



**REPUBLIC OF KENYA**  
**POLITICAL PARTIES DISPUTES TRIBUNAL**  
**COMPLAINT NO. 173 OF 2017**

OMAR SHALLO .....COMPLAINANT

**-VERSUS-**

JUBILEE PARTY OF KENYA.....1<sup>ST</sup> RESPONDENT

MOHAMMED SALIM.....2<sup>ND</sup> RESPONDENT

**JUDGMENT**

**Summary of the Complaint**

[1] The 1<sup>st</sup> Respondent undertook a party nomination exercise for the position of Member of Parliament, Mvita Constituency on 26<sup>th</sup> April 2017, where the Complainant was declared the winner. Aggrieved with the outcome, the 2<sup>nd</sup> Respondent contested the results of the exercise before the Jubilee Party Appeals Tribunal (hereinafter referred to as party’s IDRM) on the basis that the exercise was marred by serious irregularities and that the Complainant was not the winner. In a decision dated 6<sup>th</sup> May 2017, the party’s IDRM declared the 2<sup>nd</sup> Respondent as the duly elected party nominee for Member of Parliament for Mvita Constituency. Dissatisfied with this decision, the Complainant is now seeking this Tribunal to compel the 1<sup>st</sup> Respondent to issue the nomination certificate to him.

[2] The Complainant further avers that in a decision dated 5<sup>th</sup> May 2017 in *Complaint No. 39 of 2017*, the 1<sup>st</sup> Respondent’s nomination exercise of 26<sup>th</sup> April 2017 in Mombasa County was rendered a nullity and a fresh nomination exercise was to be conducted. Further, that contrary to this decision, the repeat exercise has not been

conducted. He also contends that the IDRM process was a nullity as he was not duly notified or heard by the IDRM. He therefore contends that he remains the rightful holder of the nomination certificate.

**Response**

[3] The 2<sup>nd</sup> Respondent avers that the party's IDRM annulled the Complainant's win of the nomination exercise on the basis that the Complainant committed serious election malpractices. He contends that the Complainant was duly invited to the IDRM proceedings but the Complainant did not attend.

**Issues for Determination**

[4] The sole issue for determination is *whether or not the Complainant should be issued with the Jubilee Party nomination certificate for Member of Parliament, Mvita Constituency.*

**Analysis**

[5] Parties' Internal Dispute Resolution Mechanisms are organs within parties charged with the responsibility of hearing and determining intra-party disputes at the first instance. We note that contrary to the Complainant's assertions, the party's IDRM was properly mandated to deliberate over the dispute as presented before it by the 2<sup>nd</sup> Respondent. The Complainant further challenged the decision of the IDRM on the basis that he was not properly served with the said complaint and that he only received the documents through a mobile phone messaging application known as Whatsapp. We note that the Complainant was made aware of the proceedings before the party's IDRM.

[6] The Complainant averred that the nomination exercise had been rife with irregularities but submitted no evidence to support these allegations. He based his averments on the finding in *Complaint No. 39/2017* which case was finally withdrawn and thus cannot present as a determinant that the nomination exercise was rife with irregularities. In any event, having perused the evidence, pleadings

and submissions before us, it is clear that the Complainant has not substantially demonstrated to this Tribunal how or why he should be the *bonafide* holder of the 1<sup>st</sup> Respondent's nomination certificate or why the decision of the IDRMM should not be upheld.

**Orders**

In the circumstances, we find that the Complaint dated 9<sup>th</sup> May 2017 fails and is dismissed with no order as to costs.

**DATED and DELIVERED AT NAIROBI this 11<sup>TH</sup> DAY of MAY 2017**

1. **M. O. Lwanga (Presiding Member) .....**
  
2. **Desma Nungo (Member).....**
  
3. **Dr. Adelaide Mbithi (Member) .....**