



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KITALE

CIVIL CASE NO. 26 OF 2018

RICHARD MASINDE WAFULA & 219 OTHERS.....APPLICANTS

VERSES

TRANS NZOIA TEACHERS ENTERPRISES LTD & 23 OTHERS....RESPONDENTS

RULING

1. By their application dated 10th April, 2019 the Applicants prayed for the following orders:

A. The following persons be confirmed as the new directors of the Trans Nzoia Teachers Enterprise Ltd (TENT) pursuant to the election held on the 7th March, 2019 during the special general meeting supervised by the Deputy Registrar of the court, namely;

- 1. PAUL OPIMO.....CHAIRMAN**
- 2. DAVID WEKESA.....VICE CHAIRMAN**
- 3. PIUS MAYENDE.....SECRETARY**
- 4. GILBERT WASILWA.....ASSISTANTSECRETARY**
- 5. SABINA SIMIYU.....TREASURER**
- 6. RACHEL NJUGUNA.....MEMBER**
- 7. STEPHEN NDIEMA.....MEMBER**
- 8. LEAH KIMANI.....MEMBER**

B. The Registrar of Companies be ordered to effect changes in the company register by substituting the current directors of Trans Nzoia Teachers Enterprise Ltd with the following Directors:

- 1. PAUL OPIMO.....CHAIRMAN**
- 2. DAVID WEKESA.....VICE CHAIRMAN**
- 3. PIUS MAYENDE.....SECRETARY**
- 4. GILBERT WASILWA.....ASSISTANT SECRETARY**
- 5. SABINA SIMIYU.....TREASURER**
- 6. RACHEL NJUGUNA.....MEMBER**

7. STEPHEN NDIEMA.....MEMBER

8. LEAH KIMANI.....MEMBER

C. Upon compliance with (B) above the Registrar of Companies do furnish the Plaintiffs Advocate with the CR12 form duly filled and containing information of the new Directors of the Trans Nzoia Teachers Enterprises Ltd (TENT)

2. The Applicants prayed for costs too.

3. The affidavit of **Richard Masinde Wafula** together with the relevant annexures supported the said application in which in essence reiterated the orders of this court which ordered the Deputy Registrar of this court to supervise the elections which were conducted on 7th March, 2019.

4. The said application was conducted and from the Deputy Registrar's report the aforementioned persons were elected as the officials. These are the same officials whom they seek to be recognised by the Registrar of Companies.

5. John Mwangi vide his replying affidavit sworn on the 16th April, 2019 has opposed the application on behalf of the rest of the Defendants and the substratum of the said objection is that no proper elections were conducted by the Deputy Registrar as mandated by this court. The main reason is that the elections were not done as per the directives of this court and specifically that they were not done within the stipulated time and date. That in the premises the Registrar did not have the capacity to enlarge the time. In short no proper elections were conducted.

6. The parties have filed written submissions which I have perused. The issue at hand respectfully and contrary to the assertion by the Respondent has nothing to do with the election. The question of the Deputy Registrar led election was water under the bridge as I understand it. That position is fortified by the fact that there was no appeal against the same neither is there an appeal against the directives or the ruling by this court ordering the elections.

7. The application on board is purely procedural in nature since it seeks to legitimise the Applicants leadership pursuant to the elections conducted under the auspices of this court. Does the respondent have anything to suffer? I do not think so as their position as members of the company as I have been made to understand shall not be prejudice.

8. In any case the new officials must work under the tenets of the law otherwise they are held responsible. Generally speaking, the elections of the company must be within the time frame as is determined by the Act.

9. Putting all the factors constant and in the interest of the shareholders, the application is hereby allowed. Should the Respondents have issues with the elections conducted by the Deputy Registrar then they are at liberty to make appropriate application.

10. The costs of this application shall be in the cause.

Dated, signed and delivered in open court at Kitale this 24th day of June, 2019.

H K CHEMITEI

JUDGE

24/6/19

In the presence of:-

Mr Teti holding brief for Barongo for Respondent

Nyambegere for Applicant

Court Assistant – Kirong

Ruling read in open court.