

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT KERICHO
PETITION NUMBER E018 OF 2025**

BETWEEN _

BRIAN KIPKORIRPETITIONER

VERSUS

1. THE GOVERNOR, KERICHO COUNTY
2. KERICHO COUNTY ASSEMBLYRESPONDENTS

AND

CHARLES BIRECH INTERESTED PARTY

RULING.

1. Kericho County Government, currently has 11 County Executive Members, 3 of whom are Women.
2. The Governor, Dr. Eric Mutai, has nominated the Interested Party, Charles Birech as County Executive Member for Trade, Industrialization, Innovation, Tourism and Wildlife.
3. The appointment of the Interested Party, would bring the number of County Executive Members to 12.
4. In his application for conservatory measures, dated 17th November 2025, the Petitioner posits that an additional Member, would exceed the maximum number of 10, given under Article 179[1] of the Constitution of Kenya.

5. He further argues that appointment would infringe the two-thirds gender rule. It would mean there is a total of 12 County Executive Members, with only 3 Women.
6. Appointment would violate Article 27[6] and [8] of the Constitution, which compels all public appointing authorities, to take affirmative action, to ensure gender balance.
7. The Petitioner relies also, on Section 35[2] [a] of the County Governments Act, which prohibits appointments that fail to meet two-thirds gender rule.
8. He exhibits a notice issued to the nominee and the members of the public by the Clerk to the County Assembly of Kericho, announcing that the Interested Party has been nominated as a County Executive Member, by the Governor.
9. He is due to be vetted by the County Assembly tomorrow, Thursday, 20th November 2025, starting at 2.00 p.m. the notice states.
10. Against this backdrop, the Petitioner prays for the following Orders: -
 - a. **The application is certified urgent and service be dispensed with in the first instance.**

- b. Pending hearing and determination of this application, a conservatory order do issue, restraining, barring and /or prohibiting the Respondents from receiving, processing, deliberating upon, vetting, or in any manner approving the appointment of and /or appointing the Interested Party as County Executive Member.
 - c. [Same order as in [b] above, pending hearing and determination of the substantive Petition].
 - d. Any other suitable orders.
 - e. Costs be provided for.
11. Conservatory orders are made to preserve the subject matter and protect constitutional rights. They are useful tools in protecting public interest.
12. There is clear *prima facie* evidence, that the Interested Party's nomination and proposed appointment, is not in conformance with fundamental requirements of the Constitution and applicable Statute.

IT IS ORDERED: -

- a. The application dated 17th November 2025 filed by the Petitioner is certified urgent.

- b. Conservatory order is issued as prayed under paragraph 2 of the application.**
- c. The whole Petition shall be served upon the Respondents and the Interested Party.**
- d. The Respondents and the Interested Party shall file and serve their respective responses to the Petition and the application, within 21 days of service.**
- e. Hearing inter partes on 17th December 2025.**

Dated, signed and delivered electronically at Kericho, this 19th day of November 2025.

James Rika
Judge

A handwritten signature in blue ink, appearing to read 'James Rika', enclosed within a blue oval-shaped digital signature stamp.
