



REPUBLIC OF KENYA

THE POLITICAL PARTIES DISPUTES TRIBUNAL AT NAIROBI

COMPLAINT CASE NO. 81 of 2017

KIPOKI OREU TASUR.....COMPLAINANT/APPLICANT

VERSUS

GEDEON OREU KONCHELLA.....1ST RESPONDENT

JUBILEE PARTY OF KENYA.....2ND RESPONDENT

RULING

Summary of the Complaint

[1] This matter came up for hearing on 9.5.2017 of the Complaint and the Complainant’s Notice of Motion dated 5.5.2017. The Claimant contended that the 1st Respondent engaged in serious electoral malpractices including bribery of the Returning Officer. He prayed that as the basis of malpractices and allegations of bias is in respect of the Presiding Officers in Mashangwa and Nyamensangura Polling Stations were resulting from the said polling stations. It was his contention that the Election result was not accurate as nominations did not take place in these Polling Stations. While Mr. Otai, Counsel for the Claimant conceded that these complaints had been subjected to the IDR process, he did not indicate why the Decision of IDR should be impugned.

[2] He prayed for a declaration that the 1st Respondent's Nomination as the 2nd Respondent's Nominee be nullified and that as a result of the violence and other misconduct, he be barred from participating in future processes.

[3] Counsel for the 2nd Respondent, in reply, asserted that even if it was proved that there were malpractices, there was no proof that they affected the outcome of the Claimant's prayers that the 1st Respondent be barred from participating in future processes. It was submitted that that it was not open to this Tribunal to issue such Orders. It was pointed out that the Claimant had not impugned the Decision of the IDR. They contended that the Decision was fair and invited the Tribunal to decline to reopen a matter that had been substantially addressed by the IDR. The 2nd Respondent prayed that the Decision of the IDR be upheld.

[4] The 1st Respondent's submissions are largely the same as those of the 2nd Respondent and we will not rehash them.

Issue for Determination

[5] From a review of the material on record, it appears to us that the only issue for determination is whether the IDR decision ought to be upheld.

Analysis

[6] This Tribunal has been called upon to nullify the Nomination of the 1st Respondent. It is not disputed that an IDR process took place. The Parties annexed Appeal No. 2 of 2017 before the party IDR between the Parties to this complaint. The issues raised before this Tribunal are substantially the same as those raised at the IDR

where the allegations of bribery and bias of Party Officials were raised, interrogated and dismissed by the IDRМ.

[7] Based on the record presented before us in this instant, we find no reason to disturb the IDRМ Decision. The Claimant has not satisfied this Tribunal that the tallies adduced by the Claimant should be relied on as a basis for upsetting the Nomination of the 1st Respondent. They are his own tallies and are not confirmed by formal Party documents.

Orders/Reliefs

[8] In the circumstances, we find that the Claimant has not given the Tribunal sufficient basis to disturb the IDRМ Decision. Therefore, the Jubilee Party National Elections Appeals Tribunal Ruling dated 2nd May 2017 is upheld.

[9] In the interests of Party unity, each Party will bear its own costs.

DATED and DELIVERED AT NAIROBI this 10TH DAY of MAY 2017

1. M. O. Lwanga (Presiding Member)

2. Desma Nungo (Member)

3. Paul Ngotho (Member).....

4. Dr. Adelaide Mbithi (Member)