



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NO. 295 OF 2013

BETWEEN

JUSTICE K. KEMEI 1ST PETITIONER

ROSE CHEPNGENO KAPTICH 2ND PETITIONER

BETHWEL KIPROTICH LANGAT 3RD PETITIONER

AND

UNITED REPUBLICAN PARTY 1ST RESPONDENT

THE INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION 2ND RESPONDENT

JUDGMENT

1. Before the Independent Electoral and Boundaries Commission “IEBC” Dispute Resolution Committee, the 1st petitioner, the current Member of National Assembly for Sigowet/Soin Constituency, contended that the United Republican Party (URP) nominations to Kericho County Assembly were improper due to under representation of Sigowet/Soin Constituency. Rose Chepngeno Kaptich contended that, “*Sigowet Soin Constituency was not allocated any seats under the gender Top-up list in the whole County*” and that the County had 17 slots and that her nomination would have ensured regional balance. Bethwell Kiprotich Langat stated that no seat has been allocated to the marginalised Sigowet/Soin Constituency in which he would have been selected.

2. The IEBC Dispute Resolution Committee in Complaint No. 240/2013(*Rose Chepngeno Kaptich v URP*) stated as follows, “[t]he Complainant is not on the Party List submitted to the IEBC. The Committee has no jurisdiction over disputes relating to the process of preparation of the party list submitted to the IEBC. There is no requirement that nominations should consider regional distribution or balancing of the constituencies. Article 90(2) of the Constitution provides that nominations are considered on priority as per the party list.”

3. Likewise in complaint No. 239 of 2013 (*Betwel Kiprotich Langat v URP*) the Committee noted that, “*The complainant is not on the party list submitted to the IEBC. The Committee has no jurisdiction over disputes relating to the process of preparation of the party list submitted to the IEBC. There is no requirement that nominations to the party list should consider all wards in a county. Hence the complaint is without ground.*”

4. On the basis of the above reasoning we do not find any error entitling us to review the decisions. The issue on failure to take into account the wards in the constituency alone does not negate the object of diversity without any further evidence.

5. The petition is dismissed with no order as to costs.

DATED and DELIVERED at NAIROBI this 12th July 2013.

MUMBI NGUGI

D.S. MAJANJA

W. K. KORIR

JUDGE

JUDGE

JUDGE