



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 1143 OF 2018

IN THE MATTER OF ARTICLE 41(4) OF THE CONSTITUTION OF KENYA

AND

IN THE MATTER OF SECTION 8 OF THE LABOUR RELATIONS ACT

AND

IN THE MATTER OF ARTICLES 5:1:5(a),(e),(f),(g) and (h), ARTICLE 5.2.5.3 OF

THE KENYA COUNTY GOVERNMENT WORKERS UNION CONSTITUTION

BETWEEN

MATILDA J. KIMETTO & 380 OTHERS.....CLAIMANTS

v

KENYA COUNTY GOVERNMENT

WORKERS UNION.....1ST RESPONDENT

CORNEL MABASTI.....2ND RESPONDENT

RULING

1. This is an *ex tempore* ruling due to the urgency demonstrated in that the 2nd Respondent called for a Special National Delegates Conference through the newspapers on 4 July 2018.
2. It seems like there is trouble brewing within the Kenya County Government Workers Union. Signs that trouble has been simmering in the Union include what could be a multiplicity of suits being Nairobi Cause No. 606 of 2018, Nakuru Cause No. 112 of 2018, *Kenya County Government Workers Union v Faith Wairimu & Ors*, and now this instant Cause.
3. Within the storm, it appears that the parties have turned the Court into the theatre of action. The Court in Nakuru in a ruling adverted to abuse of court process by the parties. That is a story for another day.
4. The instant Cause has been prompted by a notice in the Daily Nation of 4 July 2018 by the 2nd Respondent (Branch Secretary, Uasin Gishu Branch) calling for a Special National Delegates Conference to be held today in Nakuru.
5. The agenda items proposed for the Special National Delegates Conference are to *discuss the conduct and performance of the National Secretariat and the way forward and amendment of the constitution of Kenya County Government Workers Union*.
6. The applicants herein include the Organising Secretary and National Treasurer of the 1st Respondent and they seek to interdict the Special National Delegates Conference because it was not called in terms of Article 5:5 of the Union's Constitution.
7. The 1st Respondent appeared in Court and Mr. Otieno representing it stated from the bar that the meeting had not been convened by the

General Secretary as required by the Union's constitution.

8. The 2nd Respondent was served but did not appear in Court.

9. There is a Court order of 14 June 2018 which allowed the convening of a *Special National Delegates Conference* and in the view of the Court it would not augur well for this Court to issue orders which might appear to be inconsistent with that Court order.

10. If the meeting called for today is illegal, it would be easy for any purported resolutions to be undone either at the Office of the Registrar of Trade Unions and/or by the Court.

11. And in order to avoid what may be inconsistent decisions, the Court directs that this file be placed before the Judge in Nakuru on 10 July 2018 for further directions and or orders.

Delivered, dated and signed in Nairobi on this 6th day of July 2018.

Radido Stephen

Judge

Appearances

Mr. Apollo instructed by Apollo Chagina & Co. Advocates for applicants

Mr. Otieno instructed by Brian Otieno & Co. Advocates for 1st Respondent

2nd Respondent absent

Court Assistant Lindsey