



REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA AT NAIROBI

(Coram: Maraga, CJ & P, Mwilu, DCJ & V-P, Ojwang, Wanjala, Njoki S. Ndung'u and Lenaola, SCJJ)

PRESIDENTIAL ELECTION PETITION NO.4 OF 2017

-BETWEEN-

NJONJO MUE.....1ST PETITIONER

KHELEF KHALIFA.....2ND PETITIONER

AND

CHAIRPERSON OF INDEPENDENT

ELECTORAL AND BOUNDARIES COMMISSION.....1ST RESPONDENT

INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION.....2ND RESPONDENT

H. E. UHURU MUIGAI KENYATTA.....3RD RESPONDENT

NATIONAL SUPER ALLIANCE COALITION.....4TH RESPONDENT

RULING

Being an Application by the 3rd Respondent to strike out internal correspondences between members of the 2nd Respondent, pursuant to Article 50 of the Constitution, Section 12(1), 24 and 31 of the Supreme Court Act, Rule 9 and 17 of the Supreme Court (Presidential Election Rules), 2017 and all other enabling provisions of the law

[1] In view of the issues raised by the parties in their affidavits and submissions and noting the very limited time this court has to consider and deliver a detailed and reasoned decision, having deliberated on the contested issues placed before us, our final orders regarding the Notice of Motion dated 11th November, 2017 shall be as follows:

(i) The following documents are expunged from the record:

(a) The Internal Memo dated 5th September, 2017 from the 1st Respondent to the Chief Executive Officer, Mr. Ezra Chiloba marked NM-3 annexed to the Affidavit of Njonjo Mue sworn on 5th November, 2017.

(b) The Internal memo dated 9th October, 2017 from a former Commissioner of the 2nd respondent, Ms. Roseylne Akombe to the 1st Respondent marked NM-10 annexed to the Affidavit of Njonjo Mue sworn on 5th November, 2017.

(c) The Internal Memo dated 14th October, 2017 from the Chief Executive Officer of the 1st Respondent addressed to the Directors, Managers, CEMS and CECs of the 2nd respondent marked as NM-12 annexed to the Affidavit of Njonjo Mue sworn 5th November, 2017.

(d) Internal Memo dated 16th October, 2017 from a former Commissioner of the 2nd respondent, Ms Roseylne Akombe to the 1st Respondent marked as NM-13 annexed to the Affidavit of Njonjo Mue sworn on 5th November, 2017.

(e) The Internal Memo dated 16th October, 2017 from a former Commissioner of the 2nd respondent, Ms. Roselyn Akombe to the 1st respondent marked as PA-7 annexed to the Affidavit of Perpetua Adar sworn on 5th November, 2017.

(ii) There shall be no orders as to costs.

[2] The reasons for this decision shall be given on notice.

DATED and DELIVERED at NAIROBI this 14th Day of November, 2017

.....
D. K. MARAGA	P. M. MWILU
CHIEF JUSTICE & PRESIDENT	DEPUTY CHIEF JUSTICE & VICE
OF THE SUPREME COURT	PRESIDENT OF THE SUPREME COURT
.....
J. B. OJWANG	S. C. WANJALA
JUSTICE OF THE SUPREME COURT	JUSTICE OF THE SUPREME COURT
.....
N. S. NDUNG’U	I. LENAOLA
JUSTICE OF THE SUPREME COURT	JUSTICE OF THE SUPREME COURT

I certify that this is a true copy of the original

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SUPREME COURT OF KENYA



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