



**Karani v Ng’ondi, MCA, Speaker of the Nairobi City County Assembly
& another; Alai & 20 others (Interested Parties) (Petition E207 of 2024)
[2025] KEHC 3574 (KLR) (Constitutional and Human Rights) (21 March 2025) (Judgment)**

Neutral citation: [2025] KEHC 3574 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS**

PETITION E207 OF 2024

EC MWITA, J

MARCH 21, 2025

BETWEEN

PATRICK KARANI PETITIONER

AND

**KENNEDY O NG’ONDI, MCA, SPEAKER OF THE NAIROBI CITY COUNTY
ASSEMBLY 1ST RESPONDENT**

NAIROBI CITY COUNTY ASSEMBLY 2ND RESPONDENT

AND

ROBERT ALAI INTERESTED PARTY

STANZO OMUNGALLA INTERESTED PARTY

NYANTIKA RICARDO INTERESTED PARTY

JOHN MUSILA INTERESTED PARTY

CYRUS MUGO INTERESTED PARTY

JANE MUSANGI INTERESTED PARTY

GEOFFREY MAJIWA INTERESTED PARTY

KENNEDY OYUGI INTERESTED PARTY

EMMY KHATEMESHI INTERESTED PARTY

FAUD HUSSEIN INTERESTED PARTY

WANJIRU KARIUKI INTERESTED PARTY

FATUMA ABDUWAHID ABEY INTERESTED PARTY



CHEGE MWAURA	INTERESTED PARTY
EUTTYCHUS MUKIRI	INTERESTED PARTY
FREDRICK NJOGU	INTERESTED PARTY
AGNES NJERI	INTERESTED PARTY
CARRINGTON HEHO	INTERESTED PARTY
MARK THIGA	INTERESTED PARTY
KAME ADANO	INTERESTED PARTY
PAUL WACHIRA	INTERESTED PARTY
STEPHEN MUGO KIMANI	INTERESTED PARTY

JUDGMENT

Petitioner’s Case

1. The petitioner and the interested parties were appointed to the Nairobi City County Assembly Select Committee on 27th October 2022. On 20th March 2024, the Auditor General’s Report on the Nairobi City County Executive was laid before the Assembly. Prior to that report, the Senate Committee on Public Accounts had invited the 1st respondent, the Clerk and the Management Committee of the 2nd respondent to respond to questions arising from the Auditor General’s Report for the Financial Year 2020/2021 and 2021/2022. The Senate Committee also invited the petitioner and other members of the Select Committee on Public Accounts of the 2nd respondent to the session.
2. In the said session, members of the petitioner’s committee gave their candid views, which were in consonance with those of the Senate Committee which the 1st respondent (Speaker of the County Assembly) did not take kindly.
3. The Senate Committee then made findings that the Audit Report was based on successive forged financial statements by junior and unqualified staff and called for a special audit. The Senate further called on the Ethics and Anti-Corruption Commission (EACC) and Director of Criminal Investigations (DCI) to investigate the financial statements and the persons involved.
4. On 17th April 2024, the Speaker issued “Communication from the Chair No. 19 of 2024” referenced “Reconstitution of Committee” purporting to dissolve the current select Committee on Public Accounts and Sectoral Committee on Water and Sanitation. The petitioner filed this petition challenging the Speaker’s decision. The petition is supported by a supporting affidavit and supplementary affidavit.
5. The petitioner stated that owing to the fact that the communication came just a few days after participation of the Committee in the proceedings before the Seante Committee, the 1st respondent was disbanding the committees and calling for reconstitution to punish the current members for their views.
6. The petitioner asserted the respondents’ actions violated Articles 10, 73(2) (b), 185 (3), 226(2), 229 of *the Constitution*; section 8 of the *County Governments Act* and Standing Orders 168(2), 169(1), 171 and 172, 203(4) and 209 (3) of the Nairobi City County Assembly Standing Orders, 3rd Edition.



7. The petitioner stated that the process had not been undertaken by the time the petition came up for directions in court on 25th April 2024 since counsel for the respondents informed the court that the process was ongoing and that was why the court issued conservatory orders.
8. The petitioner admitted that he was selected to the Select Committee on Public Accounts after his election through by-election on 8th December 2022. He however maintained that the Committee was first constituted on 27th October 2022.
9. The petitioner also admitted that constitution and reconstitution of committees is a preserve of the Committee on Selection. He however pointed out that the process is subject to the provisions of *the Constitution*, Standing Orders and other relevant laws. The Speaker is not a member of the Selection Committee.
10. The petitioner sought the following reliefs:
 - i. A declaration that the 1st respondent's decision contained in the Communication from the Chair No. 19 of 2024 dated 17th April 2024 directing for reconstitution of the Select Committee on Public Accounts and Sectoral Committee on Water and Sanitation of the 2nd respondent is unconstitutional and illegal.
 - ii. An order of certiorari calling into this court and quashing the decision of the 1st respondent contained in the Communication from the Chair No. 19 of 2024 dated 17th April 2024 directing for the reconstitution of the Select Committee on Public Accounts and Sectoral Committee on Water and Sanitation of the 2nd respondent.
 - iii. An order of prohibition be and is hereby issued prohibiting the 1st respondent from disbanding, dissolving, reconstituting or directing the reconstitution of the 2nd respondent's Select Committee on Public Accounts and Sectoral Committee on Water and Sanitation, or any other committee of the 2nd respondent, or in any manner interfering with the discharge of their duties before the lapse of their mandatory term of three (3) years as provided for in the Standing Orders.
 - iv. Any other relief and/or orders that the Honourable Court deems fit and just to grant in the circumstances.
 - v. The costs of the Petition be provided for.

Respondents' response

11. The respondents opposed the petition through a replying affidavit sworn by the 1st respondent. The 1st respondent stated that the petitioner seeks to belatedly quash the reconstitution of the select committees on Public Accounts and Water and Sanitation, yet the process was concluded on 23rd April 2024 before the matter came up for directions on 25th April 2024.
12. The respondents asserted that that the petitioner was not selected by the Select Committee to serve as a member of the Select Committee on the Public Accounts through the 2nd respondent's Order Paper of 27th October 2022 since he was elected into the house on 8th December 2022.
13. The respondents contended that while the petitioner had made reference to an Audit Report, forged financial statements and recommendations to the EACC and the DCI, none was placed before the court.



14. The respondents asserted that contrary to the petitioner's allegations, reconstitution of the Committees in issue was done by the Committee on Selection exercising its mandate under the Standing Orders after wide consultation and acted within the law.
15. The respondents contended that reconstitution of the Committees did not affect the Select Committee on Public Accounts Committee only hence there was no basis for the claim of malafides on the part of the 1st respondent. The respondents contended that the petition had been overtaken by events and should be dismissed.

1st interested party's response

16. The 1st interested party supported the petition through a relying affidavit. The 1st interested party cited Standing Order Nos. 168 (2), 169(1), 171 and 172, 203(4) and 209(3) of the Nairobi City County Standing Orders 3rd Edition to argue that the Speaker has no powers to dissolve and reconstitute the Select Committee on Public Accounts and the Sectoral Select Committee on Water and Sanitation. The Speaker's actions violated *the Constitution* and Standing Orders.

Petitioner's submissions

17. It was submitted on behalf of the petitioner, that the process of reconstituting Select Committee on Public Accounts and the Sectoral Committee on Water and Sanitation did not comply with the law. This is because, under Standing Order 203(4) and 209 (3), the Public Accounts Committee having been constituted on 27th October 2022 following the general elections, the Committees remain in place for a mandatory three years to lapse on 27th October 2025. The Committees cannot be reconstituted before that date. Only a member can be removed or replaced through the procedure provided in the Standing Orders.
18. Further, the mandate to nominate and/reconstitute committees is that of the Committee on Selection under Standing Orders 168(2) and 169(1), but not by the Speaker who is not a member of the Selection Committee.
19. The petitioner argued that the Speakers' communication and directive violated *the Constitution*. The petitioner relied on the decisions in *Kinyanjui v Attorney General & another* [2016] KEHC 5104 (KLR) and *Felix Kiprono Matagei v Attorney General & 3 others* [2016] eKLR to argue that in issuing the impugned communication and directive, the Speaker violated Articles 10 and 73 (2) (b), 185 (3), 226(2) and 229 of *the Constitution*.
20. According to the petitioner, the Speaker issued the directive despite knowing that it was contrary to Standing Orders. It was also to punish members who played a key role in the Senate session thus was for an improper motive. The improper motive was further demonstrated as the Speaker proceeded with reconstitution of the Committee despite existence of conservatory orders, where only the 1st interested party was left out in the reconstituted committees. The petitioner urged the court to allowed the petition.

Respondents' submissions

21. The respondents relied on Standing Orders 168 and 169 to submit that the reconstitution was lawful and constitutional and was done by the body mandated to under the Standing Orders of the House. According to the respondents, the petitioner is inviting the court to interfere with the mandate, functions and powers of the Selection Committee, which is not allowed by *the Constitution*. They relied on *Speaker of the Senate & Another v Attorney General & others* [2013] eKLR.



22. The respondents again relied on the decision in *Khen Kharis Mburu v Inspector General Police Service & 3 others* [2019] eKLR to contend this Court cannot determine the constitutionality of the currently constituted committees because the petitioner has not demonstrated the infraction by the Selection Committee during and after reconstitution of the committees in issue.
23. The respondents argued that Standing Order 203(4) is directive and any member could be removed before expiry of three years. They relied on the decision in *Geoffrey K. Sang v Director of Public Prosecutions & 4 others* [2020] eKLR. The respondents again cited the decisions in *Shadrack Kinyanjui Wambui v Independent Electoral and Boundaries Commission & 2others* [2017] eKLR; *Kenya National Examinations Council v Republic Ex Parte Geoffrey Gathenji Njoroge & others (Civil Appeal No. 266 of 1996)* eKLR and *Republic v Chief Magistrate's Court, Nakuru & another Ex parte Ndara Karugu* [2012] eKLR to argue that the petition is moot. They urged the court to dismiss the petition with costs.

1st interested party's submissions

24. The 1st interested party submitted that the Speaker acted beyond his powers in issuing the communication and directive. According to the 1st interested party, there was no motion before the Assembly or any complaint laid before the floor of the house over inefficiency of the two committees; the relevant committee had not laid before the floor of the house any proposed changes for debate and adoption and under Standing Order 172, it is not the duty of the Speaker to discharge a member from a committee.
25. The 1st interested party further submitted that Standing Order 203(4) provides for the term of the County Public Accounts Committee constituted immediately following the general election to be three years and the one constituted thereafter, to serve for the remainder of the term of the County Assembly.
26. The 1st interested party argued that the communication from the chair targeted him because all the interested parties were re-nominated to serve in the committee save for him. He urged that the petition be allowed.

Determination

27. I have considered the petition, responses and arguments and the decisions relied on by parties. The issue that arises for determination is whether reconstitution of the Public Accounts Committee and the Sectoral Committee on Water and Sanitation was lawful.
28. The petitioner is one of the members of the County Assembly of the City County of Nairobi. He filed this petition challenging reconstitution of the two committees of the County Assembly. According to the petitioner the Public Accounts Committee was constituted on 27th October 2022 after the general election.
29. The Committee is supposed to be in office for three years, but on 17th April 2024, the 1st respondent issued communication from the Chair directing reconstitution of the Public Accounts Committee and the Sectoral Committee on Water and Sanitation, which the petitioner argued was contrary to *the Constitution* and the Standing Orders. According to the petitioner, the Committees cannot be reconstituted before the end of three years.
30. The petitioner was supported by the 1st interested party and they relied on Standing Orders 168 (2), 169(1), 171 and 172, 203(4) and 209(3) of the Nairobi City County Standing Orders, 3rd Edition to



argue that the 1st respondent (the Speaker) had no powers to dissolve and reconstitute Public Accounts Committee and the Sectoral Committee on Water and Sanitation.

31. The respondents on their part, argued that the 1st respondent acted within the law; that reconstitution of the two Committees was done by the Committee on Selection in accordance with the Standing Orders and in exercise its mandate and after wide consultation.
32. The respondents further argued that the petition is moot since reconstitution of the committees was completed on 23rd April 2024; that the petitioner was not appointed by the Selection Committee to serve as a member of the Public Accounts Committee on 27th October 2022 since he was elected a member of the county assembly on 8th December 2022.
33. I have considered respective arguments and perused the record, including the impugned Communication No. 19 of 2024 on reconstitution of Committees. In that communication, the 1st respondent referred to Standing Order No. 203(4) which provides that the Public Accounts Committee constituted immediately following the general election should serve for a period of three years and that constituted thereafter, should serve for the remainder of the County Assembly term.
34. The 1st respondent again referred to Standing Order 209(3) which states that a member appointed to a Sectoral Committee at the commencement of a County Assembly should serve for three sessions and the Committee should thereafter be reconstituted, to serve for the remainder of the term of the County Assembly.
35. The import of the provisions in those Standing Orders is that the Committees constituted following a general election will serve for three years before being reconstituted. However, the 1st respondent stated that pursuant to Standing Order 1 and, notwithstanding Standing Orders 203(4) and 209(3) he was directing for reconstitution of the Select Committee on Public Accounts and Sectoral Committee on Water and Sanitation pursuant to Standing order 168(2) and 171(1).
36. Standing Order 168(1) establishes the Committee on Selection consisting of the Leader of Majority party (chairperson) and not less than 11 and not more than thirteen members. Standing Order 168(2) states that “the committee on selection shall nominate members to serve in Committees, save for the membership of the County Assembly Business Committee and Committee on Appointments.”
37. Standing Order 169(1) is on nomination of Select Committees. It provides that: “Unless otherwise provided by any written law or these Standing Orders, the Committee on Selection shall, in consultation with County Assembly Parties, nominate Members who shall serve on a Select Committee. Standing Order 169(3) states that a vacancy occasioned by resignation or removal of a Member from a select Committee shall be filled within fourteen days of the vacancy.”
38. Standing Order 171(1) requires the Committee on Selection to present the list of names of members nominated to serve in any committee within seven days to the County Assembly for approval.
39. On the other hand, Standing Order 203 establishes a select committee known as the County Public Accounts Committee which should consist of not more than eight other members. Standing Order 203(4) states that “the County Public Accounts Committee constituted immediately following the general election shall serve for a period of three calendar years and that constituted thereafter shall serve for the remainder of the County Assembly term.”
40. Standing Order 209 is on sectoral committees. Standing Order 209(1) establishes the Sectoral Committee of not less than fifteen and not more than seventeen members. Members of the Committee are nominated by the Committee on Selection in consultation with County Assembly parties at the commencement of every County Assembly. Standing Order 209(3) states “that a member appointed



to a Sectoral Committee at the commencement of a County Assembly shall serve for three sessions and the Committee shall thereafter be reconstituted, to serve for the remainder of term of that County Assembly.”

41. As it emerges from the Standing Orders, the Public Accounts Committee and the Sectoral Committees are constituted twice. First, immediately following general election which committees serve for three years and there after reconstituted committees serve for the remainder of the term of the County Assembly. The Committees are constituted by the Committee on Selection and names presented to the County Assembly for approval.
42. In this petition, it was argued that the Public Accounts Committee was constituted on 27th October 2022 and was to serve for three years. However, the 1st respondent issued a communication from the chair directing that the Committee together with the Sectoral Committee on Water and Sanitation be reconstituted which violated Standing Orders 203(4) and 209(3).
43. The respondents denied the allegation, arguing that the committees were reconstituted by the Committee on Selection in accordance with Standing Order 169(1) and in consultation with County Assembly Parties. That Standing Order states that unless otherwise provided by any written law or Standing Orders, the Committee on Selection shall, in consultation with County Assembly Parties, nominate Members who shall serve in a Select Committee.
44. The 1st respondent’s replying affidavit together with the annexures thereto, show that reconstitution of the Committees was done by the Committee on Selection in accordance with the Standing Orders. The 1st respondent went ahead to state that the exercise was concluded on 23rd April 2024 and members of the reconstituted Committees sworn in on 24th April 2024 thus, the petition was moot. According to the 1st respondent, by the time the Court gave directions in this matter, including the interim conservatory orders on 25th April 2024, the reconstitution had been completed.
45. Standing Orders state that committees constituted following the general election should serve for three years. However, in this petition, the respondents pointed out that reconstitution was done by the Committee on Selection following consultation between both sides of the political divide and the Whips on both sides. A report made pursuant to Standing Order 168 was then tabled in the assembly. It was also annexed to the 1st respondent’s replying affidavit. The 1st respondent again attached the Order of Business for 23rd and 24th April 2024 showing the proceedings in the assembly. Chair persons and Vice chairpersons of the Committees were also elected.
46. I have perused the Annexes to the 1st respondent’s replying affidavit. They show that the exercise of reconstituting the two Committees was conducted on 23rd April 2024 and the list of names of the members laid before the County Assembly. The Order of Business for 24th April 2024 shows that the Chairperson of the Committee on Selection moved a motion to approve names of the selected members of the Committees and there was administration of the oath. This demonstrates that reconstitution of the committees had been concluded by 24th April 2024.
47. This petition was disposed of through written submissions with oral highlights, leaving disputed factual matters unexplained. For instance, whether reconstitution of the Committees was done through consultation on both sides as shown by the documents remains what the respondents say though disputed by the petitioner. The respondents again argued that reconstitution was conducted by the Committee on Selection as the documents show but the petitioner could not dispute this fact.
48. There was however, belated admission that the process of reconstitution of the Committees had been concluded and all members of the Public Accounts Committee returned except one, the 1st interested



party. This admission is in the petitioner's submissions by the petitioner that only the 1st interested party was left out. This seems to be in agreement with the respondents' position that the exercise had been completed and the Committees were in place and discharging their mandate.

49. Flowing from the 1st respondent's replying affidavit and attached documents that reconstitution of the Committees was concluded by 24th April 2024 before this court gave directions in this matter, coupled with the feeble admission by the petitioner that reconstitution had been concluded and therefore members of the reconstituted committees have been discharging their duties since then, this petition is indeed moot. It is not clear why the petitioner and 1st interested party who are members of the County Assembly could not admit that the matter had become moot.
50. This court will be acting in vain if it were to even hold reconstitution of the Committees invalid as it will only cause disruption of the workings of the County Assembly, the County assembly having approved the names of members of reconstituted committees. The petitioner did not amend his petition to address the issue of the concluded process though as a member of the county assembly he should have been aware of the ongoing in the County Assembly, including conclusion of the reconstitution process.
51. In the circumstances, the conclusion I come to, is that this petition is moot and lacks merit. It is declined and dismissed. Each party will bear their own costs.

DATED AND DELIVERED AT NAIROBI THIS 21ST DAY OF MARCH 2025.

E C MWITA

JUDGE

