



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUSIA

MISC J.R. NO. 10 OF 2015

MUSAU

NDUNDA

GERALD NYAGA-----

APPLICANTS

RACHEL

ODUOR

VERSUS

**BUSIA COUNTY DIRECTOR OF
EDUCATION**

BUSIA COUNTY EDUCATION BOARD CHAIRMAN

BUSIA SUB COUNTY DIRECTOR OF EDUCATION

BUTULA SUB COUNTY DIRECTOR OF EDUCATION-----
RESPONDENTS

SAMIA SUB COUNTY DIRECTOR OF EDUCATION

BUNYALA SUB COUNTY DIRECTOR OF EDUCATION

TESO NORTH SUB COUNTY DIRECTOR OF EDUCATION

**TESO SOUTH SUB COUNTY DIRECTOR OF
EDUCATION**

**NAMBALE SUB COUNTY DIRECTOR OF
EDUCATION**

DIRECTIONS

1. As I prepared to write the Judgment herein, I carried out some research which included reading a couple of decisions by the Court of Appeal and the High Court. One particular Decision captured my attention. It is the Decision of **Mumbi Ngugi J** delivered on 5th February 2016 in **Kenya**

National Parents Association vs Cabinet Secretary Ministry of Education Jacob Kaimenyi & 2 others [2016] eKLR. (hereinafter KNPA case).

2. In that Decision, the Learned Judge held as follows:-

The correct position in law being as set out above, and the petitioner therefore not being the national parents association contemplated under section 55 and the Third Schedule to the Basic Education Act, one would have to agree with the respondents that the petitioner and Mr. Ndunda are busybodies who cannot claim to have a basis for purporting to manage the running of public schools in Kenya, and to, in essence, seek to usurp the powers of the Cabinet Secretary in charge of education in the running and management of schools.

The Court further held;

While Mr. Ndunda is at liberty to form and join any association, he is not, given the requirements of the Basic Education Act, entitled to form the national parents association contemplated under the Act. He can form any organization he wishes, but he does not have a right to insist that his organization is the organization contemplated by, and that is vested with various statutory mandates under, the Basic Education Act, and whose formation and election of members into is specifically provided for under the said statute.

3. In these Judicial Review Proceedings, the Applicant herein is Kenya National Parents Association. This is also the Petitioner in KNPA case. In the current proceedings, the Applicant described itself as

...An umbrella Association of Parents Association established under the Provisions of Section 55(2) and Third Schedule of the Basic Education Act 14 of 2013.

That Status was found by the Court in KNPA to be unsupported by law.

4. The decision in The KNPA came just one (1) week after this Court had confirmed, at a mention, that parties herein had filed submissions and reserved a Judgment date. The decision may, however, have a bearing on the outcome herein.
5. For this reason, I invite Counsels herein to address me on the implication, if any, of the decision in KNPA case to the matter at hand.

Dated, signed and delivered at Busia this 15th day of March 2016.

F. TUIYOTT

JUDGE

In the presence of :-

Orwasa.....C/Assistant

N/A.....for Applicants

Tarus.....for Respondents