



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI LAW COURTS**

**JUDICIAL REVIEW DIVISION**

**JR NO. 235 OF 2013**

**BETWEEN**

**FATUMA ADAN KALA ..... APPLICANT**

**AND**

**THE INDEPENDENT ELECTORAL AND**

**BOUNDARIES COMMISSION ..... 1<sup>ST</sup> RESPONDENT**

**UNITED REPUBLICAN PARTY ..... 2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

1. The applicant, Fatuma Adan Kala, challenges the United Republic Party (“URP”) party list for Mandera County Assembly. In the Notice of Motion dated 27<sup>th</sup> June 2013, he contends that the IEBC Dispute Resolution Committee (“the Committee”) replaced his name with that of Amina Tiffow who was not on the original URP Top Up list.
2. According to the Committee’s decision in **Complaint No. 81 of 2013** (*Khala Fatuma Adan v URP*), the Committee appraised the applicant’s case in the following manner, ***“The issue whether the complainant was replaced by Tiffow Amina Abdullahi who is not a member of URP and was not on the party list of nominees submitted by URP to the IEBC. No evidence has been adduced to show that Tiffow Amina Abdullahi is not a member of URP. Complaint not supported by evidence ... Dismissed. No evidence adduced that nominee is not a member of URP.”***
3. The *ex parte* applicant complains that she was not informed of the changes in the list of proposed nominees and only read about it in the newspaper. She contends that the substitution of her name was irregular and in breach of her constitutional rights.
4. We have considered the arguments raised by the applicant and we agree with the position taken by the Committee. Our jurisdiction does not extend to reviewing the merits of the decision, we decline to interfere.
5. Even if we were inclined to review the decision, the non-joinder of Tiffow Amina Abdullahi to this matter whose nomination is challenged is fatal to the application.
6. The application is dismissed with no order as to costs.

**DATED and DELIVERED at NAIROBI this 12<sup>th</sup> July 2013**

**MUMBI NGUGI**

**D.S. MAJANJA**

**W. K. KORIR**

**JUDGE**

**JUDGE**

**JUDGE**