



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**CONSTITUTIONAL AND HUMAN RIGHTS DIVISION**  
**PETITION NO.356 OF 2014**

**BETWEEN**

**AHMED ISSACK HASSAN.....PETITIONER**

**AND**

**THE AUDITOR GENERAL.....RESPONDENT**

**JUDGMENT**

**Introduction**

1. On 3<sup>rd</sup> June 2013, the Clerk of the National Assembly requested the Auditor General to conduct a special audit on the procurement of the Biometric Voter Registration (BVR) kits that had been procured by the Independent Electoral and Boundaries Commission (IEBC) for the general elections held in March 2013. The 2<sup>nd</sup> Respondent conducted the audit between July 2013 and March 2014 and released a report on 6<sup>th</sup> June 2014 titled; ***“Special Investigation Report on the Procurement of Electronic Voting Devices for 2013 General Election”*** (the Report). The Report was forwarded to the Clerk of the National Assembly for tabling before the National Assembly on 6<sup>th</sup> June 2014. The Petitioner alleges that the contents of the said report were widely covered in the print and electronic media and are therefore well known to the public.

2. The Report was also sent to the Petitioner, Ahmed Issack Hassan, in his capacity as the Chairperson of the IEBC, on 16<sup>th</sup> June 2014. On perusal of the Report, he found that he had been adversely mentioned at page 28 in the following words;

***“As the chair of the meeting of 7<sup>th</sup> August 2012 that charted the way forward for the Government process, he allowed the presence of Mr. Tim Colby in the meeting and this is what set grounds for single sourcing of Government of Canada and Morpho Canada which resulted to GOK being supplied BVR kits at inflated prices. He was therefore privy to the single sourcing of the Government of Canada”.***

The same paragraph of the Report further made recommendations that the Chair of IEBC should in future arrange that the timelines set are adhered to, and should avoid inviting strangers to important meetings. It also recommends that a claim be made against the Petitioner for Euros 36, 989, 937.52 being the difference between the additional costs incurred above what SAFRAN Morpho had quoted.

3. The Petitioner has therefore filed this Petition claiming that *inter-alia* he was not heard before the making of the final report contrary to the principle of *audi alteram partem*. He has therefore sought the following orders;

***“(i) A declaration that the Petitioner was not heard contrary to the principle of audi alteram partem.***

***(ii) A declaration that the Respondent was in serious violation of the Constitution in particular Articles 25(c), 27, 28 and 50.***

***(iii) An Order directing the Respondent to delete the untrue and misleading information in the second row of page 28 in the Special Investigation Report on the Procurement of Electronic Voting Devices for 20113 General Election of 6<sup>th</sup> June 2014 that adversely mentions the Petitioner and any other untrue information in the said report that adversely mentions the Petitioner.***

***(iv) In the event that the National Assembly has considered and adopted the Special investigation Report on the Procurement of Electronic Voting Devices for 2013 General Election of 6<sup>th</sup> June 2014, an order directing that the resolution of the National Assembly be amended as sought in prayer (iii) hereof.***

***(v) Cost of this Petition.***

***(vi) Any other order that this Honourable Court deems fit and just in the circumstances.”***

#### **The Petitioner’s case**

4. The Petitioner’s case is straight forward and is contained in his Petition dated 21<sup>st</sup> July 2014, Affidavit in support sworn on the same date and the Further Affidavit sworn on 23<sup>rd</sup> September 2014.

5. It is his claim that he was neither heard nor interviewed during the period that the audit was conducted and so he had no opportunity to respond to the allegations before the final report was made, in violation of **Articles 25(c), 27, 28 and 50** of the **Constitution** and contrary to the principle of *audi alteram partem*.

6. It was the Petitioner’s further position that the information at page 28 of the Report is untrue because he did not invite Mr. Tim Colby to the meeting held on 7<sup>th</sup> August 2012 and that the law governing the meetings of the IEBC requires the Secretary to issue a notice of a meeting with an agenda attached to it and any meeting is only held when there is quorum of the Commission. That the meeting of 7<sup>th</sup> August 2012, although attended by all the Commissioners and Senior Staff, was not a Commission meeting but an informal consultative meeting that was a follow up of a previous meeting at Harambee House which the Respondent failed to investigate or refer to.

7. He further alleged that the meeting of 7<sup>th</sup> August 2012 was between the Government of Kenya and the IEBC and was attended by the Vice-Chair Person of the IEBC, the then Chief Executive Officer, the Deputy Chief Executive Officer and all the Commissioners of IEBC, a representative from the Office of the President, a representative from the Office of the Prime Minister, a representative from the Treasury, a representative from the Attorney General’s Chambers and the First Secretary of the Canadian High Commission, Mr. Tim Colby, who came to the meeting at the invitation of the officials of the Government of Kenya.

8. He stated that, principally, in every audit, the auditee is furnished with any draft report adverse or not adverse to him/her for his/her response before the report is finalized. That he was neither given the draft report nor an opportunity to respond before the final report was made. He stated that he was in fact furnished with the final report after it had been sent to the Clerk of the National Assembly for tabling before the National Assembly.

9. He claimed that from the Report, no effort was made to contact or interview the Canadian Embassy in Nairobi although the Respondent and/or his agents flew out of the Country to interview senior Canadian Government Officials involved in the Government to Government procurement.

10. It is now his case that the Respondent ignored the legal framework governing IEBC and that the Petitioner is not the accounting officer of IEBC and cannot preside over any meetings dealing with procurements and that the meeting of 7<sup>th</sup> August 2012 was not one that could conceivably discuss procurement.

11. He stated that after he received the Report, he wrote to the Respondent with a view of correcting the untrue and misleading information contained in it but he did not receive any response and the Report, to his detriment, would be relied upon by members of the public in all dealings with him.

12. It was his position that pursuant to the provision of **Article 35** of the **Constitution**, he has the right to the correction or deletion of untrue or misleading information that affects him such as is contained in the Report.

13. In his Further Affidavit, he claimed that the Respondent has violated his rights to fair hearing and fair administrative action by condemning him unheard and has been subjected to unfair treatment in the following manner;

*(a) The special audit report contains an executive summary signed by the Respondent and the main report. The main report does not support the adverse conclusions the Respondent has made against him in the Executive Summary.*

*(b) The Respondent singles him out for special condemnation out of all the people who attended the meeting, including the Commissioners who were there. That it is a fallacy to suggest that he can single-handedly make a decision without the other Commissioners.*

*(c) The Respondent, when dealing with the National Treasury, uses the vague language of the "the then top ten decision makers" while he designs to assign to him personally any wrongs he perceives was done by the Commission.*

*(d) The Respondent has in the past demonstrated a pattern of bias and a propensity to single out the Petitioner for selective treatment, for example when the Respondent was commencing the audit of the financial statements of IEBC for the year ending 30<sup>th</sup> June 2013, he wrote a letter dated 31<sup>st</sup> January 2014 to the Commission Secretary of the IEBC asking for various documents for purpose of the audit but one of the documents requested for was completely out of the ordinary and stood out as a sore thumb because it targeted him specifically and sought his appointment letter and terms of office without any specific reason being given for such a request.*

14. He has therefore sought the declarations and orders elsewhere set out above.

### **The Respondent's case**

15. The Respondent, the Auditor General, Mr. Edward Ouko, opposed the Petition through his Affidavit sworn on 25<sup>th</sup> August 2014 and Further Affidavit sworn on 5<sup>th</sup> December 2014.

16. He stated that the Forensic Audit on the operations of the IEBC was carried in accordance with Part V of the **Public Audit Act** as an economy, efficiency and effectiveness examination. That during the Audit and scrutiny of the documents, his office realized that the Petitioner had chaired the meeting of 7<sup>th</sup> August 2012 where in attendance was one, Tim Colby, of the Canadian Government. He stated that it was wrong for the Petitioner, as the Chairman of the meeting, to have allowed Mr. Tim Colby to attend the meeting, knowing very well that the Canadian Government was interested in the supply of the BVR Kits hence compromising the entire procurement process.

17. He stated that the complaint by the Petitioner that he should have been interviewed before the report was finalized is unfounded as no value would have been added by such an interview since the documents spoke for themselves and nothing remained in doubt. It was his view therefore that the Petitioner should not have allowed Mr. Tim Colby to attend the meeting regardless of who had invited him.

18. He averred that the Report presented to the Public Accounts Committee (PAC) is part of ongoing investigations by the National Assembly and it is therefore premature for the Petitioner to allege that he has not been heard as his culpability has not been determined. That if any issue is needed for clarification, that should be done before the relevant Parliamentary Committee that is conducting the investigations and therefore to grant the orders sought would jeopardize the ongoing investigations.

19. In his Further Affidavit, he stated that the Petitioner was not condemned unheard but was mentioned as one of the IEBC officers who could help the Parliamentary Accounts Committee (PAC) with information on the procurement of BVR Kits given that he chaired a meeting that was attended by a prospective bidder who ended up being awarded the tender.

20. He added that the conclusions made in the Report were based on Minutes of the meeting obtained by the investigations team and it is therefore incorrect for the Petitioner to allege that the conclusion was made without any reasonable basis. That the team was not able to verify what was discussed in the meeting chaired by the two principals of the former grand coalition Government since the minutes of that meeting were not availed and consequently, the Petitioner is better placed to assist the PAC make the necessary conclusions.

21. Further, that on the contrary, the Minutes of the meeting of 7<sup>th</sup> August, 2012, chaired by the Petitioner, showed that it was the first meeting that discussed the electronic voter registration system after the earlier meeting co-chaired by the two principals. That the meeting discussed financing arrangements for BVR and authorized IEBC to write an official request to the Treasury formalizing the request from the Government of Kenya to seek support from the Canada Government. The same meeting clearly therefore discussed BVR Kits which was the subject of the investigation. That even if the meeting was informal as alleged by the Petitioner, it made major resolutions that resulted in single sourcing of the BVR kits from the Canadian Government.

22. The Auditor General also stated that the Report provides detailed findings and that the Petitioner was specifically mentioned in the Report, among other Commissioners present, because he was the one who chaired the meeting. As the Chairman therefore, he was aware of the agenda of the meeting i.e. to discuss BVR Kits and he was aware that the Government of Canada was an interested party in the procurement of those kits.

23. He also claimed that the complaint by the Petitioner that the Respondent has in the past demonstrated bias by asking for the Chairman's Appointment letter and terms of office are unfounded. That the terms of service of the Chairman of IEBC is part of expenditure incurred using public money and it is within the mandate of the Auditor General to audit how all public funds have been spent.

That therefore the Petition should be dismissed as it is unfounded.

### **Determination**

24. This Petition brings to the fore the manner in which the Auditor General is to perform his constitutional mandate under **Article 229(4)** of the **Constitution**, which provides as follows;

“(1) ...

(2) ...

(3) ...

**(4) Within six months after the end of each financial year, the Auditor-General shall audit and report, in respect of that financial year, on—**

- (a) the accounts of the national and county governments;**
- (b) the accounts of all funds and authorities of the national and county governments;**
- (c) the accounts of all courts;**
- (d) the accounts of every commission and independent office established by this Constitution;**
- (e) the accounts of the National Assembly, the Senate and the county assemblies;**
- (f) the accounts of political parties funded from public funds;**
- (g) the public debt; and**
- (h) the accounts of any other entity that legislation requires the Auditor-General to audit.**

**(5) The Auditor-General may audit and report on the accounts of any entity that is funded from public funds.**

**(6) An audit report shall confirm whether or not public money has been applied lawfully and in an effective way.**

**(7) Audit reports shall be submitted to Parliament or the relevant county assembly.**

**(8) Within three months after receiving an audit report, Parliament or the county assembly shall debate and consider the report and take appropriate action.**

As can be seen above, **Article 229(7)** of the **Constitution** requires audited reports to be presented to Parliament, including any Special Audit Report.

25. From the above rendition of the law, it is not in dispute that the Respondent is mandated by law to audit among others, the IEBC, and to carry out the Special Audit Report as requested by the Clerk of the National Assembly. It is also his general mandate, in any event, to audit the manner in which public money has been spent by a public entity without any prompting by any other authority. At the core of the dispute before me however, is whether, in carrying out the audit as envisaged under **Article 229 (4)(d)** of the **Constitution**, the Respondent was obliged to give a hearing to the Petitioner before preparing his final report and mentioning him adversely in the Report.

26. In that regard, the old and revered rule of natural justice, *audi alteram partem*, that every person must be heard before a decision can be taken against them, is now been deeply rooted in English common law and has been the subject of litigation in various Courts in this jurisdiction as well as in various Commonwealth Countries. For instance in *The Management of Committee of Makondo Primary School and Another v Uganda National Examination Board, HC Civil Misc Applic No.18 of 2010*, the Ugandan Supreme Court stated as follows regarding the rules of natural justice;

***“It is a cardinal rule of natural justice that no one should be condemned unheard. Natural justice is not a creature of humankind. It was ordained by the divine hand of the Lord God hence the rules enjoy superiority over all laws made by humankind and that any law that contravenes or offends against any of the rules of natural justice, is null and void and of no effect. The rule as captured in the Latin Phrase 'audi alteram partem' literally translates into 'hear the parties in turn', and has been appropriately paraphrased as 'do not condemn anyone***

**unheard'. This means a person against whom there is a complaint must be given a just and fair hearing."**

27. The High Court in *Republic v The Honourable The Chief Justice of Kenya & Others Ex Parte Justice Moijo Mataiya Ole Keiwua Nairobi HCMCA No. 1298 of 2004* also expressed itself as follows;

**"Whereas the rules of natural justice are not engraved on tablets of stones, fairness demands that when a body has to make a decision which would affect a right of an individual it has to consider any statutory or other framework in which it operates. In particular, it is well established that when a statute has conferred on a body the power to make decisions affecting individuals, the courts will only require the procedure prescribed to be introduced and followed by way of additional safeguards as that will ensure the attainment of fairness. In essence natural justice requires that the procedure before any decision making authority which is acting judicially shall be fair in all circumstances."**

As to what entails the right to be heard, the Court stated that;

**"The right to be heard has two facts, intrinsic and instrumental. The intrinsic value of that right consists in the opportunity which it gives to the individuals or groups, against whom decisions taken by public authorities operate, to participate in the proceedings by which those decisions are made, an opportunity to express their dignity as persons. The ordinary rule which regulates all procedures is that persons who are likely to be affected by the proposed/likely action must be afforded an opportunity of being heard as to why that action should not be taken. The hearing may be given individually or collectively depending upon the facts of each situation. A departure from this fundamental rule of natural justice may be presumed to have been intended by the Legislature only in circumstances which warrant it and such circumstances must be shown to exist, when so required, the burden being upon those who affirm their existence."**

28. The principle emerging from the above cited decisions is that a body cannot be deemed to have exercised its legal powers validly without first hearing the people who are going to suffer as a result of any decision in question and for good reason; once the decision is made, it is difficult to reverse it and the person prejudiced by it would have been affected by the decision in one way or another.

29. Applying the above principles to the instant Petition, it is not contested that the Respondent failed to accord the Petitioner a hearing before mentioning him adversely in the Report. In his view, however, the Respondent did not see any reason for the Petitioner to have been heard before the decision was made since no value would have been added or taken away from his findings since the documents presented to him, spoke for themselves.

30. To my mind, the Respondent's attitude was/is casual and completely out of line with the law as I understand it. I say so because it matters not whether the evidence presented is overwhelming against a party or speaks adversely against that party because the right to be heard is a cardinal principle that must be granted to any person before a decision against him is made. In *Justice Amraphael Mboghohi Msagha v Chief Justice & 7 Others Nairobi HCMCA No.1062 of 2004, [2006] 2 KLR 553*, the High Court expressed itself as follows;

**"A decision is unfair if the decision-maker deprives himself of the views of the person who will be affected by the decision. If indeed the principles of natural justice are violated in respect of any decision, it is indeed immaterial whether the same decision would have been arrived at in the absence of the departure from essential principles of justice. The decision must be declared to be no decision." (Empasis added)**

31. I am in agreement and as I have said, that documents allegedly speak for themselves is the worst approach any investigator can take in any serious investigation. There is invariably a background to every document and only the person who is affected by any decision can give an explanation before the investigator wraps up the investigation. In saying so, I have in mind the provisions of **Article 252(3)** of

the **Constitution** which empowers the Auditor General to issue summons to a witness to assist in its investigations. I do not know why the Respondent would fail to make use of such powers and *sub poena* the Petitioner at the investigative stage to respond to any queries that he may have had in regard to the BVR Kits. I have already said it is not enough to say that the evidence and documents are sufficient and that they speak for themselves. The place of the rule of *audi alteram partem* is clear and should be adhered to especially in an investigation where a person is likely to be named unfavorably. The following words of the Court in *Justice Amraphael Mbogholi Msagha (supra)* therefore remain true today;

*“The rules of natural justice are minimum standards of fair decision-making imposed by the common law on persons or bodies who are under a duty to “act judicially”. They were applied originally to courts of justice and now extend to any person or body deciding issues affecting the right or interests of individuals where a reasonable citizen would have a legitimate expectation that the decision-making process would be subject to some rules of fair procedure. The content of natural justice is therefore flexible and variable. All that is fundamentally demanded of the decision maker is that his decision in its own context be made with due regard for the affected parties’ interests and accordingly be reached without bias and after giving the party or parties a chance to put his or their case. Nevertheless some judges prefer to speak of a duty to act fairly rather than a duty to observe the rules of natural justice, often the terms are interchangeable. But it is perhaps now the case that while a duty to act fairly is incumbent on every decision-maker within the administrative process whose decision will affect individual interests, the rules of natural justice apply only when some sort of definite code of procedure must be adopted, however flexible that code may be and however much the decision-maker is said to be master of his own procedure. The rules of natural justice are generally formulated as the rule against bias (nemo iudex in sua causa) and in respect of the right to a fair hearing [audi alteram partem].”*

32. I adopt the above finding wholly and it is therefore my finding that the Petitioner was never afforded an opportunity of being heard. I so hold despite the argument made by the Respondent that the Petitioner has not been condemned unheard since he will have his day before the PAC to clear his name. Such a submission flies out of the window for the reasons stated above and also for the simple reason that the Auditor General is bound by the Constitution in the performance of his constitutional duties. In carrying out those duties, it cannot disregard the Constitution and claim that another body will cure his own wrongs. It matters not that the same decision would have been arrived at in lieu of the facts and evidence available. The Petitioner must be heard so that there can be fairness in the whole audit process.

33. Having held so, that would have been the end of the matter but there are other issues raised in the Petition which I am obligated to address. The first is the issue regarding alleged violation of the Petitioner’s right to non-discrimination as provided for under **Article 27** of the **Constitution**. On that issue, it was the Petitioner’s claim that he had been discriminated against by the Respondent who named him in the Report to the exclusion of any other person who was involved in the meeting of 7<sup>th</sup> August 2012.

34. In response, the Respondent claimed that the Petitioner chaired the meeting of 7<sup>th</sup> August 2012 and as Chairman, he knew the agenda of the meeting and ought to have stopped Mr. Tim Colby from attending the meeting. On discrimination, he submitted that the Petitioner has been mentioned in the Report alongside other IEBC Commissioners and Government officials and so he was not discriminated against.

35. The law regarding equality and freedom from discrimination, is contained in **Article 27** of the **Constitution** which provides as follows;

*“(1) Every person is equal before the law and has the right to equal protection and equal benefit of the law.*

*(2) Equality includes the full and equal enjoyment of all rights and fundamental freedoms.*

*(3) ...*

**(4) The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.**

**(5) A person shall not discriminate directly or indirectly against another person on any of the grounds specified or contemplated in clause (4).**

**(6) ...**

**(7) ...**

**(8) ....” (Emphasis added)**

36. In addition, the **United Nations Universal Declaration on Human Rights (UDHR)** provides at **Article 1** that;

**“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”**

37. **Article 7** of the **UDHR** further states that;

**“All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”**

38. **Article 2** of the **African Charter on Human and People’s Rights** also stipulates that every individual is entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the Charter without distinction of any kind and on grounds of race, ethnic group, colour, or sex.

39. As to what amounts to discrimination, the Court in **Peter K. Waweru v Republic [2006]e KLR** stated as follows;

**“...Discrimination means affording different treatment to different persons attributable wholly or mainly to their descriptions whereby persons of one such description are subjected to... restrictions to which persons of another description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description... Discrimination also means unfair treatment or denial of normal privileges to persons because of their race, age, sex...a failure to treat all persons equally where no reasonable distinction can be found between those favoured and those not favoured.”**

40. I reiterate the above findings and in applying them to this Petition. I have seen the Report produced as annexure ‘AHI-1’ in the Petitioner’s Affidavit in support of the Petitioner. While it is true that the Report mentions the Petitioner adversely as one of the persons who are culpable for the alleged loss of Euros 36, 989, 937.52 by the Government of Kenya, there are other individuals who are also adversely mentioned at pages 27 to 29 of the Report. I therefore have no reason to find that he was discriminated against by the Respondent as he alleges by being held culpable, alone, for the decision of the IEBC in regard to the procurement of BVR Kits.

41. Having found as I have, the next issue to deal with is whether the allegations made against the Petitioner are untrue and misleading. My answer to that question is simple; This Court cannot determine that question at this stage. There are other constitutional bodies with that mandate and it is not in the place of this Court to usurp the mandate of those bodies because it has no sufficient material, expertise or machinery to enable it undertake such a function. In any event, the Court’s role is very clearly stipulated under **Articles 23, 165 and 258** of the **Constitution** to interpret the Constitution and/or violations thereof.

42. Lastly the Petitioner also claimed that his right to dignity as provided for under **Article 28** was violated. I am alive to the fact that the right to human dignity is the foundation of all other rights and together with the right to life, forms the basis for the enjoyment of all other rights - See **Francis Coralie Mullin v Administrator, Union Territory of Delhi (1981) SCR (2) 516**. Put differently therefore, if a person enjoys the other rights in the Bill of Rights, the right to human dignity will automatically be promoted and protected and it will be violated if the other rights are violated - See **Charles Murithii Muriga & 2 Others v Attorney General Petition No.113 of 2012**.

43. In the circumstances however, little was placed before me to make a finding that since the Petitioner's rights under **Articles 25 (c) and 50** of the **Constitution** were violated, it follows that his right to dignity was also violated. In the event, I will decline to make any orders in that regard.

### **Conclusion**

44. The law as expressed above is clear that a decision is unfair if the decision maker deprives himself of the views of the person who will be affected by the decision.

45. I have already made a decision on that issue but one last finding I must make is that there is no evidence that the National Assembly has taken cognizance or action of the Report and to make orders directed against it would be superfluous.

46. The consequences of the breach of the principles of natural justice were stated by Lord Wright in **General Medical Council v Sparckman (1943) 2 ALL E.R** as follows;

***“If indeed the principles of natural justice are violated in respect of any decision, it is indeed immaterial whether the same decision would have been arrived at in the absence of the departure from essential principle of justice. The decision must be declared to be none decision.”***

The same finding was made in the case of **Justice Amraphael Mbogholi Msagha (supra)**.

47. It therefore follows that the Petitioner, having been adversely mentioned in the Respondent's Report without having been heard, is entitled to a decision that to that extent only, there was no report against him since his right to natural justice was violated.

48. For the above reasons, the orders that should issue in the circumstances are as follows;

***a. A declaration is hereby issued that the Petitioner was not heard by the Respondent contrary to the principle of audi alteram partem.***

***b. A declaration is hereby issued that the Respondent was thereby in violation of the Constitution in particular Articles 25(c), and 50 of the Constitution.***

***c. An Order is hereby issued directing the Respondent to delete the information in the second row of page 28 in the Special Investigation Report on the Procurement of Electronic Voting Devices for 20113 General Election of 6<sup>th</sup> June 2014 that adversely mentions the Petitioner and any other information in the said report that adversely mentions the Petitioner.***

49. There shall be no order as to costs since the Respondent was acting in his official capacity and should not be punished with costs for a wrong decision made in that capacity.

50. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 29<sup>TH</sup> DAY OF MAY, 2015.**

**ISAAC LENAOLA**

**JUDGE**

**In the presence:**

Miron – Court clerk

Mr. Salumi holding brief for Mr. Nyamondi for Petitioner

Miss Ondiek for Respondent

**Order**

Judgment duly delivered.

**ISAAC LENAOLA**

**JUDGE**

**29/5/2015**