



**REPUBLIC OF KENYA
 IN THE HIGH COURT OF KENYA
 AT NAIROBI (NAIROBI LAW COURTS)**

Misc Civ Appli 162 of 2006

IN THE MATTER OF AN APPLICATION FOR ORDERS OF MANDAMUS

CERTIORARI AND PROHIBITION

AND

IN THE MATTER OF THE TRADE UNION ACT

AND

**IN THE MATTER OF THE KENYA LOCAL GOVERNMENT WORKERS UNION NAIROBI
 MANUAL BRANCH**

FRANCIS NJOROGE GACHUKIA

ROMANOUS KWEYU OSERE

SAMUEL MUGWERU

BENSON OLIANG’A ORIARO

JOHN BENARD MURIUKI KIMARU

MONICA WANGARI

PAMELA ACHIENG OSEE

**JACINTA W. WANJOHI
 APPLICANTS/INTERESTED PARTIES**

VERSUS

**JAMES KAMANU 1ST
 RESPONDENT**

**JOEL INDAKWA ADALA 2ND
 RESPONDENT**

**BENJAMIN N. NYAGA 3RD
 RESPONDENT**

**MICHAEL MUTUA NZAU 4TH
RESPONDENT**

**PETER MEGA 5TH
RESPONDENT**

**SAMUEL MAINA 6TH
RESPONDENT**

**MICHAEL OLOO OHOMO 7TH
RESPONDENT**

**ANDREW OKETCH ONDORO 8TH
RESPONDENT**

AND

**THE REGISTRAR OF TRADE UNIONS 1ST
RESPONDENT**

**THE PROVINCIAL LABOUR OFFICER NAIROBI 2ND
RESPONDENT**

**THE DISTRICT LABOUR OFFICER INDUSTRIAL AREA NAIROBI 3RD
RESPONDENT**

RULING

The application dated 10th April 2006 seeks to set aside the ex-parte order for leave and stay granted by me on 30th March 2006 on the grounds that the applicants are guilty of material non disclosure concerning the use of the pay-slips and the payroll including the alleged exclusion of about 1500 employees of the water company. It was also alleged that the applicant did not include at least three departments of the City Council out of the 13 known departments. It is further contended that most of the results were countersigned by the candidates agents.

I have considered the affidavits in support and the affidavit in reply including the annextures.

After putting all this in the balance and also the submission of the learned counsel I find and hold that the applicants are not guilty of any material nondisclosure. The applicants have offered on a prima facie basis satisfactory explanation to each challenge. At this stage it is safe for me to say as little as possible on each contention issue so as not to compromise the hearing on merit.

The application is accordingly dismissed.

Costs shall be in the cause.

DATED and delivered at Nairobi this 23rd day of May 2006.

J.G. NYAMU

JUDGE