



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NO. 341 OF 2013

BETWEEN

ALBINISM SOCIETY OF KENYA PETITIONER

AND

NATIONAL COUNCIL FOR

PERSONS WITH DISABILITIES 1ST RESPONDENT

THE ATTORNEY GENERAL 2ND RESPONDENT

SUKEN INTERNATIONAL LIMITED 3RD RESPONDENT

RULING

1. The petitioners have moved the court by a petition dated 2nd July 2011 which seeks certain declarations concerning the procurement of sunscreen by the 1st respondent for the benefit of persons living with albinism.
2. The 2nd respondent published a tender for supply of sunscreen and the tender was duly awarded to the 2nd respondent, Sunken International Limited. The tender No. NCPWD/01/2013-13 was challenged before the Public Procurement Review Board (“the Board”) by Review No. 17/2013 and on 27th May 2013, the Board dismissed the Review.
3. When the petitioners moved the court by petition on 2nd July 2013, Justice Korir granted a conservatory order restraining the respondent from carrying on with the transaction of execution of the tender awarded to the 3rd respondent by the 1st respondent vide contract reference No. NCPWD/01/2012-2013 on or around 13th day of June 2013 for supply of Sunscreen Lotions with sunscreen protection to persons with disabilities pending inter-parties hearing.
4. When the matter came up today, the respondents opposed the extension of the conservatory orders, inter alia, on the ground that the orders were injurious to parties with disability and that the procurement had been done in accordance with the law.

5. In view of the decision by the Public Procurement Administrative Review Board dated 27th May 2013 and **section 100** of the ***Public Procurement and Disposal Act, 2005*** the conservatory order ought to be discharged. I note from the decision that the time for appeal under the Act had lapsed when the appeal to the Board was filed.
6. Furthermore, I think it is the interests of the petitioners that the sunscreen products be procured for the benefit of person living with albinism.
7. The other issue raised by the petitioners concerns the census of persons living with albinism and related issues. These issues can be dealt with by the court and the court will grant relief where necessary.
8. The conservatory orders issued on 2nd July 2013 be and are hereby discharged. This matter shall be mentioned on 10th July 2013 for further orders/directions. Notice to issue.

DATED and **DELIVERED** at **NAIROBI** this 8th July 2013

D.S. MAJANJA

JUDGE