



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

PETITION NO. E001 OF 2021

DR. RICHARD ARINA ODEK.....PETITIONER

VERSUS

THE CS MINISTRY OF AGRICULTRE,

LIVESTOCK, FISHERIES &

CO-OPERATIVES.....1ST RESPONDENT

THE CHIEF EXECUTIVE OFFICER

KENYA VETERINARY BOARD.....2ND RESPONDENT

THE HON. ATTORNEY GENERAL.....3RD RESPONDENT

RULING

On 6th January 2021, the 1st Respondent, **THE CABINET SECRETARY MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND CO-OPERATIVES** caused to be published a Gazette Notice revoking the appointments of the following persons;

a) Dr. Christopher H. Wanga (Chairman);

b) Dr. Jafred M.A. Kitaa (Vice-Chairman);

c) Mr. Paul Kariuki Ndungu;

d) Mr. Benson Oduor Ameda; and

e) Mr. Queereenuse Pacho,

as members of the Board of Directors of the Kenya Veterinary Board.

1. The five named persons were elected by the **Veterinary Surgeons and Veterinary Professionals**, respectively.

2. Following their said elections, the five persons were appointed to the Board of Directors of the Kenya Veterinary Board, under a Gazette Notice No. **2609** of 20th March 2018.

3. The said Gazette Notice was issued under the hand of Mr. **MWANGI KIUNJURI**, who was the Cabinet Secretary for Agriculture and Irrigation, at the material time.

4. The Gazette Notice expressly stated that the persons appointed, would be members of the Kenya Veterinary Board for a period of three (3) years.

5. It is the Petitioner's case that the 1st Respondent had no discretionary powers or legal authority to determine the composition or the term of service of the members who had been appointed to the Board following their election.

6. The Petitioner's position was that the 1st Respondent's role was merely to formalize the appointment of the elected members of the Board, through the publication in the Kenya Gazette.

7. In the circumstances, the Petitioner hopes to persuade the court that the 1st Respondent had acted unlawfully by purporting to exercise authority which he did not have.

8. The 2nd Respondent, The **CHIEF EXECUTIVE OFFICER, KENYA VETERINARY BOARD** filed a Replying Affidavit on 16th February 2021.

9. He deponed that all cadres of veterinarians were allowed to seek election to leadership and to participate in the electoral process.

10. The 2nd Respondent said that after elections are conducted by either the Veterinary Surgeons or the Veterinary Para-Professionals, the names of those who had been duly elected were forwarded to the Cabinet Secretary for appointment to the Board of Directors.

11. As the 3 Year Term comes to an end on 20th March 2020, pursuant to the Gazette Notice dated 20th March 2018, the only way that the Cabinet Secretary could terminate the appointment of the elected members of the Board prior to the effluxion of the time is if he could satisfy the Court that the law had bestowed such powers and authority upon him.

12. On a prima facie basis, I find and hold that the Cabinet Secretary does not have legal authority to revoke the appointment of the Board members, who are appointed to the Board by virtue of the elective positions they hold.

13. It therefore follows that, on a prima facie basis, the Cabinet Secretary lacked authority to revoke the appointments of the five (5) members of the Board.

14. Accordingly, the implementation of the Gazette Notice **No. 14** dated 6th January 2021, and which was published on 8th January 2021, is hereby stayed until the Petition is heard and determined.

15. The Cabinet Secretary shall await the result which emerge from the elections, and shall then gazette the persons who will have been elected.

16. In my considered opinion, the orders granted herein shall not prejudice the Respondents at all. If anything, I believe that the strict compliance with the letter and spirit of the law is essential in order to uphold good governance, integrity, transparency and accountability as espoused by **Article 10 (1)** of the **Constitution of the Republic of Kenya**.

17. For the record, neither the 1st Respondent nor the 3rd Respondent filed any Replying Affidavit or other answer to the application. In the event, the said application was uncontroverted.

18. I therefore allow the application as prayed.

DATED, SIGNED and DELIVERED at KISUMU This 16th day of March 2021

FRED A. OCHIENG

JUDGE