



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MILIMANI LAW COURTS

JUDICIAL REVIEW DIVISION

JR NO. 238 OF 2013

BETWEEN

REPUBLIC APPLICANT

AND

THE INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION 1ST RESPONDENT

UNITED REPUBLICAN PARTY 2ND RESPONDENT

MONICA CHEBET 3RD RESPONDENT

EXPARTE MARIA KOPITO

CONSOLIDATED WITH

JR NO. 153 OF 2013

BETWEEN

REPUBLIC APPLICANT

AND

THE INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION 1ST RESPONDENT

UNITED REPUBLICAN PARTY 2ND RESPONDENT

MONICA CHEBET 3RD RESPONDENT

EXPARTE NALANGU TAKI and MARIA KOPITO

AND

MARY CHELAGAT 1ST INTERESTED PARTY

MONICAH CHEBET 2ND INTERESTED PARTY

JUDGMENT

1. These two applications were consolidated as they deal with the United Republic Party (URP) lists for Narok County.
2. In **JR No. 153 of 2013**, the applicant's case is that she was on the original party list both for the gender Top up and Special seat submitted by URP to IEBC. Her name was published on 20th April 2013 as being duly nominated. After **Complaint No. 512 of 2013** lodged before the IEBC Dispute Resolution Committee ("the Committee"), on 4th May 2013 her name was substituted with that of Mary Chelagat Kirui and that of Maria Kopito, the applicant in **JR No. 238 of 2013** was replaced with Monica Chebet.
3. In **JR No. 238 of 2013**, the applicant complains that her name was deleted from the list and replaced with one Monica Chebet in order to take care of cultural and ethnic diversity. It is the applicant's case that the Committee took into account extraneous considerations and that the IEBC had no justifiable cause in interfering with the priority list submitted by the political party to the IEBC.
4. The applicants filed **Complaint Nos. 209/2013** and **217/2013** which was heard and according to the record before us, the Committee's decision was as follows, "***The matter was previously dealt with by the Tribunal in IEBC/NDRC/PL/512/2013 – GRACE NYANDO SOTHO & IEBC, NDRC/PL/574/2013 – SOINATA ENEMEIBUKO SURUM IEBC/NDRC/PL/574/2013 – STANLEY KIPSANG CONSOLIDATED***) where it held that "***Monica Topito and Nainguene Taki are replaced by Monica Chebet and Monicah Chebet Too for cultural and Community diversity. Complaint dismissed.***"
5. We have considered the arguments by all the parties and whereas it is clear that the first set of complaints related to the Narok County URP list, it not clear that the applicant herein were party to those proceedings to defend their positions. In the circumstances, we do not think it is fair for the Committee to rely on a previous decision which the applicants were not party to though it affected them.
6. In the interests of justice, we hereby order as follows;
 - a. The decisions in **Complaints Nos. 512/2013, 574/2013, 209/2013 and 217/2013** be and are hereby set aside and the Committee is directed to hear the matters afresh within 14 days from the date hereof.
 - b. There shall be 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