



REPUBLIC OF KENYA

IN THE POLITICAL PARTIES DISPUTES TRIBUNAL AT NAIROBI

COMPLAINT NO. 57 OF 2017

HON. JOHN OWUOR KOBADO.....COMPLAINANT

VERSUS

MARK NYAMITA.....1ST RESPONDENT

ORANGE DEMOCRATIC MOVEMENT.....2ND RESPONDENT

RULING

1. We note that the Complainant, although having come to us when he was a member of a political party, has since become an independent candidate by his own admission to the 1st Respondent's allocation dated 6th May 2017. In the circumstances, whereas section 40(1)(d) of the Political Parties Act No. 11 of 2011, grants this Tribunal jurisdiction to hear and determine disputes between an independent candidate and political party as contended by Counsel for the Complainant, we are of the view that the section contemplates such jurisdiction to be exercised where the independent candidate is not a member of the political party at the time of instituting the complaint before the Tribunal.
2. In the present situation, the Complainant as per paragraph 4 of the memorandum of complaint filed on 3rd May 2017 avers that he was a member of the 2nd Respondent. As this situation no longer obtains, we do not think the claim should

proceed any further as we no longer have jurisdiction under which the complaint was initially presented.

3. Accordingly, we allow prayer number 3 of the 1st Respondent's application dated 6th May 2017 and consequently declare that the Complainant has no locus in these proceedings. The complaint is struck out with no order as to costs.

Dated at NAIROBI this 6TH DAY of MAY 2017

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