



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NYERI

PETITION NO. 2 OF 2016

HUSSEIN ROBA BORU.....PETITIONER

VERSUS

THE COUNTY GOVERNMENT OF ISIOLO.....1ST RESPONDENT

IBRAHIM WAKO.....2ND RESPONDENT

HON. GODANA DOYO.....3RD RESPONDENT

THE ISIOLO COUNTY

PUBLIC SERVICE BOARD.....4TH RESPONDENT

(Before Hon. Justice Byram Ongaya on Friday, 2nd December, 2016)

JUDGMENT

The petitioner filed a petition on 24.05.2016 through Mithega & Kariuki Advocates. The petition was in the matter of Articles 1(1), (2), (3b) and (4b), 2, 3, 10, 19, 20, 21, 22, 23, 73, 75, 159, 174, 175, 232, 235, 251, 258, and 259 of the Constitution of Kenya, 2010; in the matter of alleged contravention of fundamental rights and freedoms under Articles 27, 28, 41, 47, and 50(1) of the Constitution; and in the matter of the purported suspension of the petitioner from the office of the chairman of Isiolo County Public Service Board. The petitioner prayed for orders:

- a) That a declaration be issued to declare that the purported suspension of the petitioner from the office of the chairman of Isiolo County Public Service Board vide the 2nd respondent's letter dated 25.04.2016 is unlawful and illegal on account of violation of section 58 (5) of the County Governments Act No. 17 of 2012 as read with Article 47 and 251(1) of the Constitution of Kenya, 2010.
- b) That a declaration be issued to declare that the purported grounds or reasons specified in the 2nd respondent's purported letter of suspension dated 25.04.2016 are *ultra vires* section 58 (5) of the County Governments Act No.17 of 2012 and do not constitute any reasonable grounds for suspension of the petitioner as chairman of Isiolo County Public Service Board as anticipated under Article 251(1) of the Constitution of Kenya, 2010.
- c) That a declaration be issued to declare that under section 58 of the County Governments Act No. 17 of 2012 as read with Article 251 of the Constitution of Kenya, 2010, the petitioner remains the legitimate and lawful holder of the position and office of chairman of Isiolo County Public Service

Board and for that purpose to resume duty with immediate effect.

d) That a declaration be issued to declare that the purported suspension of the petitioner by the 2nd respondent constituted a violation of the petitioner's rights under Articles 27(1), 28, 41(1), 47 and 50 of the Constitution of Kenya.

e) That a declaration be issued to declare that all decisions, actions and proceedings of the 4th respondent made, taken or undertaken during the purported suspension of the petitioner are null and void.

f) That the Honourable Court be pleased to issue a permanent order of injunction and a prohibitory order respectively against the 2nd respondent and the 1st and 3rd respondents, by themselves, their agents, officers, servants and or employees or whomsoever else acting on the 1st, 2nd, and 3rd respondents' behalf or instructions from barring, preventing or restricting or in any other manner whatsoever or howsoever from interfering with the petitioner in his undertaking, performance or discharging of his duties and functions as the chairman of the Isiolo County Public Service Board.

g) That an order of certiorari to be issued to bring into the Honourable Court, for purposes of being quashed, the purported letter of suspension of the petitioner from his position of chairman of the Isiolo County Public Services Board which letter was issued by the 2nd respondent and dated 25.04.2016.

h) That cost of these proceedings is provided for.

i) That the Honourable Court be pleased to make any other further order or grant any further relief it may deem fit and just to grant.

The petition was based on the petitioner's verifying and supporting affidavits filed together with the petition. The petitioner's final submissions were filed on 26.10.2016.

The respondents, despite service, did not file an answer to the petition and did not file specific replying affidavit to oppose the petition. Despite service of relevant notices and opportunity to file final submissions in the matter, the respondents failed to file and serve the final submissions. The respondents appointed Kithi & Company Advocates to act for them throughout the proceedings.

The petitioner was appointed to the position of the chairman of the Isiolo County public Service Board in June 2013 and in accordance with the provisions of the County Governments Act, 2012. By the letter dated 25.04.2016 the 2nd respondent being the holder of the office of the county secretary and county head of public service, Isiolo County, the petitioner was purportedly suspended from the office of the chairman of the county public service board. The suspension letter addressed to the petitioner by the 2nd respondent stated as follows:

“Dear Sir,

RE: SUSPENSION FROM OFFICE OF THE CHAIRMAN OF COUNTY PUBLIC SERVICE BOARD

The above subject matter refers.

A letter from Director of Criminal Investigation dated 5th April, 2016 and attached charge sheet has been placed before my office for administrative action. A further letter dated 3rd April, 2016 addressed to the Governor signed by five (5) members of the County Public Service Board raising grievous and damaging allegations of your inability and refusal to cooperate with other County Public Service Board Members and mistreatment and disrespect to other junior members of the secretariat.

As the County Secretary and the Head of Public Service Board of Isiolo County Government as per section 56 (2) of the County Governments Act, 2012 and pursuant to Regulation 2(b) of the Public Service Commission and County Assembly Boards on Discipline of seconded office to the county Governments, you are hereby suspended from the office of the Chairman of the County Public Service Board pending the hearing and determination of the Criminal case No. 189 of 126 as per the provisions of section 76(6) of the County Governments Act, 2012.

You shall be entitled to your remuneration and benefits while on suspension as per the provisions of the law in regard to officers on suspension.

The same is also copied to the Governor for formal institution of investigative actions required under the law.

Yours faithfully,

Signed

IBRAHIM WAKO

COUNTY SECRETARY/COUNTY HEAD OF PUBLIC SERVICE

Cc:H.E The Governor

Isiolo County Government”

The petitioner replied the suspension letter by his letter dated 29.04.2016 addressed to the 2nd respondent and copied to the 3rd respondent. The letter stated as follows:

“Dear Mr. Ibrahi Wako

RE: SUSPENSION OF CHAIRMAN, COUNTY PUBLIC SERVICE BOARD

I am in receipt of your letter ref. ISL/CG/CPSB/VOL 1/200 dated 29/04/2016 in which you purported to have suspended me as the Chairperson of the County Public service board.

Section 57 of the county government Act establishes a County Public Service Board (CPSB) in each County which shall be body corporate with perpetual succession and a seal; and capable of suing and being sued in its name.

The AG’s advisory ref. AG/CONF/2/C/119 VOL.1 dated October12, 2015 to the transitional authority gave a legal opinion that appertains both to the management of the office of the chairman and the secretary of the public service board vis a vis office of the governor. In its paragraph 4, it states, ‘section 58(5) of the County government outlines the procedures for removal from office of the members of the board. These are –

a. On grounds set out for removal of members of a constitutional commission under Article 251(1) of the constitution; and

b. By a vote of not less than seventy five percent of all the members of the county assembly.

Under paragraph 6 of the AG’s advisory, “the County Government Act does not envision a disciplinary process over members of the CPSB other than removal from office, which removal must be undertaken by the respective County Assembly that vetted the candidates’ appointment while keeping in mind the principle articulated in Art.236 of the constitution require due process on administrative action. This is in line with the practice established throughout the fabric of the constitution on select state officers whose functions incorporate a

distinct fiduciary duty, and thereby require the appointment of a person of such competence, sound ethical standing and moral character that a breach of his/her duty would only result in removal from office rather than disciplinary action.”

I would wish to state that you have no powers whatsoever to purport to take any administrative action against me. As the chair to the board, I do not report to you as the county secretary. You are apportioning yourself fictitious powers as your mandate according to section 44(3) a-d of the County Government are as follows:-

That the county secretary shall –

- a. Be the head of the county public service.**
- b. Be responsible for arranging the business, and keeping the minutes of the county executive committee subject to directives of the executive committee;**
- c. Convey the decisions of the county executive committee to the to the appropriate persons or authorities.**
- d. Perform any other function as may be directed by the county executive committee.**

From the list above, there is nowhere that you are given a mandate of disciplinary control unless the same is delegated to you in writing by the CPSB in line with section 86 of the CGA. Your action to purport to institute a disciplinary measure against me is at best laughable.

In your letter, you made a wild claim that you are the head of the county public service board. I wish to dispute this on the basis of paragraph 7 of the AGs advisory that “the county assembly is the direct oversight agency responsible for the performance of the CPSB. The CPSB’s expected adherence to the values and principles of public service requires that CPSB must operate as an independent legal entity and it is subsequently established as a body corporate for this purpose. The CPSB members cannot therefore be subjected to the disciplinary processes envisioned for other members of the County public service”. Further, County Public Service is separate and distinct from County public service board. For your information, in your letter, you misquoted section 56(2) of the CGA which makes reference to the County Public service and not the County public service board. According to the regulation that you have quoted, the public service commission in its guidelines and delegation instrument reference no.PSC/ADM/14/IV(62) delegated powers to discipline seconded officers to the CPSB and not to your office as you alleged.

Thirdly, you are not the appointing authority for the office of the Chairperson, County Public Service board and thus logically, you cannot purport to suspend the office holder at will.

Fourthly, your allegation that I assaulted a staff in my office is regrettable because the assault drama was authored by yourself and your ilk and I have never been party to any assault case in Kenya. You are simply trying to settle scores through use of junior persons to organize a well choreographed assault story to tarnish my name.

Fifthly, the rule of law demands that due process be observed where a member of the County Public Service board is to be removed from office as a result of grounds laid down in Article 236 of the Constitution of Kenya.

In view of the above, I wish to state that your actions are informed by malice, vendetta and witch-hunt intended to intimidate me so as to compromise the independence of the CPSB. I assure you that no amount of intimidation from your quarters will diminish my resolve to uphold the rule of law and justice in the execution of my duties.

Finally I wish to categorically state that your letter purporting to suspend me is illegal and will not have any bearing on me in terms of performance of my duties and thus dismiss it with contempt that it deserves.

Sincerely,

Signed

Hussein Roba Boru

Chairman, County Public Service Board – Isiolo

Cc

HE Godana Doyo Adhi, Governor, Isiolo County

Hon. Speaker, County Assembly of Isiolo

County Commissioner, Isiolo County – Please provide security

The Clerk, County Assembly of Isiolo

The Secretary, County Public Service Board”

Upon receiving the petitioner’s letter quoted above, the 3rd respondent, the Governor for Isiolo County, addressed to the petitioner the letter dated 05.05.2016 as follows:

“Dear Sir

RE: SUSPENSION FROM OFFICE OF THE CHAIRMAN OF COUNTY PUBLIC SERVICE BOARD

The above subject matter and your letter dated 29th April, 2016 and that from the office of the county secretary of even date all copied to my office refers.

Be advised that the county government and the governor as the appointing authority takes the same stand as that of the county secretary and that your suspension has nothing to do with your removal from office as envisaged in section 58(5) of the county government act.

Further note that no one is above the law and your grand standing that even facing criminal charges, attracts no administrative disciplinary action against you or any member of the county public service board in untenable.

You shall be entitled to your remuneration and benefits while on suspension as per the provision of the law in regard to officers on suspension pending your clearance from the criminal charges against you.

Be advised that this action has been taken purely as an administrative action and in keeping with fidelity to the rule of law. I hereby now direct that you proceed to serve your suspension forthwith until further directions as per terms contained herein.

Signed

H.E. GODANA DOYO

GOVERNOR – ISIOLO COUNTY

Cc.

1. County Secretary

2. Payroll Manager”

The petitioner’s case is that the purported suspension was a culmination of numerous schemes and machinations by the 2nd and 3rd respondents and a section of the board members of the 4th respondent to remove the petitioner from office through the backdoors. In particular the petitioner stated that on 03.07.2015 the 3rd respondent purported to suspend the petitioner from office. The petitioner challenged the same in this court and the court delivered judgment in **Hussein Roba Boru –Versus- The County Government of Isiolo and 2 Others [2015]eKLR** quashing the suspension and restraining the 1st and 3rd respondents herein and their agents from interfering with the petitioner’s performance and discharge of his duties as the 4th respondent’s chairperson. Accordingly, the petitioner had resumed duty but the 3rd respondent subsequently prevailed upon sum of the 4th respondent’s members to boycott meetings especially in January 2016.

The petitioner’s further case was that by the letter dated 28.11.2013 the 2nd respondent had irregularly appointed one Asnino Ali Dabaso as a Messenger or Tea Person effective 2.12.2013 and to stand terminated at the end of the term of the 3rd respondent; and that the said Asnino was deployed to serve at the 3rd respondent’s house. Later, the said Asnino was deployed to the offices of the Board, the 4th respondent. The petitioner’s further case is that the 2nd respondent also irregularly deployed to the offices of the 4th respondent one Halima Liban and Selina Amathe. The petitioner’s case is that the irregular deployments of the said persons to the 4th respondent’s offices were in fact wicked designs in a conspiracy that culminated in a fabricated charge of assault against the petitioner and in the pending criminal case the complaint was the said Asnino Ali Dabaso and the prosecution witnesses were the said Halima Liban and Selina Amathe.

The petitioner’s further case is therefore that the reasons for the purported suspension per the letter of suspension dated 25.04.2016 (being the fabricated criminal charges and a complaint by members of the 4th respondent) were unfounded and baseless.

The **1st issue** for determination is whether the 2nd respondent had authority to suspend the petitioner per the letter dated 25.04.2016. The 2nd respondent stated that he was acting in the capacity of the county secretary and head of Public Service Board of Isiolo County, and, as per regulation 2(b) of the Public Service Commission and County Assembly Boards on discipline of seconded officers to the county governments. First, the 2nd respondent has not showed a provision of law that emplaced him to the position of head of the Public Service Board of Isiolo County. Second, even if the court considers that the county secretary is the head of the county public service per section 44(3) (a), the court holds that the provision conferred the county secretary an additional status or designation as the same did not amount to an unchained power or function importing that the county secretary lords over all other officers in the county public service as though the county secretary is the master and the other officers servants of the county secretary. The court returns that no such master and servant relationship was created around the provision that the county secretary is the head of the county public service. The court further finds that the county secretary’s functions or duties are clearly spelt out in section 44(3) (b), (c) and (d) and clearly they do not include suspending or exercising disciplinary control over the chairperson and members of the county public service board or indeed, any other officer in the county public service .

While making that finding the court upholds its opinion in **Mundia Njeru Gateria –Versus- Embu County Government & 5 Others [2015]eKLR**, thus, “**Section 58(1)(a) of the County Government Act, 2012 provides that the chairperson of the County Public Service Board is nominated and appointed by the county governor with the approval of the county assembly. Section 58(5) of the Act provides that the members of the Board may only be removed from office on grounds set out for the removal of members of a constitutional commission under Article 251(1) of the**

Constitution; and by a vote of not less than seventy five percent of all the members of the county assembly. The grounds for removal under the said Article 251(1) include serious violation of the Constitution or any other written law, including a contravention of Chapter Six; gross misconduct, whether in the performance of the member's or office holder's functions or otherwise; physical or mental incapacity to perform the functions of office; incompetence; or bankruptcy.

The court has considered the grounds and the procedure for removal of the members of the Board who, include the chairperson of the Board.

The person desirous that the chairperson is removed from office must satisfy the substance and the procedure by first, alleging the details of the grounds that satisfy any of those enumerated in the Constitution and secondly, submitting the appropriate petition to the county assembly for the assembly's consideration and resolution. There is no exception of application of the procedure where the removal is to be as desired by the county governor."

And further,

"Thus, the court finds that in the present case, the 2nd respondent erroneously acted in the misconceived believe that the petitioner was his servant. The court finds that the petitioner was not the 2nd respondent's servant but like the 2nd respondent, he was a servant of the people and the 2nd respondent was not the master of the petitioner. The court holds that in such circumstances, the 2nd respondent did not enjoy the inherent disciplinary powers of a master over a servant as such relationship did not exist at all. The petitioner's service as a public officer was governed and based upon the provisions of the Constitution, legislation and governmental policies. It was a service free from the individual will or discretion of the petitioner or the 2nd respondent."

The court further upholds Richard Bwogo Birir –Versus- Narok County Government and 2 Others [2014] eKLR where the court held thus,

"The court has carefully considered the enumerated constitutional provisions and holds that all persons holding public or state office in Kenya in the executive, the legislature, the judiciary or any other public body and in national or county government are servants of the people of Kenya. The court holds that despite the level of rank of state or public office as may be held, no public or state officer is a servant of the other but all are servants of the people. Thus, the court holds that the idea of servants of the crown is substituted with the doctrine of servants of the people under the new Republic as nurtured in the Constitution of Kenya, 2010. The hierarchy of state and public officers can be complex, detailed and conceivably very long vertically and horizontally but despite the rank or position held, the court holds that they are each a servant of the people and not of each other as state or public officers. They are all the servants of the people. The court holds that there are no masters and servants within the hierarchies of the ranks of state and public officers in our new Republic."

Accordingly, to answer the 1st issue for determination, the court returns that the 2nd respondent lacked authority to suspend the petitioner per the letter dated 25.04.2016.

The 2nd issue for determination is whether the petitioner is entitled to the remedies as prayed for. The court makes findings as follows:

- a) The petitioner prayed that a declaration be issued to declare that the purported suspension of the petitioner from the office of the chairman of Isiolo County Public Service Board vide the 2nd respondent's letter dated 25.04.2016 is unlawful and illegal on account of violation of section 58 (5) of the County Governments Act No. 17 of 2012 as read with Article 47 and 251(1) of the Constitution of Kenya, 2010. The court has found that the suspension was issued without authority and the court finds that the same violated the cited statutory and constitutional provisions that safeguarded the removal of the petitioner from office. Thus, the declaration will issue as prayed for.

b) The petitioner prayed that a declaration be issued to declare that the purported grounds or reasons specified in the 2nd respondent's purported letter of suspension dated 25.04.2016 are *ultra vires* section 58 (5) of the County Governments Act No.17 of 2012 and do not constitute any reasonable grounds for suspension of the petitioner as chairman of Isiolo County Public Service Board as anticipated under Article 251(1) of the Constitution of Kenya, 2010. The petitioner in his reply to the purported suspension letter has elaborately stated the procedure and organs that would be invoked in event of a desired removal of a member of the county public service board including the chairperson. The petitioner's replying letter clearly shows that the Honourable Attorney General has issued the applicable advisory to all counties. The procedure would entail presenting the relevant petition for the desired removal to the relevant county assembly. It is the considered view of this court that whether the alleged grounds for removal meet the threshold as provided in Article 251 (1) of the Constitution would be a matter outside the court's present forum or platform as the same would, under the doctrine of justiciability, be best left to the determination of the person initiating the desired removal petition and then the county assembly that would consider such petition. While making that finding, the court, at the same time, upholds its opinion in the judgment of 11.03.2016 in **George Maina Kamau –Versus- The County Assembly of Murang'a and 2 Others [2016]eKLR** thus, **"Nevertheless, the court is not setting a hard rule that its jurisdiction is limited to only an inquiry into procedural matters. The rule the court is setting is that it will consider all cases where illegality is alleged both in matters of substance and procedure. The court says that it would have to look into merits of the grounds for removal in an appropriate case where a petitioner may seek to show illegality founded upon the county assembly moving against the petitioner under the said section 40 upon illegal grounds; such that illegality would be founded upon the principle of unreasonableness per Lord Greene in Associated Provincial Picture Houses Limited –Versus- Wednesbury Corporation (1947) 2ALL ER 680 at 682-683 thus, "It is true the discretion must be exercised reasonably. What does that mean? Lawyers familiar with the phraseology commonly used in relation to the exercise of statutory discretions often use the word 'unreasonableness' in a rather comprehensive sense. It is frequently used as general description of the things that must not be done. For instance, a person entrusted with discretion must direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to the matter that he has to consider. If he does not obey these rules he may truly be said, and often is said, to be acting 'unreasonably'. Similarly, you may have something so absurd that no sensible person could ever dream that it lay within the powers of the authority. Warrington L.J., I think it was, gave the example of the red-haired teacher, dismissed because she had red hair. That is unreasonable in one sense. In another sense it is taking into consideration extraneous matters. It is so unreasonable that it might almost be described as being done in bad faith. In fact, all these things largely fall under one head."** While **George Maina Kamau –Versus- The County Assembly of Murang'a and 2 Others [2016]eKLR** was about the removal of a county executive member, the court's opinion is that the same would apply to cases of removal of the chairperson or member of the county public service board. In the present case there was no proposed petition for removal of the petitioner as the board's chairperson and there was nothing before the county assembly. In the court's opinion, it would therefore be extremely remote for the court to delve into the merits of the grounds that were set out in the purported letter of suspension. The court will therefore decline the prayer as was urged for the petitioner.

c) The petitioner prayed that a declaration be issued to declare that under section 58 of the County Governments Act No. 17 of 2012 as read with Article 251 of the Constitution of Kenya, 2010, the petitioner remains the legitimate and lawful holder of the position and office of chairman of Isiolo County Public Service Board and for that purpose to resume duty with immediate effect. The court has found that the purported suspension was without authority in law and the declaration will be allowed as prayed for.

d) The petitioner prayed that a declaration be issued to declare that the purported suspension of the petitioner by the 2nd respondent constituted a violation of the petitioner's rights under Articles 27(1), 28, 41(1), 47 and 50 of the Constitution of Kenya. It was submitted that by the purported

suspension, the respondents twisted the law thereby contravening the petitioner's right to equal protection and equal benefit of the law per Article 27(1). Further it was submitted that the suspension amounted to unlawfully hounding the petitioner out of the office he held thereby contravening the petitioner's right to have his dignity respected and protected per Article 28. By exercising fictitious powers of disciplinary control in imposing the offensive suspension, it was submitted that the claimant was subjected to an unfair labour practice contrary to Article 41(1). It was submitted that the purported suspension clearly violated the procedural safeguards in section 58 (5) of the County Governments Act, 2012 thereby contravening Article 47. The court agrees with those submissions and a declaration will issue accordingly. It was submitted that the purported suspension issued without a hearing as envisaged under Article 50 of the Constitution so that the Article was contravened. The court disagrees with that line of submission because the petitioner was not amenable to the suspension in the first instance and the declaration will be declined as far as the prayer relates to Article 50.

e) The petitioner prayed that a declaration be issued to declare that all decisions, actions and proceedings of the 4th respondent made, taken or undertaken during the purported suspension of the petitioner are null and void. The court reckons that in the interim and pending the hearing and determination of the petition, the court stayed the implementation of the purported suspension decision. The court has further considered that the decisions by the 4th respondent that would be subject to the prayer as made have not been exhibited. Accordingly, the court will decline to grant the prayer.

f) The petitioner prayed that the Honourable Court be pleased to issue a permanent order of injunction and a prohibitory order respectively against the 2nd respondent and the 1st and 3rd respondents, by themselves, their agents, officers, servants and or employees or whomsoever else acting on the 1st, 2nd, and 3rd respondents' behalf or instructions from barring, preventing or restricting or in any other manner whatsoever or howsoever from interfering with the petitioner in his undertaking, performance or discharging of his duties and functions as the chairman of the Isiolo County Public Service Board. The court considers that there is no material before the court to bar the grant of the prayer as made and further that the claimant is entitled to peaceful discharge of the duties of the office of chairperson as duly appointed to hold and without harassment or intimidation as protected in Article 236 of the Constitution. The court will therefore allow the prayer as made.

g) The petitioner prayed that an order of certiorari to be issued to bring into the Honourable Court, for purposes of being quashed, the purported letter of suspension of the petitioner from his position of chairman of the Isiolo County Public Services Board which letter was issued by the 2nd respondent and dated 25.04.2016. The court has found that the letter was issued without authority in law and the petitioner is entitled as prayed for.

h) As the petitioner has substantially succeeded in his claims, the respondents will pay the petitioner's cost of the proceedings.

It was submitted that the petitioner be awarded a sum of Kshs.5 Million as compensation for repeated and flagrant violation of the petitioner's constitutional rights by the respondents. It is obvious that such prayers were never made and awarding the same would be clearly prejudicial to the respondents.

In conclusion, judgment is hereby entered for the petitioner against the respondents for:

a) The declaration that the purported suspension of the petitioner from the office of the chairman of Isiolo County Public Service Board vide the 2nd respondent's letter dated 25.04.2016 was unlawful and illegal on account of violation of section 58 (5) of the County Governments Act No. 17 of 2012 as read with Article 47 and 251(1) of the Constitution of Kenya, 2010.

b) The declaration that under section 58 of the County Governments Act No. 17 of 2012 as read

with Article 251 of the Constitution of Kenya, 2010, the petitioner remains the legitimate and lawful holder of the position and office of chairman of Isiolo County Public Service Board and for that purpose to continue on duty forthwith.

c) The declaration that the purported suspension of the petitioner by the 2nd respondent constituted a violation of the petitioner's rights under Articles 27(1), 28, 41(1), and 47 of the Constitution of Kenya.

d) The permanent order of injunction and the prohibitory order respectively hereby issued against the 2nd respondent and the 1st and 3rd respondents, by themselves, their agents, officers, servants and or employees or whomsoever else acting on the 1st, 2nd, and 3rd respondents' behalf or instructions from barring, preventing or restricting or in any other manner whatsoever or howsoever from interfering with the petitioner in his undertaking, performance or discharging of his duties and functions as the chairman of the Isiolo County Public Service Board.

e) The order of certiorari hereby issued to bring into the Honourable Court, for purposes of being quashed, the purported letter of suspension of the petitioner from his position of chairman of the Isiolo County Public Services Board which letter was issued by the 2nd respondent and dated 25.04.2016.

f) The respondents to pay the petitioner's costs of the suit.

Signed, dated and delivered in court at Nyeri this Friday, 2nd December, 2016.

BYRAM ONGAYA

JUDGE