



REPUBLIC OF KENYA

THE POLITICAL PARTIES DISPUTES TRIBUNAL

COMPLAINT NO. 201 OF 2017

MICHEAL MUNGAI MUKURI..... COMPLAINANT

-VERSUS-

JUBILEE PARTY.....1ST RESPONDENT

STEPHEN KARIUKI2ND RESPONDENT

JUDGMENT

Summary of the Complaint

1. The complaint arises out of the 1st Respondent's nomination exercises in respect of Mathare Constituency, Nairobi County held on 26th April 2017. The Claimant and the 2nd Respondent were all contestants in the party primaries. The Claimant avers that the nomination exercise was marred by irregularities and malpractices which the Claimant attributes to the 2nd Respondent. In the end, the Claimant avers that the Returning Officer failed to declare the winner.
2. The Claimant then lodged a complaint with the 1st Respondent's Tribunal being Appeal No. 379 of 2017. He avers that the matter never proceeded for hearing and after camping at the 1st Respondent's headquarters, he was informed that the appeal had been dismissed and the 2nd Respondent declared the winner. The

Claimant is aggrieved that the 1st Respondent's actions are tantamount to failed judicious exercise and a violation of the rules of natural justice. The Claimant is therefore seeking to prevent the issuance of the final nomination certificate to the 2nd Respondent.

The Response

3. No affidavit of service was on record. However, the 1st Respondent filed its submissions on 11th May 2017. The 1st Respondent challenges the complaint on grounds that it is unsupported and that the Claimant is merely fishing with the aim of derailing the nomination exercise. The 1st Respondent asserts that it afforded ample opportunity to the Claimant during its internal dispute resolution mechanism.

Issues for determination

4. The issues for determination in this dispute is whether the Claimant should be declared the 1st Respondents nominee.

Analysis

5. We have considered the Claimant's complaint together with the submissions filed. We note that the Claimant raises several grievances on the conduct of the nomination exercise. Unfortunately, the claim was not supported with any evidence apart from the complaint form dated 29th April 2017 and the statement of complaint dated 27th April 2017 all directed at the 1st Respondent. The complaints appear to have been dismissed albeit without a reasoned judgement. As the Tribunal does not exercise appellate jurisdiction over political party's internal dispute resolution mechanisms, the Tribunal will not go into the merits or otherwise of the 1st Respondent's decision which has in any event not been adduced for our interrogation.

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6. We have not seen any basis upon which to interfere with the 1st Respondent's position on its nominee. The Claimant has not demonstrated any basis to be declared the nominee in the place of the 2nd Respondent. Since the burden of proof in the circumstances lie with the Claimant, the Claimant has not discharged the same. Moreover, the Claimant cannot be allowed to benefit from a process he deems flawed.

Orders/Reliefs

7. In view of the findings above, the Claimant's claim and Notice of Motion both dated 9th May 2017 are hereby dismissed with no order as to costs.

DATED and DELIVERED AT NAIROBI this 11TH DAY of MAY 2017

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