



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYAMIRA
JUDICIAL REVIEW CASE NO. 1 OF 2015

NAOMI BOSIBORI.....APPLICANT

=VERSUS=

POLITICAL PARTIES DISPUTE TRIBUNAL.....1ST RESPONDENT

NAOMI BOSIBORI AMENYA.....2ND RESPONDENT

SPEAKER, NYAMIRA COUNTY ASSEMBLY.....3RD RESPONDENT

KENYA NATIONAL CONGRESS4TH RESPONDENT

RULING

This is an application for leave to institute Judicial Review proceedings.

The applicant prays for:

1. *Certification of the application as urgent.*
2. *That leave be granted to the Applicant to apply for a Judicial Review Order of **CERTIORARI** bringing into this court for purposes of quashing and to quash the 1st Respondent’s decision issued on **1st October, 2014 in Nairobi**. Complaint No. 17 of 2015, Naomi Bosibori Amenity vs Doris Nyabiage Siriba purporting to declare the 2nd Respondent as the duly nominated and gazetted member of the 4th Respondent to represent the 4th Respondent in Nyamira County Assembly.*
3. *That leave be granted to the Applicant to apply for a Judicial Review Order of **PROHIBITION** prohibiting the 3rd Respondent from ejecting the applicant from Nyamira County Assembly or from interfering with the Applicant’s tenure as a nominated member of Nyamira County Assembly in any other manner whatsoever.*
4. *That leave be granted to the Applicant to apply for a Judicial Review Order of **PROHIBITION** prohibiting the 3rd Respondent from swearing in the 2nd Respondent as the 4th Respondent nominated member of Nyamira County Assembly.*
5. *That the leave so granted do operate as a stay of implementation of the judgment, the order and/or decree emanating from the judgment of the **Political Parties Dispute Tribunal** delivered on **1st October, 2015** in Nairobi in Complaint No. 17 of 2015, Naomi Bosibori Amenity vs Doris*

Nyabiange Siriba and Another.

The synopses of the facts are as follows:

One, **Naomi Bosibori** the Applicant herein is a member of Nyamira County Assembly. She is a nominated member of the Nyamira County Assembly. She was duly sworn in as such member on **6th September, 2013**.

A complaint was brought by one **Doris Nyabiange Siriba & Another** purporting to declare the 2nd Respondent, **Naomi Bosibori Amenity**, as a duly nominated and gazetted member of the 4th Respondent of Nyamira County Assembly.

That Tribunal, being **Political Parties Dispute Tribunal (the 1st Respondent herein)** delivered its judgment on **1st of October, 2015** directing that **Naomi Bosibori** of County Assembly be sworn in within the next 30 days in the place of the Applicant.

This order effectively removes the Applicant from being a member of Nyamira County Assembly and yet she was not summoned by the Tribunal to hear her side of the story against the rule fair hearing, **audi alteram partem rule.**

The main players are: **Naomi Bosibori Amenity** and **Doris Nyabiange Siriba** initially **Naomi Bosibori Amenity** filed a civil suit in Kisii High Court, Civil Case No. 9 of 2014 against **Naomi Bosibori** and **Nyamira County Government** but later withdrew the suit. The curious thing is that later **Doris Nyabiange Siriba**, perhaps as a member of Kenya National Congress Party to the Political Parties Dispute Tribunal against **Naomi Bosibori** without serving her with the complaint claim and the Tribunal proceeded with the matter without calling the person affected i.e the Respondent.

This court finds that Complaint No. 17 of 2015 was conducted contrary to **Article 50(1) of the Constitution**. The relationship between **Naomi Bosibori** on one hand and **Naomi Bosibori Amenity** on the other hand and **Naomi Bosibori** and **Doris Nyabiange Siriba** is very opaque, it needs ventilating in full Judicial process that is open.

Accordingly, the following are the court orders:-

1. *This application be certified as urgent.*
2. *The leave for the Applicant to apply for Judicial Review Order of **CERTIORARI** be and is hereby granted.*
3. *The leave for the Applicant to apply for Judicial Review Order of **PROHIBITION** prohibiting the 3rd Respondent from swearing in the 2nd Respondent as the 4th Respondent's nominated member of Nyamira County Assembly.*
4. *That accordingly, the leave so do operate as a stay of implementation of the judgment, the order and/or decree emanating from judgment of the Political Parties Disputes Tribunal delivered on **1st October, 2015**, Naomi Bosibori Amenity vs Nyabiange Siriba & Another.*

It is so ordered

Dated and delivered at Nyamira on this 22nd day of October 2015

C. B. NAGILLAH

JUDGE

In the presence of:

Nyamwoncha hold brief for Mogaka or the applicant

Ex-parte for the respondents

Mercy Court Clerk