



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NO. 448 OF 2012

BETWEEN

CONSUMER FEDERATION OF KENYA (COFEK)

through its officials namely Stephen Mutoro, Ephraim Kithinji Kanake and
Meshak Ochieng**PETITIONERS**

AND

MINISTER FOR INFORMATION AND

COMMUNICATION.....1ST RESPONDENT

THE HON. ATTORNEY GENERAL.....2ND RESPONDENT

COMMUNICATIONS

COMMISSION OF KENYA.....3RD RESPONDENT

RULING

1. This matter was commenced by a petition dated 3rd October 2013 in which the petitioner sought orders against the respondents that a director with knowledge and experience in matters of consumer protection be appointed to the Board of Directors of Communications Commission of Kenya (“CCK”).
2. The matter was adjourned on several occasions to enable the parties discuss the matter. On 14th March 2013, Mr Kurauka, counsel for the petitioner, informed the court that there was a process of selection of the CCK board member going on and he requested more time to allow the process to be completed.
3. The 1st and 2nd respondents have now filed an affidavit of Amb. Bruce Madete, the Director of Administration in the Ministry of Information, Communication and Technology, sworn on 8th August 2013 which confirms that the Ministry of Information and Communication initiated a

process of selecting a suitable person to fill the position of the Board representing consumer interests. The process was conducted and culminated in the appointment of one Francis Ngesa vide ***Gazette Notice No. 8280*** appearing in the Kenya Gazette of **26th June 2013**.

4. The board member representing consumer interests having been appointed, this matter is now spent and no purpose will be served by proceeding with it. To proceed with it would only impose additional costs on the parties and waste judicial time thereby undermining the objective of **Article 159(2)(d)** of the Constitution.
5. The matter is therefore marked as settled with no orders as to costs without prejudice to the petitioner, who may challenge the appointment in any other proceedings.

DELIVERED and **DATED** at **NAIROBI** this 12th day of August 2013.

D.S. MAJANJA

JUDGE

Mr Kurauka instructed by Kurauka and Company Advocates for the petitioner.

Ms Kamande, Litigation Counsel, instructed by the State Law Office for the 1st and 2nd respondent.

Mr Mwiti instructed by Muthoga Gaturu and Company Advocates for the 3rd respondent.