



REPUBLIC OF KENYA  
IN THE POLITICAL PARTIES DISPUTES TRIBUNAL AT NAIROBI  
COMPLAINT NO. 264 OF 2017

PETER WAHINYA NJAU.....COMPLAINANT

-VERSUS-

JUBILEE PARTY COUNTY DISCIPLINARY COMMITTEE.....1<sup>ST</sup> RESPONDENT

JUBILEE PARTY NATIONAL ELECTIONS BOARD.....2<sup>ND</sup> RESPONDENT

JUBILEE PARTY APPEALS TRIBUNAL.....3<sup>RD</sup> RESPONDENT

JUBILEE PARTY NATIONAL EXECUTIVE COMMITTEE.....4<sup>TH</sup> RESPONDENT

JUBILEE PARTY .....5<sup>TH</sup> RESPONDENT

INDEPENDENT ELECTORAL & BOUNDARIES  
COMMISSION.....6<sup>TH</sup> RESPONDENT

THE OFFICE OF REGISTRAR OF POLITICAL  
PARTIES.....7<sup>TH</sup> RESPONDENT

AND

STANLEY MWIGERERI KIMURE.....APPLICANT/INTENDED  
INTERESTED PARTY

RULING

Summary of the Application

1. In the Notice of Motion application dated 23<sup>rd</sup> May 2017, the applicant sought to be enjoined as an Interested party in this matter and prayed for a setting aside of the consent orders dated 19<sup>th</sup> May 2017, entered between the Complainant and the 5<sup>th</sup> Respondent before this Tribunal.

2. The said consent orders declared the 5<sup>th</sup> Respondent's decision withdrawing the Complainant's nomination certificate as null and void and quashed the decision to suspend and fine the Complainant KES 200,000. They further reinstated the Complainant as the 5<sup>th</sup> Respondent's aspirant for Pangani ward with an order directing the 5<sup>th</sup> Respondent to forward the Complainant's name to IEBC for recognition and gazettment.
3. It is the Applicant's contention, that at the conclusion of the party's nomination exercise held on 26<sup>th</sup> April 2017 for the position of Member of County Assembly for Pangani Ward, the Complainant was illegally declared as the winner of the said exercise. Subsequently, the Complainant was disqualified from the nomination exercise, suspended from the party and fined KES 200,000. The Applicant was then issued with a certificate of nomination dated 15<sup>th</sup> May 2017.
4. Based on the foregoing, the Applicant contended that the consent orders in question fraudulently confirmed the Complainant as the 5<sup>th</sup> Respondent's aspirant for the said seat and should be set aside as they adversely affected the Applicant.

**The Response**

5. In reply, the Complainant/Respondent argued that the Applicant was not party to the initial proceedings before this Tribunal and therefore has no *locus standi* to make this application. He therefore contended that the application was defective, and an abuse of the Tribunal process.
6. The Complainant in his submissions relied on the decision of the Jubilee Party National Elections Appeals Tribunal dated 5<sup>th</sup> May 2017, upholding the declaration of his win by the 5<sup>th</sup> Respondent's Returning Officer.

**Issue for determination**

7. In our consideration, the two main issues for determination are as follows:

- a. *whether the consent orders dated 19 May 2017 should be set aside and*
- b. *whether the Applicant should be confirmed as the 5<sup>th</sup> Respondent's nominee for the position of Member of County Assembly for Pangani Ward*

### Analysis

8. The Applicant's prayer that he be enjoined as an Interested Party succeeds on the basis that the said Applicant, Stanley Mwirereri Kimure, has a material interest in both the complaint proceedings and subsequent consent orders dated 19<sup>th</sup> May 2017 and therefore has *locus standi* to make such application.
9. From the record before us, it is pertinent to note that the Tribunal did in its adoption of the consent order and in determination, carefully consider the evidence and submissions tendered before it by both the Applicant and the Complainant.
10. On analysis of the information availed vide the current application, the Tribunal finds that the Applicant has not provided any new information that this Tribunal was not aware of when the matter was determined before it in the first instance. In the resultant, the Applicant has not provided sufficient cause to disturb the IDRM decision dated 9<sup>th</sup> May 2017 and the consent orders recorded before this Tribunal on 19<sup>th</sup> May 2017, confirming the Complainant, Peter Wahinya Njau, as the Jubilee Party Nominee for the position of Member of County Assembly for Pangani Ward, Nairobi County.

### Orders

11. Consequently, we hereby dismiss the Notice of Motion Application dated 23<sup>rd</sup> May 2017 with no orders as to costs.

**DATED at NAIROBI this 25<sup>TH</sup> DAY of MAY 2017**

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