



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

PETITION NO.6 OF 2019

**IN THE MATTER OF THE CONSTITUTION OF KENYA (SUPERVISORY
JURISDICTION AND PROTECTION OF FUNDAMENTAL RIGHTS AND
FREEDOMS OF THE INDIVIDUAL) HIGH COURT PRACTICE AND PROCEDURE RUYLES, 2013**

AND

**IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS
AND FREEDOMS UNDER ARTICLES 2, 10, 19 (2) & (3), 20, 21, 22, 23, 32, 36, 38,
47, 159, 165, 258 & 259 REGARDING PROTECTION OF RIGHT OF FAIR
ADMINISTRATIVE ACTION, FREEDOMS OF CONCIENSE, BELIEF,
OPINION AND OF ASSOCIATION GUARANTEED BY THE CONSTITUTION OF KENYA**

AND

PHILIP AKOLA.....PETITIONER

AND

KENYA RED CROSS SOCIETY.....1ST RESPONDENT

THE SECRETARY GENERAL,

KENYA RED CROSS SOCIETY.....2ND RESPONDENT

KENYA RED CROSS SOCIETY,

ELECTIONS COMMITTEE.....3RD RESPONDENT

KENYA RED CROSS SOCIETY,

ELECTION GRIEVANCE COMMITTEE.....4TH RESPONDENT

RULING

1. The petitioner through counsel has orally asked for leave of the court to withdraw the petition herein and file an amended petition. This request does not appear to be opposed by the respondents' counsel.
2. However, the respondents' counsel urged that they be paid costs of two counsel. They argued further that this matter should have been filed in Nairobi where the cause of action arose.
3. As the request to withdraw the petition and for leave to file an amended petition is not opposed, I will allow the same. With regard to

costs, I will also award costs to the respondents for the work done so far, but not for two advocates, as the number of advocates who appear for a party, is a matter of choice of the party and as a general rule, should not be used to overburden another litigant with additional costs.

4. There is the issue of this matter being filed in Nairobi. Indeed, the main respondents herein the Kenya Red Cross Society, and Secretary General Kenya Red Cross Society are all domiciled in Nairobi and the decisions complained of on the alleged elections have been made from Nairobi. Though Kericho High Court might have national jurisdiction to hear cases and petitions in Kenya, the most appropriate and cost effective place for these proceedings is Nairobi.

5. I thus order as follows:

i) Leave is granted to the petitioner to withdraw the petition herein and file an amended petition. The said amended petition will be filed within 14 days from today.

ii) The costs of the proceedings todate, are awarded to the respondents.

iii) This file is forwarded to the Constitutional Division of the High Court at Milimani in Nairobi for further progress and it will be mentioned there for directions on a date, which I will hereafter determine. The Deputy Registrar of this court is thus directed to transmit this file to Nairobi.

Dated at Kericho this 19th day of November 2019.

George Dulu

JUDGE