



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Petition 58 of 2013

SIKUDHANI AJWANG RUMANYWAPETITIONER

AND

PIUS OWINO OTIENO.....1ST RESPONDENT

ORANGE DEMOCRATIC MOVEMENT.....2ND RESPONDENT

INDEPENDENT ELECTORAL BOUNDARIES COMMISSION.....3RD RESPONDENT

UNIVERSITY OF NAIROBI4TH RESPONDENT

JUDGMENT

1. We heard the petition on 1st February 2013 where we made the following orders, “*The petition herein is dismissed with no order as to costs. Reasons to be given on 5th February 2013.*” We now proffer our reasons.

2. The petitioner seeks the following reliefs in the petition dated 1st February 2013.

(a) *A declaration that the move to issue an ODM party certificate to the 1st respondent contest for the position of County Representative for Sarang’ombe Ward, Kibra Constituency, Nairobi County was null and void and unconstitutional for failure to give the petitioner herein a fair hearing.*

(b) *A declaration that the petitioner herein was duly nominated by the Orange Democratic Movement to contest for the position of County Representative of Sarang’ome Ward, Kibra Constituency, Nairobi County and as such his name ought to be included in the Independent Electoral and Boundaries Commission list of successful nominees.*

(c) *An order quashing the decision of the Independent Electoral Boundaries Commission to receive nomination papers from the 1st respondent as the ODM Nominee for the position of County Representative for Sarang’ombe Ward, Kibra Constituency, Nairobi County.*

(d) *An order compelling the IEBC to receive nomination papers from the petitioner herein in*

respect of the subject position.

(e) *Any other or further relief that this Honourable Court may deem just and fit to grant.*

3. When the matter came up for hearing, Mr Kabue for the petitioner concedes that nomination papers presented by Pius Owino Otieno, the 1st respondent had already been presented and accepted by the Returning officer in respect of the Sarang'ombe Ward of Kibra Constituency. When the petitioner attempted to present his papers, the papers were rejected.

4. We are satisfied that under **Article 88(4)(e)**, the petitioner may appeal the returning officer's decision. In the circumstances and in view of the returning officer's decision, we declined to allow the petition.

Dated and Delivered at Nairobi this 5th February 2013

D.S. MAJANJA

JUDGE

W. KORIR

JUDGE

G. V. ODUNGA

JUDGE