



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**JUDICIAL REVIEW DIVISION**  
**JR NO. 242 OF 2013**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**THE INDEPENDENT ELECTORAL AND  
BOUNDARIES COMMISSION ..... RESPONDENT**

**AND**

**UNITED REPUBLICAN PARTY ..... INTERESTED PARTY**

***EXPARTE* BARWAKA ADAN AHMED**

**JUDGMENT**

1. The applicant in this matter seeks to compel the IEBC to publish the United Republican Party (“URP”) list submitted to the IEBC on 21<sup>st</sup> March 2013 which included the applicant as a nominee to the Mandera County Assembly.
2. The applicant filed ***Complaint No. 267 of 2013*** before the IEBC Dispute Resolution Committee (“the Committee”) in which the issue was whether in the list forwarded by the IEBC, the complainant’s gender was indicated as male yet she is female and whether the list published in April 2013 by IEBC of respective nominees of the various county Assemblies included the name of the complainant.
3. The complainant, the Committee found, had proved that she is female. Nevertheless her complaint that she was replaced by Habiba Haji Hussein could not be sustained for that reason as the said

Hahiba Haji appeared first on the Mandera Party list forwarded to the IEBC and was therefore entitled to be nominated. The Committee therefore held that the nomination process was followed and dismissed the complaint.

4. The applicant's case before us is that URP submitted a first list on 30<sup>th</sup> January 2013 but that list had errors hence the URP forwarded another list which was received on 21<sup>st</sup> March 2013. According to the applicant, the IEBC should have considered the subsequent list which included her as No. 3.
5. We have considered the evidence of the parties before us and we are not inclined to set aside the Committee's decision for two reasons. First, the proper list for consideration is the one forwarded by the URP before the election in accordance with **section 35** of the **Elections Act, 2011**. Secondly, the IEBC was correct to use the list for the purposes and thirdly, the complaint contested the nomination of Habiba Haji Hussein who is not a party to this suit.
6. The application is therefore dismissed with no order as to costs.

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

**MUMBI NGUGI**

**JUDGE**

**D.S. MAJANJA**

**JUDGE**

**W. K. KORIR**

**JUDGE**