



REPUBLIC OF KENYA
IN THE POLITICAL PARTIES DISPUTES TRIBUNAL
COMPLAINT NO. 232 OF 2017

PAUL IRUNGU MAINA.....COMPLAINANT

-VERSUS -

JUBILEE PARTY NATIONAL APPEALS TRIBUNAL..... 1ST RESPONDENT

SAMUEL NG'ANG'A MWANGI.....2ND RESPONDENT

JUBILEE PARTY.....3RD RESPONDENT

JUDGMENT

Summary of the Case

1. The claimant is an aspirant for Member of County Assembly for Kayole North Ward under the Jubilee Party. His claim is that, the nomination exercise by the 1st Respondent was a mere sham that was marred by glaring irregularities focused and framed to deny the him an opportunity to be a MCA Kayole ward and to further deny the voters a fair representation of a particular party. He seeks that this Tribunal do nullify the nomination certificate issued to the 2nd Respondent and in its place a declaration that he was duly nominated candidate for the MCA Kayole Ward under the Jubilee Party.
2. The Complainant alleges that the ballot boxes were open, broken and stuffed with ballot papers; that his agents were thrown out of three polling station. It is

his submission that the repeat of the nomination exercise is impractical owing to time constraints on all parties concerned and the elections timetable. He urges the tribunal to find that he was duly nominated to be the holder of Jubilee Party Ticket for MCA Kayole ward.

3. The complainant alleges that he was aggrieved by the nomination process which according to him was a sham and an abuse of the election and nomination process. He admits filing *Complaint No. 117 of 2017* before the National Appeals Tribunal challenging the 1st Respondent's decision to disenfranchise the applicant. He alleges that this *Complaint No. 117/2017* is yet to be decided. Further, that the 1st Respondent has in their custody all the relevant factual and material detail on their Jubilee party National Elections Appeals Committee and Tribunal Rules and procedure on post nomination rules. He urges the Tribunal to allow the Complaint by granting the orders sought.
4. This Complaint is undefended.

Analysis

5. We note that the Complainant herein has made glaring allegations geared towards questioning the entire process of the nomination. We find this allegation to be mere allegation with no substantive evidence to warrant us to disturb the decision of the 3rd Respondent that granted the 2nd Respondent with the nomination certificate.
6. This Tribunal has an original and appellate jurisdiction to hear disputes regarding parties' primaries. In this instance, if indeed the Complainant was aggrieved with the failure of the NAT to hear and determine his complaint he ought to have presented before this Tribunal the evidence relied upon to show

that the nomination process was flawed. It is not enough for a party to allege a flawed nomination process without establishing a prima facie case.

7. Consequently, we proceed to make the following orders:
 - a. **The Complaint dated 10th May, 2017 is dismissed**
 - b. **No Orders as to costs.**
8. Orders accordingly.

DATED AT NAIROBI THIS

DAY OF MAY 2017.

1. **Kyalo Mbobu (Chairman)**
2. **James Atema (Member)**
3. **Hassan Abdi (Member)**