



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MILIMANI LAW COURTS**

**JUDICIAL REVIEW DIVISION**

**JR NO. 216 OF 2013**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**THE INDEPENDENT ELECTORAL AND**

**BOUNDARIES COMMISSION (NOMINATION**

**DISPUTE RESOLUTION COMMITTEE) ..... 1<sup>ST</sup> RESPONDENT**

**IRENE CHEMUTAI CHESANG ..... 2<sup>ND</sup> RESPONDENT**

***EX PARTE***

**JANE CHEPERENGER INGO**

**CONSOLIDATED WITH PETITION 259 OF 2013**

**BETWEEN**

**ALI MOHAMMED OSMAN ..... PETITIONER**

**AND**

**UNITED REPUBLICAN PARTY ..... 1<sup>ST</sup> RESPONDENT**

**INDEPENDENT ELECTORAL AND**

**BOUNDARIES COMMISSION ..... 2<sup>ND</sup> RESPONDENT**

**IRENE KIMUTAI CHESANG' ..... 3<sup>RD</sup> RESPONDENT**

**CONSOLIDATED WITH PETITION 307 OF 2013**

**BETWEEN**

**SUSAN CHEPKOSGEI NDIEMA ..... PETITIONER**

**AND**

**UNITED REPUBLICAN PARTY ..... 1<sup>ST</sup> RESPONDENT**

**INDEPENDENT ELECTORAL AND**

**BOUNDARIES COMMISSION ..... 2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

1. These matters were consolidated as they deal with the United Republican Party (“URP”) lists for nomination to the Bungoma County Assembly.
2. In *JR No. 216 of 2013*, the applicant, Jane Cheperenger Ingo, contests the inclusion of Irene Kimutai Chesang’ on the gender top up list. According to the material before us, Jane Ingo’s name was submitted to the party headquarters in Nairobi for onward transmission to IEBC for nomination. It was therefore shocking that when the list of nominees was published on 4<sup>th</sup> May 2013, her name was missing and that of Irene Kimutai Chesang’ was on the list. Her complaint to the IEBC Dispute Resolution Committee (“the Committee”) was dismissed without reasons.
3. In *Petition No. 259 of 2013*, the petitioner states that URP forwarded his name to be nominated as a County Assembly member for Bungoma County. He claims that Irene Kimutai Chesang’ should not be gazetted as she is not a party member and that URP has disowned her as a party member. The complaint lodged by the petitioner was dismissed by the Committee.
4. In *Petition No. 307 of 2013*, Susan Chepkosgey Ndiema also contests the membership of Irene Kimutai Chesang’ as a member of URP and she seeks to be gazetted as the duly nominated member of Bungoma County Assembly. The Committee dismissed the complaint.
5. According to the deposition filed on behalf of IEBC, URP submitted its original list on 30<sup>th</sup> January 2013, Irene Kimutai Chesang’ was named first on the list while Ndiema Susan Chepkosgei was third on the list while Jane Cheperenger Ingo did not appear on the list. The position of the respondent is that Committee’s decision cannot be faulted on the basis of the material before it as it acted on the basis of the list submitted by the IEBC within the statutory period under **section 35** of the *Elections Act, 2011*.
6. We agree that the application and petitions lack merit. Whether or not Susan Ndiema is a member of another party is not germane as URP is only entitled to one slot. As regards Jane Ingo, her name was not on the original list submitted within the statutory period to IEBC. As to whether Ms Irene Kimutai Chesang’ was entitled to be on the URP list was really a matter for the party to decide and therefore outside the jurisdiction of the party to intervene.
7. The petitions and applications are 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**