

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO.1722 OF 2002

ABDALLA M. KAMWANA PLAINTIFF

VERSUS

PROF. ABDUL GAFUR BUSAIFY & OTHERS..... DEFENDANTS

RULING

This is an application for two temporary injunctions – one to restrain the respondents from holding workshops for Kenya Domestic Observation Programme for on-coming general elections in the absence of the applicant; and the other, a mandatory one, to compel the respondents to reinstate the applicant as the regional co-ordinator for Eastern Province.

It is said for the applicant that the respondents unilaterally dismissed the application on August 13, 2002 without justifiable cause, and excluded him from the observation programme the applicant had been appointed co-ordinator ;officer; and his exclusion from the intended election observation programme is indiscriminatory malicious and bad faith. The applicant says he had psychologically prepared himself for the programme and his exclusion have tremendously supporting affidavit of the plaintiff elaborated on these grounds.

Having regard for the supporting affidavit and the opposing affidavits of the respondent, it is clear that the **Giella v. Cassman Brown** requirements are not met in this case. In particular, the Locus standi of the applicant is not clear; the justifiability of the bone oof contention is not shown to be litigiable. There is no showing on the material before me, that if the injunction is not granted the plaintiff (applicant) will suffer irreparable damage if he eventually succeeds at the hearing of the suit.

The balance of convenience is in favour of the respondents, because if the injunction is granted and the programme in issue is put to a halt by injunction, but the suit fails, the damage would cause injury for which no money compensation will do.

For these reasons, the application is dismissed.

No order as to costs of this application.

Orders accordingly.

R. KULOBA

JUDGE

9/12/2002