



REPUBLIC OF KENYA
IN THE POLITICAL PARTIES DISPUTES TRIBUNAL
COMPLAINT NO.216 OF 2017

AMB. JAMES BINSAI CHEPSONGOLCOMPLAINANT

-VERSUS -

KENYA AFRICAN NATIONAL UNION (KANU)..... RESPONDENT

JUDGMENT

Summary of the Case

1. The claimant, an aspirant in the nomination of KANU for Baringo North Constituency 2017. He alleges that the Respondent postponed the nomination exercise for Baringo North after the scheduled date coincided with the date set for Jubilee nomination and since then the Respondent has failed to call for fresh nominations.
2. The claimant at paragraph 6 of his supporting affidavit submits that, following the cancellation of the nomination it was proposed that the aspirants engage in negotiations and agree on one candidate. After this proposal the aspirants held a meeting with the Party chairman and it was further agreed that the Chairman comes up with criteria on the way forward in picking a consensus candidate from the three aspirants and thereafter inform the rest on the criteria used. The Claimant allege that this consensus has not been reached.

3. He avers that he now has information that the Respondent has issued or is in the process of issuing a nomination certificate to Dr. Nelly Yatich and hence this application.
4. He urges this Tribunal to compel the Respondent to conduct nominations for Baringo North Parliamentary seat with timelines set by this Tribunal.
5. The Respondent entered appearance. However, it did not file any response to the complaint.

Issue for Determination

6. The issue that arises for determination is whether the Respondent can be ordered to conduct nomination exercise for Baringo North.
7. It is the Complainants case that the aspirants held a meeting with the Party chairman and agreed that the chairman comes up with criteria of picking a consensus candidate which has not been done. Thus he is urging this Tribunal to order the Respondent to conduct a nomination exercise in Baringo North Constituency.
8. In this instant, and from the complainant's own admission there appears to have been a consensus amongst all the aspirants for Baringo North Parliamentary seat and the Respondent on the approach of nominating an aspirant, which is yet to be implemented. The approach was that the Chairman of the party comes up with criteria on how to pick a consensus candidate from the three aspirant. We are of the view that placing such an enormous task to the Party Chairman is prone to abuse and may lead to obvious subjectivity. Such a task ought to be done in accordance with the party constitution and election nomination rules.

9. We therefore are inclined to interfere with the process agreed upon by the parties save that it should be done in accordance with the party's Constitution and nomination and election nomination rules.

10. As a consequence, we proceed to order that;

a. The Respondent National Election Board is directed to determine the Party Nominee for North Baringo Constituency National Assembly seat in a manner compatible with the Party Constitution, Election and Nomination Rules.

b. In the interest of Party unity each party to bear its own costs

11. Orders accordingly.

DATED AT NAIROBI THIS 13th DAY OF MAY 2017.

1. Kyalo Mbobu (Chairman)

2. James Atema (Member)

3. Hassan Abdi (Member)