



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAKURU**

**PETITION NO. 38 OF 2017**

**IN THE MATTER OF ARTICLES 2,3,10,56,73,124,59,65,79, 196, 232 AND 259 THE CONSTITUTION OF KENYA**

**AND**

**IN THE MATTER OF SECTIONS 3,4,7,8, 9 OF THE LEADERSHIP AND INTERGRITY ACT NO.19 OF 2012**

**AND IN THE MATTER OF SECTIONS 30 (2 AND 3) OF THE COUNTY GOVERNMENTS ACT, 2012 (ACT NO.17 OF 2012)**

**AND**

**IN THE MATTER OF SECTIONS 4,5,10 OF THE PUBLIC SERVICE (VALUES AND PRINCIPLES) ACT, 2015**

**AND**

**IN THE MATTER OF SECTIONS 8,10 AND 1 OF THE PUBLIC APPOINTMENT (COUNTY ASSEMBLY APPROVAL) ACT NO.5 OF 2017**

**AND**

**IN THE MATTER OF SECTION 7 OF THE NATIONAL COHESION ACT NO.12 OF 2008**

**BETWEEN**

**TRUSTED SOCIETY OF HUMAN RIGHTS ALLIANCE.....PETITIONER**

**-VERSUS-**

**SPEAKER, COUNTY ASSEMBLY OF NAKURU.....1<sup>ST</sup> RESPONDENT**

**COUNTY ASSEMBLY OF NAKURU.....2<sup>ND</sup> RESPONDENT**

**GOVERNOR, COUNTY GOVERNMENT OF NAKURU...3<sup>RD</sup> RESPONDENT**

**COUNTY GOVERNMENT OF NAKURU.....4<sup>TH</sup> RESPONDENT**

**RULING**

1. The petition herein was filed by the petitioner on 18<sup>th</sup> October, 2017. Along with the petition the petitioner filed a notice of motion dated 18<sup>th</sup> October, 2017. The application sought orders *inter alia* that:-

i. That pending the inter-parties hearing and determination of the application, this Honourable court be pleased to issue a conservatory barring and/prohibiting the 1<sup>st</sup> and 2<sup>nd</sup> respondents from vetting, approving or in any manner dealing with the names of Dr. Peter Evans Kiplangat, Eng. Lucy Wanjiku Kariuki, Lawrence Mwangangi Mwanja, Eng. Joseph Irungu Mburu, Halima Gabara Abdulahi, Eng. Festus Kipkoech Ngeno, Dr. Immaculate Njutha, Raymond Komen, Dr. Jonah Manjari Mwangi and Joseph Wainaina Kiuma or any other name other than in compliance with Constitution as nominees for the positions County Executive Committee Members of the 4<sup>th</sup> Respondent for approval.

ii. That pending the inter-parties hearing and determination of the petition, this Honourable Court be pleased to issue a conservatory order barring and/prohibiting the 1<sup>st</sup> and 2<sup>nd</sup> respondents from vetting, interviewing, approving or in any manner dealing with the names of Dr. Peter Evans Kiplangat, Eng. Lucy Wanjiku Kariuki, Lawrence Mwangangi Mwanja, Eng. Joseph Irungu Mburu, Halima Gabara Abdulahi, Eng. Festus Kipkoech Ngeno, Dr. Immaculate Njutha, Raymond Komen, Dr. Jonah Manjari Mwangi and Joseph Wainaina Kiuma or any other name other than in compliance with Constitution as nominees for the positions County Executive Committee Members of the 4<sup>th</sup> Respondent for approval.

2. The application was certified urgent by **Odero J** who directed that the prayer for conservatory orders be heard *inter-partes*. When the matter came up before me for directions on 6<sup>th</sup> November, 2017, the parties took directions to file replying affidavits and submissions and be ready for highlighting the same on 5<sup>th</sup> December, 2017. On that date, **Mr. Kibet** representing the 1<sup>st</sup> and 2<sup>nd</sup> respondents indicated that they had not filed submissions. While **Mr. Situma** who held brief for **Mr. Otieno** for the petitioner sought more time to file submissions. The court granted time extension to 23<sup>rd</sup> January, 2018. On that date the petitioner was still not ready with their submissions and prayed for 7 days' time extension. The 3<sup>rd</sup> and 4<sup>th</sup> respondents had by then filed their submissions. The court granted the petitioner a final adjournment.

3. The application came up again on 19<sup>th</sup> February, 2018. **Mr. Otieno** for the petitioners/applicants did not attend court. There was also no appearance for the 3<sup>rd</sup> and 4<sup>th</sup> respondents. **Mr. Kipkoech** for the 1<sup>st</sup> and 2<sup>nd</sup> respondents asked the court to dismiss the application for reason that the petitioners had shown a lot of liturgy and seemed to have lost interest in the application. He submitted that whereas the 1<sup>st</sup> and 2<sup>nd</sup> respondents had filed grounds of opposition and submissions and the 3<sup>rd</sup> respondent had filed submissions, the petitioners were yet to comply with the directions of the court.

4. I have perused the record as set out above. It is clear that the applicant has not been diligent in prosecuting the application. It has come up four times in court without any tangible progress being made by the applicant to move forward the application. The applicant has not only failed to comply with the directions of the court but has failed to attend court to offer any explanation. **Rule 6 of Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013** places a duty on parties to assist the court to further the overriding objective in litigation by participating in the processes of the court; and, by complying with the directions of the court. The applicant is clearly in contravention of this rule.

5. In view of the above, I have no hesitation in finding that the petitioner/applicant has lost interest in the application. It is dismissed for want of prosecution.

Order accordingly.

*Ruling delivered, dated and signed This 20<sup>th</sup> day of March, 2018*

**R. LAGAT KORIR**

**JUDGE**

In the presence of:

C/A Emojong

Ms. Amulabi for the petitioners

Mr. Kipkoech for the 1<sup>st</sup> and 2<sup>nd</sup> respondents

Mr. Kipkoech holding brief for Mr. Kibet for the 3<sup>rd</sup> and 4<sup>th</sup> respondents