



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
JUDICIAL REVIEW DIVISION
JUDICIAL REVIEW NO. 150 OF 2013

BETWEEN

ABDULLAHI ADAN HASSAN APPLICANT

AND

THE INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION 1ST RESPONDENT

THE SPEAKER,

MANDERA COUNTY ASSEMBLY 2ND RESPONDENT

AND

UNITED REPUBLICAN PARTY INTERESTED PARTY

JUDGMENT

1. The principal prayer sought in the Amended Notice of Motion dated 15th May 2013 before us is for the Independent Electoral and Boundaries Commission (“IEBC”) to be ordered to gazette and publish the United Republican Party (“URP”) list submitted on 21st March 2013 which included the applicant as a party nominee for Mandera County Assembly.
2. The applicant’s case is that the URP submitted a party list to the IEBC on 30th January 2013. Earlier in the month of March 2013, URP submitted another list vide its letter dated 30th January 2013 but was received by the IEBC on 21st March 2013 making certain corrections to the list which it sought to substitute the earlier list.
3. The applicant complains that the list published in the public media on 20th April 2013 pursuant to the orders in *Petition No. 147 of 2013* clashed with the earlier lists forwarded by URP. He therefore lodged a complaint with the IEBC complaints Dispute Resolution Committee (“the Committee”) as his name did not appear in these lists.

4. In the decision in **Complaint No. 255/2013**, the Committee addressed the issue before it as follows, *“The issue is whether the party list was prepared in accordance with the law and whether the names forwarded met the requirements of the law and whether Faiza Omar Hussein was picked in accordance with the law ...”* The Committee then stated that, *“... This matter is an appeal. The Committee’s decision of 4th May 2013 settled it.”*
5. The original complaint filed with the Committee referred to by the Committee was filed against one Faiza Omar Hassan on the ground that she was not a person with disability. This complaint was dismissed and although no reasons were given, the decision was subsequently explained in the latter decision. The applicant now contends that his name was wholly omitted from the list and the name of the person published as a representative of the disabled was not a person with disability.
6. We have considered the applicants depositions and those of the respondent and in our view the second complaint was in effect an appeal from the first decision of 4th May 2013 and the Committee was right to reject it as an appeal. The first decision is not the subject of this application and consequently we find no merit in the application and it is dismissed.
7. We also agree with the respondent that the determination cannot be made as it would directly affect Faiza Omar Hussein who is not a party to this application.
8. The Amended Notice of Motion dated 15th May 2013 is dismissed with no order as to costs.

DATED and DELIVERED at NAIROBI this 12th July 2013

MUMBI NGUGI

JUDGE

D.S. MAJANJA

JUDGE

W. K. KORIR

JUDGE