



REPUBLIC OF KENYA
IN THE POLITICAL PARTIES DISPUTES TRIBUNAL AT NAIROBI
COMPLAINT NO. 243 OF 2017

CHEPKIRUI DAMARIS.....CLAIMANT

VERSUS

KIPSANG MIBEI KENNEDY.....1ST RESPONDENT
RETURNING OFFICER

EMURUA DIKIR-NAROK COUNTY.....2ND RESPONDENT
NATIONAL ELECTIONS BOARD

JUBILEE PARTY.....3RD RESPONDENT

JUDGMENT

Summary of Complaint

1. This is a complaint arising out of nomination exercise for the position of Member of County Assembly for Mogondo Ward in Emurua-Dikir Constituency, Narok County. The Claimant raised several incidences which culminated in his appeal to the 3rd Respondent. The 3rd Respondent's National Election Board (NEB) considered the appeal and by its ruling dated 5th May, 2017, the appeal was dismissed upholding the nomination results of the 1st Respondent. The Claimant, dissatisfied with the IDRM decisions, has now approached the Tribunal for redress. He claims that there were irregularities that he avers were not considered by the 3rd Respondent's Appeals Tribunal.
2. The 3rd Respondent filed its reply to the complaint on 16th May, 2017 by way of an Affidavit by MaryKaren Kigen-Sorobit, an Advocate of the High Court and the 3rd Respondent's Deputy Executive Director, Legal and Compliance. The 3rd Respondent avers that during the hearing, the requisite polling forms 3 and 4B (ii) were perused and a re-tallying undertaken at the end of which no irregularity was noted. The 3rd Respondent therefore asks the Tribunal to uphold the decision of the 3rd Respondent's National Appeals Tribunal.

Issue for determination

3. The main issue for determination is whether or not the Claimant should be declared as the 3rd Respondent's nominee for the position of MCA, Mogondo Ward.

Analysis

4. From the evidence adduced by the Claimant, and in particular the tallying sheets, we are unable to rely on the same as they are neither signed nor the author disclosed. This may well be the Claimant's own tallies. Moreover, the Claimant has not been able to substantiate the irregularities averred in her pleadings. A perusal of the ruling by the 3rd Respondent's National Appeals Tribunal reveals that they enquired into the irregularities and also polling results before making a ruling against the Claimant. The Tribunal wishes to point out that even though it does not exercise appellate jurisdiction over the Political Party Internal Disputes Resolution Mechanism, consideration is had to the extent to which such internal tribunal address the issues brought up by the parties. In this instant, we find that the internal mechanisms did exhaustively address concerns brought up by the aspirants. Accordingly, we find no merit in the Claimant's claims.

Orders

5. In the circumstances, we dismiss the Notice of Motion filed on 16th May, 2017 with no order as to costs.

DATED IN NAIROBI THIS 18TH DAY OF MAY, 2017.

1. **M. O. LWANGA(PRESIDING MEMBER)**
2. **DESMA NUNGO(MEMBER)**
3. **PAUL NGOTHO(MEMBER)**
4. **DR. ADELAIDE MBITHI(MEMBER)**