

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI
HUMAN RIGHTS & CONSTITUTIONAL DIVISION
PETITION NO 162 OF 2017

APOLLO MBOYA.....PETITIONER

VERSUS

ATTORNEY GENERALRESPONDENT

THE INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION.....1ST INTERESTED PARTY

DIRECTOR OF PUBLIC PROSECUTION.....2ND INTERESTED PARTY

JACK MUKHONGO MUNIALO & 12 OTHERS3RD - 15TH INTERESTED PARTY

DECREE

RELIEFS SOUGHT

1. A declaration that the Kenya Government Delivery Portal/website www.delivery.go.ke to advertise achievements by the National Government on various programmes and project undertaken across the country in the last four (4) years is unconstitutional and unlawful was made in violation of section 14 of the Election Offences Act No 37 of 2016, Articles 10, 382, 73(2) 81(e) 82, 88, 136, 137, 148 and 219 of the Constitution of Kenya and therefore is null and void.
2. A declaration be made that the purported use of public resources to launch and maintain Kenya Government delivery portal/website – www.delivery.go.ke to advertise achievements by the National government on various programmes and projects undertaken across the country in the last four(4) years contravenes section 14 of the Elections offences Act hence irregular, illegal, unlawful and unconstitutional.
3. A declaration be made that the delay refusal and abdication of the 2nd interested party to exercise his Constitutional powers to direct investigations with a view of prosecuting those responsible to the offences under section 14 of the elections Act (No 37 of 2016) contravenes Articles 38(2) 81(e) and 157 of the Constitution of Kenya and is therefore illegal irregular, unlawful and unconstitutional.
4. An order of permanent injunction be issued restraining the national Government whether by itself, gents, servants proxies and/or any other person acting under its or their authority or direction from advertising achievements by the national government of any programmes and or projects undertaken across the country in the last four (4) years in the Kenya government, delivery portal/website [www. Delivery.go.ke](http://www.Delivery.go.ke) or in any other print media electronic media or by way of banners or hoardings in Public places during the election period.
5. Costs of the petition be awarded to the petitioner.

THIS MATTER COMING UP for hearing before the Honourable **Justice E C Mwita** on 31st July 2017 **AND WHEREAS THIS MATTER COMING UP** for delivery of judgment on 19th

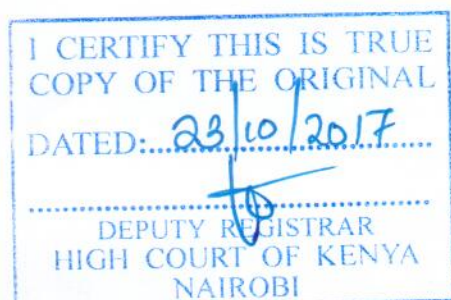
October 2017 in the presence of Counsel for the petitioner, Counsel for respondent and Counsel for 1st Interested Party.

IT IS HEREBY ORDERED / DECREED

1. That a declaration be and is hereby issued that the Kenya Government Delivery Portal/website www.delivery.go.ke to advertise achievements by the National Government on various programmes and project undertaken across the country in the last four (4) years is unlawful as it was made in violation of section 14(2) of the Election Offences Act No 37 of 2016 and against Articles 10, and 81(e) of the Constitution of Kenya and therefore is null and void.
2. That a declaration be and is hereby issued that the purported use of public resources to launch and maintain Kenya Government delivery portal/website – www.delivery.go.ke to advertise achievements by the National government on various programmes and projects undertaken across the country in the last four(4) years contravenes section 14(2) of the Elections offences Act hence is irregular, illegal, and unlawful
3. That an order of permanent injunction be and is hereby issued restraining the national Government whether by itself, Agents, servants proxies and/or any other person acting under its or their authority or direction from advertising achievements by the national government of any programmes and or projects undertaken across the country in the last four (4) years in the Kenya government, delivery portal/website [www. Delivery.go.ke](http://www.Delivery.go.ke) or in any other print media electronic media or by way of banners or hoardings in Public places during the election period.
4. That each party do bear their own costs.

GIVEN under my Hand and Seal of this Court this 19th October 2017.

Issued at Nairobi this 23rd day of October 2017



**DEPUTY REGISTRAR
HIGH COURT OF KENYA
NAIROBI**