

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 OTHERS ...3RD 15TH INTERESTED PARTY

JUDGMENT

1. In a Petition dated 19th April 2017 and filed in Court on 20th April 2017, Apollo Mboya, the Petitioner, sued the Attorney General of the Republic of Kenya in his capacity as the principal advisor to the government, who is also charged with the mandate to promote, protect and uphold the rule of law as well as the defender of the Public Interest. Included in the petition as interested parties are the Independent Electoral and Boundaries Commission (IEBC) a constitutional Commission established under Article 88(1) of the Constitution, and the Director of Public Prosecution (DPP) a constitutional office established under Article 157 of the Constitution with power to undertake Criminal Prosecutions in the Country.

14(2) is meant for the general welfare of the people of Kenya that public resources be safeguarded, but that it has been violated and, therefore, that his petition is for granting.

58. Consequently the petition dated 19th April 2017 is allowed and the following orders granted.

1. *A declaration 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. *A declaration 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. *An order of permanent injunction 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 or in any other print media electronic media or by way of banners or hoardings in Public places during the election period.

4. *Costs being discretionary, the order I make is that each party do bear their own costs.*

Dated Signed and Delivered at Nairobi this 19th **Day of** September **2017**


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JUDGE