



REPUBLIC OF KENYA

IN THE CHIEF MAGISTRATES COURT AT NAKURU

ELECTION PETITION NO 003 OF 2017

IRENE JEROP CHEBOI1ST PETITIONER

CATHERINE JEBAKURA LEKUTA.....2ND PETITIONER

ELIZABETH AEMUN NANAN.....3RD PETITIONER

VERSUS

INDEPENDENT ELECTORAL &

BOUNDARIES COMMISSION.....1ST RESPONDENT

JUBILEE PARTY.....2ND RESPONDENT

THE CLERK COUNTY ASSEMBLY OF NAKURU.....3RD RESPONDENT

13/10/2017

Before Hon B Mararo PM

Court Assistant Philaris

Monger for Petitioner

Mr Akango for 1st Respondent

Mr Akango: We are talking. We have agreed to mention it on 17/10/2017.

Court: Mention on 17/10/2017 at 2.30 pm.

Hon B Mararo PM

13/10/2017

17/10/2017

Before Hon B Mararo PM

Court Assistant Philaris

Mr Akango: Mr Mongeri had intimidated intention to withdraw the Petition.

He should file a formal application.

Mr Akango: We can rely on the Production Order.

Court: Ruling on production order on 24/10/2017.

Hon B Mararo PM

17/10/2017

RULING

The petitioner herein Irene Jerop Cheboi, Catherine Jebakura Lekuta, and Elizabeth Aemun Nanan have petitioned this court against the Independent Electoral and Boundaries Commission, the Jubilee Party and the Clerk County Assembly Nakuru for;

A. THAT this honourable court be pleased to grant a permanent injunction stopping the swearing in of the nominated members of County Assembly as listed in the Gazette Notice published on 28/8/2017 and further order that the process be done again.

B. THAT the honourable court be pleased to declare the process and the decision of the 1st and 2nd Respondents of publishing 2 more lists of shortlisted Nominated MCA's Nakuru was irregular discriminatory and in contravention of the Petitioner rights as party members and special interest groups (women group).

C. THAT the Honourable Court be pleased to declare that the gazette notice published on 28/8/2017 bearing the names of the nominated members of County Assembly Nakuru County is in contravention of the rights of the application under the constitution.

D. THAT this Honourable Court be pleased to grant the petitioners herein the costs of this Petition.

The Petition is grounded on inter alia.

A. THAT the Petitioners were in the list, harmonized list of shortlisted candidates.

B. THAT the initial list was the proper list.

C. THAT a second list was published by the 1st Respondent extending the Petitioners save for the 2nd Petitioner.

D. THAT the 1st Respondent prepared a 3rd list similar to the 2nd list excluding the Petitioners save for the 2nd Petitioner.

E. THAT the minority communities have been sidelined out and left out of the nominations.

F. THAT the wards from which the Petitioners emanate here never had the opportunity of a nominated MCA unlike others.

G. THAT some wards had nominated MCAs in last elections and again have nominated MCAs in 2017.

H. THAT the 2nd Respondent would have nominated to nominate 2 MCAs per constituency

instead of renominations from a Ward that had a nominated MCA in 2013.

I. THAT the criteria used by the 1st Respondent and 2nd Respondent to generate the 2nd and 3rd lists were irregular and discriminatory.

J. THAT gender balance and minority communities were not part of the considerations in nominations of the positions of nominated MCAs for the Jubilee party.

K. THAT the Petitioners do not understand how their names were eliminated from the 2nd and 3rd party list considering that they were in the 1st list.

The 1st Respondent filed and served Notice of Preliminary Objection dated 16/10/2017 and among the issues raised was that the Petitioner failed to file and serve the Petition within the legally stipulated time.

As per the Election Petition rules the Petitioner is to serve the Respondent within 7 days after filing of the petition (S.10) in the present case. The Petition was filed on 5/9/2017 and the same had not been served by 13/9/2017 as required by the rules.

Further the petitioner was yet to deposit the security for costs in the sum of kshs 100,000 within 10 days of filing the petition as per Rule 13 of the Election Petitions rules 2017.

In view of the above and guided by;

Mombasa HC Election Petition No 9 of 2017

AND

Kisii HC Election Petition No 10 of 2013

Whereby it was held that compliance with the rules was mandatory, I find in the present case that the petitioner did not even make an attempt to explain the anomaly. I consequently proceed to strike the Petition filed here with costs to the 1st Respondent this 24th day of **Oct 2017**.

Delivered in the presence of Mr Akango for the Petitioner and Mr Atengo for the Respondent this 24th day of Oct 2017.

Hon B Mararo PM

24/10/2017