



PRESS RELEASE

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NAIROBI, KENYA: 20TH JULY 2022

SUBJECT: CLEARANCE OF MR. REUBEN KIGAME TO CONTEST PRESIDENTIAL ELECTIONS

The Commission has appealed against the decision of the High Court *in Constitutional Petition No. E275 of 2022* filed by Mr. Reuben Kigame challenging the decision of its Dispute Resolution Committee (DRC) regarding his bid to be registered as a presidential candidate in the forthcoming elections.

The appeal arises from the Judgment delivered by Hon. Mr. Justice A. Mrima on 18th July, 2022 where the Court issued, among others, a declaration that the decision of the DRC violated Mr. Kigame's rights under Article 54 of the Constitution and the Persons with Disabilities Act. The DRC had considered a complaint filed by Mr. Kigame regarding the nomination process and upheld the decision of the Returning Officer that Mr. Kigame failed to comply with the requirements for registration of presidential candidates as set out in Article 137 of the Constitution of Kenya, 2010. Specifically, that the aspirant did not meet the requirement to be *'...nominated by not fewer than two thousand voters from each of a majority of the counties.'*

Flowing from its finding above, the Court proceeded to direct the Commission to accept and consider Mr. Kigame's papers in accordance with the Judgment. The Court was of the view that Mr. Kigame demonstrated exemplary effort in complying with the requirements, and that the list of supporters he presented would suffice. Accordingly, he *"shall therefore not be disqualified on account of insufficient number of signatures of his supporters."*

The Judgment of the High Court presents a number of legal and practical challenges including:

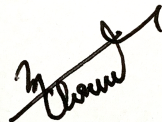
1. Article 137 of the Constitution requires a candidate for a presidential election to be *"nominated by not fewer than two thousand voters from each of a majority of the counties"*. The requirement to be nominated by at least 48,000 supporters is thus a constitutional requirement whose non-compliance renders the nomination papers invalid. In the present case, the decision of the Returning Officer was based on the fact that Mr. Kigame had only presented a list of 1,013 supporters as at 25th May, 2022 which was the set deadline for submission of the list of nominating supporters.
2. The Commission has not had sight of any other list of supporters adverted to in the Court's Judgment and is not aware that the list of supporters was presented before the Honourable Court

to enable the Court arrive at the conclusions contained in the Judgment. The list of supporters referred to by the Court has not been presented to the Commission nor has it been analysed to determine whether the listed nominating supporters meet the prescribed numbers and are registered voters as required.

3. The Constitution sets stringent timelines for the conduct of presidential elections. The range of steps and processes required to give effect to the Judgment may severely jeopardize the holding of presidential elections on 9th August, 2022, being only 19 days from today. In particular, the series of steps required include:
 - a) Fresh gazettelement of the presidential candidates;
 - b) Inclusion of the new candidate and his running mate on the ballot paper which will require a reprogramming of the Candidates Registration Management System (CRMS) for registration and ballot proofing;
 - c) Reprograming of the Results Transmission System (RTS) to include the candidate and his running mate;
 - d) Recalling and reprogramming of all the 55,650 KIEMS kits to be used in the 47 Counties and the Diaspora which will have to be reconfigured;
 - e) The printer of the ballot papers will have to redesign the printing template to include the new candidate and his running mate;
 - f) The reprinting, repackaging and eventual rebooking and rescheduling of flights to deliver the pallets to the central warehouse which the printer confirms will not be possible in time for the general elections slated for the 9th of August, 2022;
 - g) The cost of printing new ballot papers and rescheduling freight is not less than eight (8) million euros (approximately Kshs. 971million). This amount is not in the Commission's election budget.
 - h) The said processes, subject to availability of the budget, require a minimum of thirty (30) days, yet we are at nineteen (19) days to the general election.

The Commission is committed to inclusivity of marginalized groups including women, persons with disabilities, youth, ethnic and other minorities, and marginalized communities. However, the Commission firmly believes that reliefs granted to any special category of Kenyans should be governed and provided for within the Constitution, election laws, and timelines thereof.

The Court of Appeal has issued directions and the matter will be heard tomorrow, 21st July, 2022.



W. W. CHEBUKATI
CHAIRMAN