



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

(Before Hon. Lady Justice Maureen Onyango)

PETITION NO. E114 OF 2021

UNION OF KENYA CIVIL SERVANTS.....1ST PETITIONER

TOM MBOYA ODEGE.....2ND PETITIONER

VERSUS

RUTH BARAZA.....1ST RESPONDENT

JOHN NZAU.....2ND RESPONDENT

CONSOLIDATED WITH

PETITION NO. E100 OF 2021

UNION OF KENYA CIVIL SERVANTS.....PETITIONER

VERSUS

REGISTRAR OF TRADE UNIONS.....1ST RESPONDENT

COMMISSIONER FOR LABOUR.....2ND RESPONDENT

CONSOLIDATED WITH

PETITION NO. E098 OF 2021

NOAH ROTICH.....PETITIONER

VERSUS

UNION OF KENYA CIVIL SERVANTS.....1ST RESPONDENT

TOM MBOYA ODEGE.....2ND RESPONDENT

REGISTRAR OF TRADE UNIONS.....3RD RESPONDENT

CONSOLIDATED WITH

CAUSE NO. E441 OF 2021

LAWRENCE NYAGUTI OCHIENG.....1ST CLAIMANT

ERIC ABONG'O.....2ND CLAIMANT

VERSUS

UNION OF KENYA CIVIL SERVANTS.....1ST RESPONDENT

JUSTUS KINYWA MUGU.....1ST APPLICANT/INTENDED RESPONDENT

JERRY OLE KINA.....2ND APPLICANT/INTENDED RESPONDENT

HARISSON O. KOKEBE.....3RD APPLICANT/INTENDED RESPONDENT

CONSOLIDATED WITH

NAKURU ELRC PETITION NO. E019 OF 2021

ESTHER NYAKUNDI.....1ST PETITIONER

DAVID KIGANDA.....2ND PETITIONER

VERSUS

UNION OF KENYA CIVIL SERVANTS.....1ST RESPONDENT

JUSTUS MUGO.....2ND RESPONDENT

JERRY OLE KINA.....3RD RESPONDENT

AND

REGISTRAR OF TRADE UNIONS.....INTERESTED PARTY

RULING

1. The reason I fixed today's date was to make a determination on whether or not the National Quinquennial Delegates Conference to be held on 5th August 2021 should proceed.
2. I have considered only one factor being that the COVID 19 protocols announced on 30th July 2021 suspended all public gatherings and in person meetings. The new directive is that such gatherings should be undertaken virtually or postponed.
3. I have considered the provisions of the constitution of the Union of Kenya Civil Servants. The provisions for National Quinquennial Delegates Conference do not anticipate virtual meetings. In order to provide of the same, there would be a need for a meeting of one of the organs of the Union authorised to make changes to the constitution that is the National Quinquennial Delegates Conference, National Annual Delegates Conference or Special National Delegates Conference which cannot be held under the current COVID 19 directives in the country.
4. It is for this reason that the National Quinquennial Delegates Conference scheduled for 5th August 2021 cannot proceed. I thus suspend the Conference pending the delivery of the judgment herein.
5. In view of the foregoing, the judgment in this and all related cases will be delivered on 31st August 2021. All interim orders currently in force are extended to the date of judgment.

DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 4TH DAY OF AUGUST 2021

MAUREEN ONYANGO

JUDGE

ORDER

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)

(d) of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of **Section 1B** of the **Civil Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

MAUREEN ONYANGO

JUDGE