

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL AND JUDICIAL REVIEW DIVISION
JR CASE NO 211 OF 2013

REPUBLIC
APPLICANT

VERSUS

THE INDEPENDENT ELECTORAL &
BOUNDARIES COMMISSIONRESPONDENT
(NOMINATION DISPUTES RESOLUTION COMMITTEE)

AND

KEFAH ONSONGO MANYURAINTERESTED PARTY

Ex-Parte

FORD-PEOPLE PARTY

JUDGMENT

1. This application is brought by the Ford-People Party to challenge the decision of the respondent with regard to the nomination of the Interested Party, Kefah Onsongo Mangura. Their complaint was IEBC/NDRC/PL/282/2013. The applicant contends that the Interested Party was not and is not a member of the applicant; that he was erroneously included in the applicant's Party list submitted to the Respondent as No 5, that when the person who was no. 1 on the list, one Steve Arika, was removed on the basis that he was not a Youth, the applicant should have been allowed to replace him with someone else and the respondent should not have nominated the Interested Party.
2. The respondents contends that its decision to dismiss the applicant's complaint was proper. It acted on the list submitted to it by the applicant in which the Interested Party was placed at No 5; that upon Steve Arika being dropped on the basis that he was not a youth, Mr. Manyina was found qualified on the basis of being a person with disability.

Determination

3. The onus placed on the Respondent by the Constitution and the Elections Act is to nominate persons to the County Assembly on the basis of party list. As this court found in Petition No 147 of 2013, the IEBC cannot enter into the Internal Party issues. The court notes that the respondent heard the applicant's complaint, and that it based its decision on the law. There is nothing before us that indicates any procedural impropriety that would justify a review of the respondent's decision.
4. In the circumstances, this application is dismissed but with no order as to costs.

Dated, Delivered and Signed at Nairobi this 12th day of July 2013

MUMBI NGUGI

D. S. MAJANJA

WELDON KORIR

JUDGE

JUDGE

JUDGE