



REPUBLIC OF KENYA

High Court at Busia

Petition 3 of 2013

JOHN OKELO NAGAFWA.....PETITIONER

VERSUS

THE INDEPENDENT ELECTORIAL & BOUNDARIES

COMMISISON1ST RESPONDENT

SAMSON OJIEM ORIEDO2ND RESPONDENT

PAUL OTUOMA NYONGESA3RD RESPONDENT

14TH MAY 2013

Coram: F. Tuiyott - Judge

Kadenyi – court clerk

Masika and Oundo for Petitioner

Mutahi for 1st and 2nd Respondents

Wangalwa for 3rd Respondent

DIRECTIONS AT PRE-TRIAL CONFERENCE

1) COMPLIANCE WITH STATUTORY TIMELINES

1.1. It was confirmed that all parties had complied with the Statutory timelines in respect to filing and service of the Petition and the Responses.

1.2. It was agreed that the payment for the security of costs made by the Petitioner on 19th April 2013 be and is hereby deemed as deposited within time.

2) ISSUES FOR DETERMINATION

Parties to exchange and agree on issues by 17th May 2013 and to file the same by 21st May 2013. In default the Court shall frame the issues on or before the hearing date.

3) **INTERLOCUTORY MATTERS AND APPLICATIONS**

3.1 The 1st Respondent shall within 7 (seven) days hereof deliver to the Deputy Registrar of this Court the results of the election which shall include all original forms 35 and 36.

3.2 The 1st Respondent shall within 14 (fourteen) days hereof deliver to the Deputy Registrar a copy of the Electronic Registers and Green Books in respect to Sigalame Primary school Polling Station and Sigalame Secondary Polling Station and the same shall thereafter be availed for inspection by the Petitioner on the directions of the Court.

3.3. The 1st Respondent shall not less than 48 (forty eight) hours before the hearing date deliver to the Deputy Registrar of this Court all ballot boxes in respect to the election.

3.4. The 1st Respondent shall within 14 (fourteen) days hereof file and serve the Petitioner and the 3rd Respondent with a list of the names of all Presiding officers, Deputy Presiding officers and clerks who manned all polling stations.

3.5. The Petitioners are granted leave of 7 (seven) days to file and serve affidavits in respect to additional evidence.

3.6. The Respondents are at liberty to file and serve affidavits in respect to additional evidence within 7 (seven) days of service.

3.7. The Petitioner is granted leave to file and serve an application for recount and scrutiny within 7 (seven) days hereof.

3.8. The 3rd Respondent is granted leave to file and serve an application for the enhancement of security of costs within 7 (seven) days hereof.

3.8. Responses, if any, to both applications shall be filed and served within 7 (seven) days of service of the Applications.

3.9. Both applications shall be heard on 3rd of June 2013.

4) **EVIDENCE**

All video, electronic or photographic evidence shall be exchanged by the parties within 14 (fourteen) days and if no agreement is reached on their production then the Court shall decide.

5) **WITNESSES AND HEARING**

5.1. The affidavits of witnesses shall form their evidence-in-chief whereupon they shall be cross-examined.

5.2 The examination-in-chief, cross-examination and re-examination of the Petitioner's witness shall be limited to 5 (five) days.

5.3 The examination-in-chief, cross-examination and re-examination of the Respondents witnesses shall also be limited to 5(five) days.

5.4 Hearing shall be from 4th June 2013 to 7th June 2013 and from 17th June 2013 to 21st June 2013, the first and last days included.

6) **SUBMISSIONS**

An order on submissions shall be made by Court at the close of taking of evidence.

DATED AND ISSUED AT BUSIA THIS 14TH DAY OF MAY 2013.

F. TUIYOTT

J U D G E

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