



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CONSTITUTIONAL PETITION NO. 21 OF 2019

DOMNICK OBEL OBONGO.....1ST PETITIONER/APPLICANT

THE BOARD OF MANAGEMENT

RALIEW SECONDARY SCHOOL.....2ND PETITIONER/APPLICANT

VERSUS

COUNTY DIRECTOR OF EDUCATION, SIAYA COUNTY.....1ST RESPONDENT

COUNTY EDUCATION BOARD, SIAYA COUNTY.....2ND RESPONDENT

RULING

1. On 10/6/2019, this Court gave directions in this matter that parties file written submissions and exchange within the timeliness given and appear today for highlighting. Only the Petitioner has complied with directions of the court. The respondents represented by Miss Langat, Senior Principal Litigation Counsel who was in court on 10/6/2019 has written to court and to all other courts in the region requesting that the matters slated for hearing on 23 - 27th June 2019 be adjourned as all litigation counsel in the region had been called to attend a retreat in Naivasha as per the attached memos.

2. The Petitioners' counsel informs the court that he was not given notice of the said Retreat. The letter for Retreat is dated 20/6/2019.

3. I have considered the application for adjournment, the grounds advanced by Mr. Ogola advocate on behalf of Miss Langat. I have also considered the letter dated 20/6/2019 and the attached Memo dated the same day calling on all litigation counsel to attend the retreat which is stated to be for purposes of ensuring improved provision of quality legal services to client Ministries, Departments and State Corporations. The theme of the retreat is '*Reengineering processes and systems of Government litigation.*'

4. I have given equal consideration to the vehement opposition to the Application for adjournment by Mr. Arika Advocate for the Petitioners.

5. The court observes that Mr. Arika complied with the directions of the court and filed and served the required documentation in time. Nonetheless, the Respondents have not complied and the reasons advanced are on record.

6. This court appreciates expeditious disposal of cases and that is why it certified this matter as urgent and it also provided timeliness to the parties' advocates to comply.

7. That notwithstanding, the court has been made aware of the reasons why the Respondent has not complied with the directions of this court. The reasons given are reasonable. Continuous learning of counsel whether in public or private sector is essential to efficient dispensation of justice. I note that all the matters where the Hon. AG is a party in this region are affected by the retreat and therefore in my humble view, it will not be in the interest of justice for this court to close its eyes to the reasons advanced by the Respondents' counsel and proceed to hear and determine the dispute in the absence of the Respondents' counsel.

8. The Respondents are before this court and they are entitled to legal representation. They cannot be condemned unheard. Justice is better served when both sides of the dispute are accorded an opportunity to be heard.

9. In the premises, I shall grant an adjournment to the Respondents and order that they file and serve their documents within an enlarged period of 7 days from the date hereof. Today's costs shall be to the Petitioner in any event.

10. Orders accordingly.

Dated, signed and Delivered at Siaya, this 24th Day of June 2019.

R.E. ABURILI

JUDGE

In the presence of:

Mr Arika Advocate for the Petitioners

Mr Ogola Advocate h/b for Ms. Langat for the Respondents

CA: Brenada and Modestar