



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL & HUMAN RIGHTS DIVISION

PETITION NO. 297 OF 2013

ANNE LANOI KARIAH.....PETITIONER

VERSUS

KENYA NATIONAL CONGRESS1ST RESPONDENT

THE INDEPENDENT ELECTORAL

AND BOUNDARIES COMMISSION.....2ND RESPONDENT

RAHAB NKURE NENTAYA.....INTERESTED PARTY

JUDGMENT

1. The Petitioner, Anne Lanoi Kariah, is aggrieved by the decision delivered on 7th June, 2013 by the Disputes Resolution Committee (the Committee) in **COMPLAINT NO. IEBC/NDRC/PL/103/2013-ANN LANOI KARIAH v KNC**. The Committee was constituted by the 2nd Respondent, the Independent Electoral and Boundaries Commission (IEBC), to resolve disputes arising from nominations by political parties to the county assemblies in respect to the seats envisaged by Article 177(1) (b) and (c) of the Constitution.
2. The Committee dismissed the complaint on the grounds that her name was never in the party list submitted to it by Kenya National Congress (the 1st Respondent) for Narok County Assembly. Her claim that the Interested Party, Rahab Nkure Nentaya was a civil servant and ought not have been nominated was also dismissed on the ground that the allegation had not been sufficiently proved.
3. The Petitioner insisted before us that her name was on the list submitted to the 2nd Respondent by the 1st Respondent. She also insisted that the Interested Party was a civil servant at the time of her nomination.
4. The 1st Respondent opposed the petition through the replying affidavit of its Secretary General, Mr. Ogembo Masese. It is the 1st Respondent's case that it did not forward the name of the Petitioner to the 2nd Respondent and could not have forwarded her name because she was a member of another party. The 1st Respondent also submits that if this court were to find that the Interested Party was not qualified to be nominated by virtue of being a civil servant then it should be given an opportunity to substitute the name of the Interested Party with that of another member of the party.
5. The 2nd Respondent opposed the petition through the replying affidavit of Mr. Moses Kipkogei sworn on 4th July, 2013. It is the 2nd Respondent's case that the name of the Petitioner was never

submitted to it by the 1st Respondent and that there was no proof that the Interested Party was a public officer working with the Ministry of Public Health.

6. Mr. Ndungu for the Interested Party supported the position of the 2nd Respondent in this matter.
7. We have considered the arguments placed before us and find that:-
 - a. The issue as to who should be included in a party list and the ranking on that list is a matter to be dealt with by the political parties. IEBC can only deal with a list submitted to it in compliance with the relevant provisions of the law.
 - b. The Committee of the 2nd Respondent considered all the material placed before it before making its findings. We find no reason to disturb those findings.
8. Considering our findings above, we find this petition has no merit. The same is dismissed with no order as to costs.

Dated, signed and delivered at Nairobi this 12th day of July, 2013

MUMBI NGUGI,	D. S. MAJANJA,	W. K. KORIR,
JUDGE	JUDGE	JUDGE