



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU**

**CAUSE NO. 25 OF 2016**

**BAKERY CONFECTIONERY FOOD MANUFACTURING  
& ALLIED WORKERS UNION (KENYA) CLAIMANT**

**v**

**BIG BITE BAKERS & CONFECTIONERIES  
LIMITED RESPONDENT**

**RULING**

1. The Bakery Confectionary Food Manufacturing & Allied Workers Union (Kenya), (Union) moved Court on 2 February 2016 against Big Bite Bakers & Confectioners Ltd (Respondent) and the issue in dispute was stated as Refusal by the Company to sign a Recognition Agreement with the Union.
2. The Memorandum of Claim was accompanied with a certificate of urgency in terms of section 74 of the Labour Relations Act.
3. While giving directions on 22 July 2016, the Court referred the parties to appear for a balloting exercise (vote) under the supervision of the County Labour Officer, Trans Nzoia.
4. The County Labour Officer carried out a ballot and he filed a report with the Court on 29 July 2016. Representatives of the parties appended their signatures to the report.
5. When the Cause came up for directions on 20 February 2017, the Claimant Union was not represented and the Court rescheduled the Cause to 21 April 2017 with a directive to the Respondent to serve the Union with a mention notice.
6. The Union was served but again it was not represented on 21 April 2017, and the Court therefore directed that it would deliver a ruling today.
7. The cause of action presented by the Union related to a recognition dispute.
8. Section 54 of the Labour Relations Act has set out the threshold to be met by a union seeking recognition from an employer. One of the conditions is achieving a simple majority of unionisable employees at a particular employer.

9. According to the ballot carried out by the County Labour Officer, the Respondent had a total of 44 employees of which 37 participated in the ballot.

10. Only 11 employees voted in favour of joining the Union while 26 voted against. The ballot exercise therefore shows that the Union had not secured a simple majority threshold to be granted recognition.

11. The Court therefore finds no merit in the Union's case and orders that the Memorandum of Claim filed in Court on 2 February 2016 be dismissed with costs.

**Delivered, dated and signed in Nakuru on this 20<sup>th</sup> day of July 2017.**

**Radido Stephen**

**Judge**

**Appearances**

Mr. Amalemba, Legal Officer, Bakery Confectionary Food Manufacturing & Allied Workers Union (Kenya) for Claimant

Mr. Teti instructed by Teti & Co. Advocates for Respondent

Court Assistant Nixon