



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT AT NAIROBI
CAUSE NUMBER 2001 OF 2013

BETWEEN

JAYNE NYAGOHA EMISEMBE.....
CLAIMANT

VERSUS

NAIROBI COUNTY BRANCH OF KUPPET..... RESPONDENT

RULING

The Claimant filed an application on 16th December 2013 seeking her suspension by the Respondent, from the position of Treasurer of the Respondent, stayed and she is reinstated to that position pending hearing and determination of the Claim. She similarly prays the Court to restrain Monica Githinji from acting as Treasurer and Bank Signatory of the Respondent.

The application is supported by the Affidavit of the Claimant sworn on 16th December 2013.

The Respondent filed an Affidavit in reply, sworn by its Executive Secretary Moses O. Mbora on 24th December 2014.

The Parties' Advocates addressed the Court on the application on 22nd January 2014.

The Court Finds and Orders:-

1. The Court does not think it is proper that it should restrain Monica Githinji from acting as Treasurer and Bank Signatory of the Respondent, without the benefit of hearing her. She is not a Party to the Claim, and it would be irregular to grant an injunction against her.
2. The suspension of the Claimant seems to the Court to be a provisional measure. It is part of an on-going process. It is subject to the intervention by way of deliberations and ratification at the national level, by the National Governing Council of the Respondent. The Parties and the Court ought to allow the Respondent's Branch and National structures, to exhaust their internal mechanisms. It is not right that the Court should interfere with the Trade Union's internal mechanisms. It is not right that the Court should interfere with the Trade Union's internal mechanism in a process that is clearly still in its infancy.
3. The Claimant's suspension may be lifted by the National Governing Council at the end of the deliberations. The intervention of the Court may turn out to be premature and/or totally unnecessary. The suspension may be confirmed, in which event the Claimant would have recourse to the Court's intervention. She is not prejudiced at all, if at this point the Court rejects her current application, as in the

end the Court may return her to the position of Treasurer, without loss of her dues from July 2013. For these reasons, *IT IS SO ORDERED:-*

- (a) The Application by the Claimant dated 16th December 2013 is disallowed*
- (b) No order on the costs*
- (c) Claimant to prosecute her main claim.*

Dated and delivered at Nairobi this 14th day of February 2014

James Rika

Judge