



REPUBLIC OF KENYA
IN THE POLITICAL PARTIES DISPUTES TRIBUNAL AT NAIROBI
COMPLAINT NO. 56 OF 2017

EVANSON NGENE NDUNGU.....CLAIMANT

VERSUS

STANLEY KIARIE WANJIKU.....1ST RESPONDENT

JUBILEE PARTY.....2ND RESPONDENT

JUDGMENT

Summary of complaint

1. The Claimant in his complaint dated 4th May, 2017 asserts that he was vying to be nominated for the party primaries for the position of Member of County Assembly, Ikinu Ward within Githunguri Constituency, Kiambu County.
2. He is aggrieved as he asserts that the Returning Officer miscalculated and altered the tallied votes to his detriment and to the detriment of the 1st Respondent who was declared winner. Unhappy with the results, he filed an appeal before the Jubilee Party National Elections Appeals Tribunal (IDRM) seeking that the 1st Respondent be denied the Nomination Certificate and be issued with a clear copy of all the results in all Polling Stations. The IDRM conducted a scouting of the results for MCA Ikinu Ward and also analyzed the video and audio evidence adduced before it. It came to the conclusion that the Respondent emerged winner with 2478 votes as opposed to the complainant's 2,446 votes. It therefore dismissed the appeal. Dissatisfied with the decision of the IDRM, he is now before us.

3. He prays for this Tribunal to revoke or cancel the Nomination Certificate issued to the 1st Respondent and a declaratory order that the Claimant is the rightful winner for MCA for the said Ward.

Response

4. The 1st Respondent's Supporting Affidavit opposes the complaint. He depones that he is the rightful winner and that the Claimant used forged and/or altered tallying sheets in his favour. The 2nd Respondent urged that both the Claimant and 1st Respondent appeared in the IDRМ where the 1st Respondent was declared winner in the nomination exercise conducted in Ikinu Ward.

Analysis

5. The Claimant wants us to revoke or cancel the Nomination Certificate issued to the 1st Respondent. He alleges that the tallied votes were falsified to his detriment. Both the 1st and 2nd Respondents submitted to this Tribunal that the document before us were not the same documents presented to the party's IDRМ.
6. The 2nd Respondent in particular urged that the claimant moved this Tribunal mischievously to obtain orders against the 1st and 2nd Respondents. From the record, we are satisfied that the evidence attached does not support the Claimant's claim. We are convinced that the IDRМ decision thoroughly scrutinized the evidence before its finding in favour of the 1st Respondent.

Orders

7. Consequently, we will not disturb the Party's IDRМ decision. We hereby dismiss the Notice of Motion dated 3rd May 2-17 and the Statement of Claim dated 4th May 201. We also vacate our interim orders dated 5th May 2017.

DATED IN NAIROBI THIS 10TH DAY OF MAY, 2017.

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