



REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT NYERI

PETITION NO. 9 OF 2019

IN THE MATTER OF: ARTICLES 2, 3, 10, 23, 47, 183, 185, 207, 235, 258, 259 OF THE CONSTITUTION OF KENYA 2010

AND

IN THE MATTER OF: SECTIONS 58, 59, 60 AND 61 OF THE COUNTY GOVERNMENTS ACT, 2012 AND SECTION 130-149 OF THE PUBLIC FINANCE MANAGEMENT ACT, 2012

AND

IN THE MATTER OF: ADVERTISEMENT FOR POSITIONS IN THE COUNTY PUBLIC SERVICE WITHOUT APPROVAL BY THE COUNTY ASSEMBLY AND WITHOUT BUDGETARY PROVISION

AND

IN THE MATTER OF: EMBU COUNTY PUBLIC SERVICE BOARD

BETWEEN

COUNTY ASSEMBLY OF EMBU.....PETITIONER

VERSUS

EMBU COUNTY PUBLIC SERVICE BOARD.....RESPONDENT

RULING

1. As the issue of interlocutory orders or rather conservatory orders has been raised the Applicant asserts that it is meet and just for the court to grant the interim relief in terms of prayer 2 of the motion. The Respondent asserts this is contrary to Section 77(2) of the County Governments Act as an appeal should be preferred before the Public Service Commission.

2. Whereas the Applicant has moved court no interim relief was granted by the court and in light of the prevailing tension as to whether there is jurisdiction or none, I cannot grant an interim relief as to do so would be an affront to notions of justice since if I have no jurisdiction my decision on that score will amount to nothing.

3. It behoves the court not to act in vain and the motion will thus await ventilation before me on the issue of jurisdiction at Meru Law Courts on 30th January 2020. The Respondent's preliminary objection be canvassed before me then and the Applicant to file a response to the preliminary objection within 21 days of today.

It is so ordered.

Dated and delivered at Nyeri this 17th day of December 2019

Nzioki wa Makau

JUDGE

I certify that this is a
true copy of the Original

Deputy Registrar