



Bare & 2 others v County Government of Mandera & 4 others (Petition E219 of 2022) [2022] KEELRC 13578 (KLR) (20 December 2022) (Ruling)

Neutral citation: [2022] KEELRC 13578 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
PETITION E219 OF 2022**

J RIKA, J

DECEMBER 20, 2022

BETWEEN

**IBRAHIM DAUD BARE 1ST PETITIONER
MOHAMMED ABDI ADEN 2ND PETITIONER
ABDIRAHMAN ADAN HUSSEIN 3RD PETITIONER**

AND

**COUNTY GOVERNMENT OF MANDERA 1ST RESPONDENT
COUNTY PUBLIC SERVICE BOARD MANDERA 2ND RESPONDENT
THE GOVERNOR, MANDERA COUNTY 3RD RESPONDENT
THE ATTORNEY-GENERAL 4TH RESPONDENT
SALARIES AND REMUNERATION COMMISSION 5TH RESPONDENT**

RULING

1. The application dated December 15, 2022, filed by the petitioners, seeks in main to restrain the respondents from employing officers in County Public Service positions, on the ground that those positions are not recognized under the *County Governments Act*, and have been created in violation of the *Constitution*.
2. This court is seized of 3 other consolidated petitions [under Petition E199 of 2022], where the petitioners herein, among other petitioners from Mandera County, are challenging the intended employment by the respondents, of persons to fill the position of County Officer.
3. The current petition differs from the other petitions in that the petitioners challenge the creation of new offices, while in the consolidated petitions, the petitioners challenge the constitutionality and legality of the respondents' actions, in employing persons to the existing position of County Officer.



4. The petition herein has been placed before the undersigned judge, on the assumption that he is dealing with similar petitions from Mandera County.
5. Although the petitioners and the respondents are largely the same, or similar, in the current and the consolidated petitions, the issues in dispute are starkly different.
6. The current petition ought therefore, to be placed before another judge, to be dealt with separate from the consolidated petitions in order to sustain objectivity.
7. It is important that not all the disputes involving same parties but different issues, from particular counties, are placed before the same judge.
8. It is ordered: -

The petition and application filed by the petitioners herein, shall be placed before another judge.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, THIS
20TH DAY OF DECEMBER, 2022.**

JAMES RIKA

JUDGE

