of results.

The appeal shall be in writing and duly signed by the appellant accompanied by a non-refundable fee of Kshs. 100, 000/= payable to the Party.



The County Appeals Tribunal shall consider and determine the appeal in accordance with the Constitution of Kenya, applicable law, Party Constitution and Election and Nomination Rules within 48 hours of receipt of the appeal.

The Appeals Tribunal may, in its discretion but for good reasons to be recorded, consider the written appeal and make its decision or make directives without the need to hear the appellant in person.

The appeals Tribunal shall, in suitable cases, have powers to summon the Returning Officer responsible. Party witnesses with relevant evidence and after due consideration dismiss the appeal, order re-count or re-tallying of votes or otherwise nullify the result of the elections and order repeat thereof.

## 22.2 National Appeals Tribunal

There shall be established a National Appeals Tribunal composed of a minimum five (5) members and maximum of nine (9) members of the Party who shall be distinguished persons of good moral standing in society and of high integrity

Provided that one third of the members of the National Appeal shall be of either gender.

Members of National Appeals Tribunal shall be appointed by the NEC and shall designate one member of the Tribunal to be Chairperson.

The National Appeals Tribunal shall determine appeals arising from elections of National officials and nominations in respect of Presidential election, Governors, Senators, Member of the National Assembly, and County Women Representatives.

No member of the Tribunal shall, during his/her tenure of office, be a Party official or an aspirant in any Party election or nomination.

The appeal to the National Appeals Tribunal shall be in writing and duly signed by the appellant and shall be lodged within 48 hours of the announcement of the results appealed from.

An appellant shall, on appeal, pay a non-refundable fee of Kshs. 300, 000/= to the Party.

The National Appeals Tribunal may, in its discretion but for reasons to be recorded, consider the appeal and make its decision or make directives without the need to hear the appellant in person.

The National Appeals Tribunal shall, in suitable cases, have powers to summon the Returning Officer responsible. Party witnesses with relevant evidence and thereafter dismisses the appeal, order re-count, re-tallying of votes or otherwise nullify the result of the elections or repeat of elections.

The National Appeals Tribunal shall consider and determine the appeal in accordance with the Constitution of Kenya, any applicable law, Party Constitution and Election and Nomination Rules within 48 hours of receipt of the appeal.



The decision of the National Appeals Tribunal shall be final.”

16. From the two sets of provisions, the Constitution of the 2<sup>nd</sup> respondent and the Election and Nomination Rules of the 2<sup>nd</sup> respondent, it should be clear, that the case by the appellant is that the internal dispute resolution mechanism that the 1<sup>st</sup> respondent should have resorted to is that provided for under the Election and Nomination Rules of the 2<sup>nd</sup> respondent, and not that provided for under the Constitution of the 2<sup>nd</sup> respondent. Both statutes provide for an internal dispute resolution mechanism. My understanding of it is that the internal dispute resolution mechanism under the Constitution of the 2<sup>nd</sup> respondent is not designed to address disputes arising from elections and nominations. It is more about addressing complaints by members of the 2<sup>nd</sup> respondent with respect to elected officials of the 2<sup>nd</sup> respondents and officials serving in the National and County Governments elected on the ticket of the 2<sup>nd</sup> respondent. That is why Article 23 talks of complaints against Governor, MPs, Senators and County Assembly representatives, and party officials at the national, branch, sub branch, ward and polling station levels. The procedure set out under Article 23 of the Constitution of the 2<sup>nd</sup> respondent is for the purpose of internal dispute resolution mechanism relating to disputes and complaints of that nature, and not elections and nomination disputes. The Internal Dispute Resolution Committee that heard and determined the claim by the 1<sup>st</sup> respondent is the one contemplated under Article 23 of the Constitution of the 2<sup>nd</sup> respondent. That was not the proper internal dispute resolution mechanism
17. The internal dispute resolution mechanism that should apply with respect to elections and nominations is that contemplated under the Election and Nomination Rules of the 2<sup>nd</sup> respondent. This internal dispute resolution mechanism is provided for under Clause 22.0, and it covers disputes arising from elections for party officials and nominations for elections for positions in National and County Governments, that is for the positions of President, Governor, Senator, Member of the National Assembly, Woman Representative and the County Assembly Representative. The procedure for resolution of such disputes are set out under Clause 22.0. Sub-clause 22.1 provides for County Appeals Tribunal, which handles disputes arising from nominations of County Assembly Representatives and elections of officials at the County level and below. Sub-clause 22.2 provides for the National Appeals Tribunal, to handle disputes arising from nominations for elections to positions of President, Governor, Senator, Member of the National Assembly and Woman Representative and elections of national party officials for the 2<sup>nd</sup> respondent. The internal dispute resolution mechanism that the 1<sup>st</sup> respondent should have resorted to is that which is envisaged by Sub-clause 22.2.
18. I agree with the appellant, that jurisdiction is everything. The internal dispute resolution mechanism that dealt with the complaint by the 1<sup>st</sup> respondent was not the proper one, that is the envisaged by Sub-clause 22.2, the National Appeals Tribunal. The 1<sup>st</sup> respondent presented his case before the Internal Dispute Resolution Committee, which is created under Article 23 of the Constitution of the 2<sup>nd</sup> respondent, a body which does not have mandate to handle election disputes, but whose mandate is in respect of complaints against elected party officials and National and County Government officials elected on the ticket of the 2<sup>nd</sup> respondent. To that extent, therefore, the Internal Dispute Resolution Committee lacked jurisdiction to entertain the dispute that was placed before it, and the decision it made was null and void for all purposes.
19. Ground 2 of the petition is that the appellant was not served with the complaint that was before the Internal Dispute Resolution Committee. The 1<sup>st</sup> respondent contended that there was service, submitting that the appellant had not denied that the telephone number to which messages were sent was his. I have perused through the ruling of the Internal Dispute Resolution Committee, dated 22<sup>nd</sup>



- April 2022. It does not talk about the appellant being served with the complaint, but of a hearing notice being served, upon receipt of the complaint, on the two parties through text message through numbers that are indicated in the ruling. Being served with a hearing notice and with the complaint are two different things. The ruling does not state whether the appellant was ever served with the complaint, and the 1<sup>st</sup> respondent has not provided any proof of service of the complaint on the appellant, whether personally or directly, or through post, or through email, or WhatsApp, or notice in newspapers of wide circulation. I am persuaded that there is a legitimate complaint by the appellant that he was never served with the complaint, for the 1<sup>st</sup> respondent has not provided any positive proof of any service.
20. Ground 3 is about the National Appeals Tribunal having jurisdiction to determine appeals under Sub-clause 22.1 of the Election and Nominations Rules of the 2<sup>nd</sup> respondent. I believe I have dealt with this comprehensively above. Sub-clause 22.1 of the Election and Nominations Rules governs complaints with respect to elections of party officials at the County level and below, as well as nominations for election to position of County Assembly Representative. It does not apply to nominations for elections to positions of President, Governor, Senator, Member of the National Assembly and Woman Representative. The applicable provision is Sub-clause 22.2, which provides for the National Appeals Tribunal, and vests it with the mandate to handle nomination disputes with respect to the positions of President, Governor, Senator, Member of the National Assembly and Woman Representative. The appellant and the 1<sup>st</sup> respondent were not seeking nomination to contest the position of County Assembly Representative, but that of Member of National Assembly, so it was erroneous for the Political Parties Disputes Tribunal to find and hold that Sub-clause 22.1 applied, because it does not.
21. Ground 4 is about the 1<sup>st</sup> respondent presenting a valid complaint before a fully quorate duly appointed National Appeals Tribunal within the timelines provided for under the Election and Nomination Rules of the 2<sup>nd</sup> respondent. In the first place, the 1<sup>st</sup> respondent presented his complaint to the wrong forum, the Internal Dispute Resolution Committee, established under Article 23 of the Constitution of the 2<sup>nd</sup> respondent, instead of the National Appeals Tribunal under Sub-clause 22.2 of the Election and Nominations Rules of the 2<sup>nd</sup> respondent. Secondly, the decision of the Internal Dispute Resolution Committee was by a panel of three, which is in keeping with Article 23i of the Constitution of the 2<sup>nd</sup> respondent, save that the 1<sup>st</sup> respondent was before the wrong body. The composition of the National Appeals Tribunal, according to Sub-clause 22.2, is a minimum of five members and a maximum of nine. Even if one were to presume that the Internal Dispute Resolution Committee, which handled the complaint by the 1<sup>st</sup> respondent, was equivalent to the National Appeals Tribunal, which is not the case, it would have been non-quorate, as quorum is set at a minimum of five by Sub-clause 22.2, and not three. On whether the complaint was valid, with respect to the timelines, Sub-clause 22.2 requires that appeals be lodged with the National Appeals Tribunal within 48 hours of the announcement of results. For the complaints envisaged under Article 23 of the Constitution of the 2<sup>nd</sup> respondent, there is no time limitation or stipulation for lodging of the complaints. According to the ruling of the Internal Dispute Resolution Committee, the complaint was received on 21<sup>st</sup> April 2022, the elections having been conducted in 18<sup>th</sup> April 2022. I cannot tell whether this was done within 48 hours, as none of the parties have provided any evidence as to when the results were announced. I cannot, therefore, determine whether or not the complaint was lodged within the 48 hours envisaged under Sub-clause 22.2 of the Election and Nomination Rules of the 2<sup>nd</sup> respondent.
22. Ground 5 is about the Political Parties Disputes Tribunal making a determination based on the insufficient evidence presented by the 1<sup>st</sup> respondent and disregarding the evidence of the appellant. The parties have not dwelt much, if at all, on this ground, in their written submissions and their speeches before me. I have no basis, therefore, to determine, one way or the other, whether the 1<sup>st</sup>



respondent had provided insufficient evidence or that the evidence and submissions of the appellant were disregarded.

23. Regarding Ground 6, that the effect of the finding by the Political Parties Disputes Tribunal was to subvert the popular will of the persons who voted in the nomination exercise, I will say that the Political Parties Disputes Tribunal is not on trial here. My task is to determine whether or not the proceedings that the Political Parties Disputes Tribunal conducted were in accord with the law governing the matter. I would be reluctant to venture to decide about the popular will of the electors being subverted, for I do not believe that the Political Parties Disputes Tribunal had any intention to subvert the same, even if the impugned decision, probably, had that effect. This sort of sloganeering, addressed to judicial and quasi-judicial bodies, handling disputes of this nature, should be eschewed, for these bodies are not party to the political contests the subject of the dispute, and they should not be dragged into the arena of conflict.
24. Ground 7, is that the Political Parties Disputes Tribunal erred in law and fact in finding in favour of the 1<sup>st</sup> respondent. I submit that this is general, and it is covered by all what I have discussed above.
25. Overall, it is my finding that the appeal herein is merited. The Internal Dispute Resolution Committee had no jurisdiction over the dispute, for the reasons given above, and its decision was, therefore, null and void. Consequently, the judgment of the Political Parties Disputes Tribunal, delivered on 14<sup>th</sup> May 2022, is hereby set aside. The effect of the above is that the nomination of the appellant, as the flagbearer for the 2<sup>nd</sup> respondent, in the election for Member of the National Assembly for Kabuchai Constituency, is upheld, and he shall be issued with the nomination certificate, by the 2<sup>nd</sup> respondent, for that position. The appellant shall have the costs of the appeal. It is so ordered.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 27<sup>TH</sup> DAY OF MAY, 2022**

**WM MUSYOKA**

**JUDGE**

Mr. Erick Zalo, Court Assistant.

Mr. Greg Mutai, instructed by Kipsang & Mutai, Advocates for the appellant.

Mr. Wasilwa and Mr. Ochieng Oginga, instructed by Ochieng Oginga & Company, Advocates for the 1<sup>st</sup> respondent.

Mr. Echesa, instructed by Wamalwa & Echesa, Advocates for the 2<sup>nd</sup> respondent.

Ms. Bitok, instructed by Joe Ngugi & Company, Advocates for the 3<sup>rd</sup> respondent

