

REPUBLIC OF KENYA  
IN THE POLITICAL PARTIES DISPUTES TRIBUNAL  
COMPLAINT NO. 156 OF 2017

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DAVID KIBITOK BUNGEI.....COMPLAINANT

-VERSUS -

KENYA AFRICAN NATIONAL UNION ..... RESPONDENT

**JUDGMENT**

***Summary of the Case***

1. The Complainant has moved this Tribunal by way of a claim dated 8<sup>th</sup> May 2017 seeking that this Tribunal grant the following orders;
  - a. A declaration that the certificate issued by the Respondent for nominee Member of Parliament, Chesumei Constituency Nandi County as null and void.
  - b. The Respondent to conduct a free and fair exercise as required by law and as per the party's nomination Laws and Regulations in Chesumei Constituency within Nandi County.
  - c. The Costs of this suit and interest
  - d. Any other or further relief that the honourable court may deem fit to grant.
2. The Complainant states that he is a member of the KANU and a candidate for nomination for Member of Parliament for Chesumei Constituency, Nandi County. It is his submission that the party primaries were to be held on the 26<sup>th</sup> April, 2017 but were later postponed. He alleges that to date no nominations have been conducted hence this Complaint.
3. It is his submission that the Respondents encouraged all aspirants to be patient and no candidate will be selected or nominated without following the due process of nomination exercise. That the Respondent has failed to disclose any information on whom the certificate will be issued to. He argues that the

nomination exercise was to be conducted in accordance with the Elections Act, the Political Parties Act, The Party Constitution and Elections and Nominations Rules.

4. He submits that his political rights have been infringed and continue to be infringed by the Respondent. The Respondent has overturned and overruled the will of the people of Chesumei Constituency by purporting to illegally and arbitrarily imposing on them a party nominee. He urges this Tribunal to compel the Respondents to hold nominations.
5. The Complainant states that the Respondent declined to receive his complaint alleging that the time for filing of internal disputes had lapsed.
6. This Complaint is undefended.

### **Analysis**

7. The Complainant herein is seeking that this Tribunal issue a declaration that the Certificate issued by the Respondent for nominee Member of Parliament, Chesumei Constituency be declared null and void. The Complainant is asking this Tribunal to issue a blanket order declaring the nomination certificate issued by the Respondent null and void. What if the certificate has not been issued as alleged by the Complainant? The Complainant has failed to specify when and to whom the Certificate was issued to. Further, he does not even enlighten us on who the other aspirants are leaving us wondering as to whether indeed there were any other aspirant.
8. We refer to the Supreme Court Decision in the case of Michael **Mungai v Housing Finance Co. (K) Ltd & 5 Others** SC. Application No. 9 of 2015 where the Court observed at Paragraph 14 that;  
*..... One cannot ask the Court to exercise its powers in a carte blanche manner. A litigant's plea must be precise and targeted. One cannot make omnibus prayers to the Court with the expectation that the Court will be merciful to him and decipher them and grant one or either of them...*

9. Based on this we decline to grant prayer no (i) of the Complaint dated 8<sup>th</sup> May 2017 and as a consequence all the other prayers sought fail. We proceed to make the following orders:

- a. **The Complaint dated 8<sup>th</sup> May, 2017 is dismissed.**
- b. **No Orders as to costs.**

Orders accordingly.

**DATED AT NAIROBI THIS 13th DAY OF MAY 2017.**

1. **Kyalo Mbobu (Chairman)** .....
2. **James Atema (Member)** .....
3. **Hassan Abdi (Member)** .....