

REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA
PETITION NO. OF 2022

BETWEEN

REUBEN KIGAME LICHETE.....PETITIONER

VERSUS

**THE INDEPENDENT ELECTORAL &
BOUNDARIES COMMISSION.....1ST RESPONDENT**

**THE CHAIRPERSON INDEPENDENT ELECTORAL &
BOUNDARIES COMMISSION2ND RESPONDENT**

AND

ODINGA RAILA..... 1ST INTERESTED PARTY
RUTO WILLIAM SAMOEI.....2ND INTERESTED PARTY
WAIHIGA DAVID MWAURE..... 3RD INTERESTED PARTY
WAJACKOYAH GEORGE LUCHIRI.....4TH INTERESTED PARTY
FREE KENYA INITIATIVE(MOVEMENT).....5TH INTERESTED PARTY

PETITION

TO: THE SUPREME COURT OF KENYA

The Humble Petition of REUBEN KIGAME LICHETE SHOWETH as follows:-

A. THE PETITIONER

1. The Petitioner is holder of Kenyan National Identity Card Number 7969141
and resident of Uasin Gishu County, of Post Office Box Number 3608-30100,
Eldoret

2. The Petitioner is a gospel music artiste, a PhD student and teacher at the Africa International University, a social activist and a Person Living with Disability duly registered with the National Council for Persons Living with Disability Number **NCPWD/P/116865**
3. The Petitioner had as at 27th April 2022, been cleared by the Office of the Registrar of Political Parties ('the **ORPP**') to vie in the August 9th 2022 General Elections as a Presidential aspirant conducted by the 1st Respondent.
4. The Petitioners address of service for purposes of this suit shall be in the care of: **ASEMBO & COMPANY ADVOCATES, WU YI PLAZA, 8TH FLOOR, F23, GALANA ROAD, KILIMANI, and P.O.BOX 4660-00200, NAIROBI. Email: asemboasembo@gmail.com**

B. THE RESPONDENTS

5. The 1st Respondent is an Independent Commission established under Article 88 as read together with Article 248 of the Constitution whose responsibility is conducting, managing or supervising referendum and elections to any elective body or office established by the Constitution, and any other elections as prescribed by an Act of Parliament. Its' address of service for purposes of this petition shall be care of : **ANNIVERSARY TOWERS, 6TH FLOOR, UNIVERSITY WAY, P.O.BOX 45371-00100, NAIROBI. TEL. 020-2877000. Email: info@iebc.or.ke**
6. The 2nd Respondent is the Chairperson of 1st Respondent and serves as the Returning Officer for Presidential Elections as well as the clearance process of candidates for the Presidential Elections. His address of service for purposes of this petition shall be care of: **ANNIVERSARY TOWERS, 6TH FLOOR, UNIVERSITY WAY, P.O.BOX 45371-00100, NAIROBI. TEL. 020-2877000. Email: info@iebc.or.ke**

C. THE INTERESTED PARTIES

7. The 1st to 4th Interested Party were the eventual four(4) candidates cleared by the 1st and 2nd Respondents to be on the ballot of the Presidential Elections held on August 9th, 2022, and their names appeared on the ballot paper in that a particular order. Service of the Petition upon the 1st to 4th Interested Parties shall be effected through the Advocates of the Petitioner.
8. The 5th Interested Party is a movement that also doubles up as a coalition of independent candidates countrywide. Service of the Petition upon the 5th Interested Parties shall be effected through the Advocates of the Petitioner.

D. BACKGROUND INFORMATION AND FACTS OF THE CASE

9. On or about the Petitioner was one among 47 other Independent Presidential Aspirants constituting well over 7000 Independent aspirants among the over 7000 reported candidates for various elective posts created by the Constitution of Kenya cleared by the Office of the Registrar of Political Parties (**‘the ORPP’**) to vie in the August 2022 General Elections conducted by the 1st Respondent who published our names in the Kenya Gazette Notice Number 5519 Volume CXXIV, No.89.
10. The 1st Respondent had issued a press release citing various Election Regulations, placed unreasonable deadline/timelines of up to the midnight of 23rd May 2022 for Presidential Election Aspirants like the Petitioner to submit the ***copies of identity cards*** of at least 48000 registered voters from at least 24 counties as supporters for nomination; 2000 registered voters from the county for a Senatorial candidate, 1000 registered voters for Member of National Assembly in the Constituency, and 500 registered voters for Member County Assembly, all in their respective electoral area contested.
11. The Petitioner’s dream together with that of other Independent aspirants in exercising their civil and political rights got into jeopardy as a result of the

unreasonableness and discriminatory actions by the 1st Respondent. The afore-stated regulation requirements of candidates submitting *copies of identity cards* remain quite contestable in the wake of provisions under the Data Protection Act, notwithstanding the unreasonableness in the timelines/deadlines set by the 1st Respondent.

12. A quick perusal of the aforesaid notice depicts a clear violation of Articles 31 and 38 of the Constitution of Kenya, 2010 by the 1st Respondent against the Petitioner and the over 7000 reported independent candidates, hence a matter of grave public interest.
13. The afore-stated requirement of aspirants submitting *copies of identity cards* remains quite contestable in the wake of provisions under the Data Protection Act, and violates Article 31 of the Constitution on the Right to Privacy notwithstanding the unreasonableness in the timelines/deadlines set by the 1st Respondent.
14. The Regulations 24 (2) (c), 28 (2) (c), 32 (2) (c) and 36 (2) (c) of the Elections General Regulations requiring Independent Candidates to submit forms set out in the schedule of the regulations together with *copies of identity cards* of their supporters while the said Sections 22(1), 24(1), and 25 of the Elections Act do not demand of the same.
15. In mid-May 2022, the Petitioner and a number of other Independent Aspirants protested the implementation of the said electoral regulations by the 1st and 2nd Respondents and variously contested their legality, validity and constitutionality in the High Court of Kenya for being an impediment to exercise of our civil and/or political rights under **Article 38** of the Constitution unreasonably and unfairly, by filing a number of Petitions which were consolidated into the Constitutional Petition Number **E160 of 2022**.

16. In the obstinate determination to implement the electoral regulations, the 1st Respondent vide a communique dated May 19th, 2022, through the 2nd Respondent invited all the Presidential election aspirants to a pre-nomination meeting scheduled for May 23rd, 2022 to present to the 1st Respondent, lists of names, respective signatures, copies of identity cards/passport of at least 2000 registered voters from at least 24 counties as supporters of the candidates.
17. On May 23rd, 2022 the presidential aspirants, the Petitioner included were given a further deadline of upto May 29th 2022 to submit the requirements of signatures and copies of identity cards per the checklist issued by the 1st Respondent. The Petitioner complied with this deadline.
18. On 29th May 2022 at about 10p.m., the Petitioner received an email from the 1st Respondent forwarding a letter by the 2nd Respondent stating that he had not complied with the requirements for clearance by the 1st and 2nd Respondents to be on the ballot and giving disappointingly very scanty details as to how he had not complied.
19. It is quite apparent that the denial by the Respondents to have the petitioner on the presidential ballot was unfair, unreasonable, baseless and unfounded, despite his determined efforts. The expressed his displeasure by sending a demand letter to the Respondents dated 31st May 2022.
20. Notwithstanding the foregoing frustrations by the Respondents, the Consolidated Constitutional Petition No. E160 of 2022 was successful and in the judgement thereof delivered on **July 5th, 2022**, the unfair electoral regulations were fortunately declared null and void and unconstitutional.
21. Following the judgement and declarations of the High Court in the **Consolidated Petition No. E160 of 2022**, the 5th Interested Party as an umbrella movement of all independent aspirants and candidates in the general

election, wrote to the Respondents urging a meeting to have a way forward on the judgement to pave way for clearance of the independents to be candidates for the August 2022 polls. The Respondents were evasive, unbothered and non-responsive.

22. The Petitioner was left with no choice but to seek further legal redress by firstly lodging a complaint dated the 16th June 2022 with the 1st Respondent's Dispute Resolution Committee, which in a well maintained and sustained script the Dispute Resolution Committee readily dismissed his complaint and grievances.
23. The Petitioner ended finding himself once more at the High Court vide the Constitutional Petition Number **E275 OF 2022** that he filed seeking the remedy from the spirited frustration by the Respondents not to have him on the presidential ballot in the August 2022 polls.
24. The said constitutional petition was successful quashing the 1st Respondent's Dispute Resolution Committee findings and the Respondents were ordered to accept his nomination papers amongst other orders.
25. On 19th July 2022, the 1st Respondent through its Officer one MOSES SUNKULI contacted the Petitioner asking that he collects the Presidential check-list for his clearance in compliance with the Court Orders of 18th July 2022. He collected the said checklist on the morning of 20th July 2022 at the 1st Respondent's head office, Anniversary Towers and prepared for the clearance meeting.
26. Later in the evening of the said 19th July 2022, the 2nd Respondent through a news bulletin on citizen television at 10p.m stated that the 1st Respondent would respect and uphold the judgement in the Constitutional Petition Number **E275 OF 2022** and were willing to give the Petitioner a second

chance to be cleared to contest and undertook to have audience with him and clear him.

27. The 2nd Respondent did schedule a meeting with the Petitioner on the 22nd July 2022 at 11a.m at the Bomas of Kenya, Nairobi geared towards looking into the judgement, the constitution and the law to have his nomination clearance actualized.

28. To the chagrin of the Petitioner and true to their callous character, the Respondents reneged on their plan to have the Petitioner cleared by the 22nd July 2022, but instead went on to the Court of Appeal to both stay the Judgement and Orders of 18th July 2022, and to also further their mischief to unfairly lock him out from the presidential ballot. It is imperative to note that the Respondents in the thick scheme of things deliberately ensured that unlike in the past elections No Single Independent Candidate out of the possible 47 aspirants cleared by the ORPP made it on the Presidential Ballot in the August 2022 polls.

29. It is therefore manifestly clear that the Presidential Election nomination and clearance process by the Respondents was shrouded in illegalities, irregularities, mischief and unfairness. This Honorable Court has ruled in the precedent of **Raila Odinga Petition 2017** that Election is not an event but a process.

30. Throughout the nomination and clearance process, the behaviour of the 2nd Respondent came out as capricious, vexatious and unreasonable and in absolute disregard of the rule of law, acting in a manner that brings dishonor to the institution he serves and the office he holds.

31. The Petitioner being a Person Living with Disability, the Respondents acted contrary to his status in contravening and violating both the constitutional

provisions under **Article 54** and the known statutory and international conventions by failing to facilitate his clearance but instead constrained it.

32. It is in the interest of free, fair, equal, credible and transparent elections, that the orders sought herein are granted to not only protect the political and civil rights of the Independents more so to protect the over 7000 independent candidates who wished to exercise their political and civil rights by Supreme Court voiding and /or nullifying the 9th August 2022 Presidential Elections.
33. The Honorable Court is charged with the fundamental duty to “observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights” of the Constitution of the Republic of Kenya
34. The Article 258 of the Constitution entrenches the right of every person to institute court proceedings claiming that the Constitution has been contravened or is threatened with contravention whether in person or acting in the public interest.
35. The Honorable Court is obligated to interpret the Constitution in a manner that “advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights” under Article 259(1) (b).
36. **THAT** the Respondents through the impugned Regulations have placed unreasonable constraints and hurdles on candidates vying for various political seats which constraints should be declared unconstitutional.
37. The Petitioner as well as the over 7000 independents stand the risk to suffer irreparable damage and loss in terms of their disenfranchised political rights, curtailed political pursuits, loss of financial and time resources at the behest of the Respondents, for which the Supreme Court can award the suitable remedy and/or redress.

LEGAL FOUNDATIONS OF THE PETITION

12. **Article 2** emphasizes the Supremacy of this Constitution. It observes that the Constitution is the supreme law of the Republic and binds all persons and all state organs at both levels of government. (2) No person may claim or exercise state authority except as authorized under this Constitution.
13. **Article 2 (5) & 2(6)** provides that Kenya as a state in additionally has an obligation to act in the best interest of regional and international instruments.
14. **Article 3** obligates every person to come to the Defence of the Constitution.
(1) Every person has an obligation to respect, uphold and defend this Constitution.
15. **Article 10** obliges the Respondents herein to observe the national values and principles of governance as provided in the Constitution. The national values and principles of governance include inter alia the rule of law, human dignity, inclusiveness, human rights, good governance, social justice and participation of the people.
16. **Article 19(2)** observes that the purpose of recognizing and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings.
17. **Article 20** observes that the Bill of Rights applies to all law and binds all State Organs and all persons. It further observes that every person is entitled to enjoy the rights and fundamental freedoms in the bill of rights to the greatest extent consistent with the nature of the right or fundamental freedom.

18. **Article 22** empowers everyone with the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened.
19. **Article 23** empowers the court to grant appropriate reliefs including declarations, conservatory orders and orders of compensation.
20. **Article 27** provides that every person is equal before the law and has the right to equal protection and equal benefit of the law.
21. **Article 31** guarantees the right to privacy especially of the property and personal information/details of individuals.
22. **Article 38 (3) (c)** of the Constitution provides for the right **WITHOUT UNREASONABLE RESTRICTIONS** to be a candidate for public office in furtherance of the Political rights
23. **Article 47** provides that every person has a right to fair administrative action.
24. **Article 48** provides that every person has the Right to access justice.
25. **Article 50(1)** provides Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body.
26. **Article 54** upholds and promotes the rights and privileges of persons living with disability
27. **Article 83 (3)** prohibits the use of administrative arrangements to deny citizens from standing for elections.

28. **Article 85** upholds the rights of a person to seek office as an independent candidate and establishes how that shall be done.

29. **Article 99** states the eligibility criterion for a person to seek office of a Member of National Assembly in Kenya.

30. **Article 137** states the eligibility criterion for a person to seek office of President of the Republic of Kenya

31. **Article 180** states the eligibility criterion for a person to seek office of the Governor in Kenya.

32. **Article 193** states the eligibility criterion for a person to seek office of Member of County Assembly in Kenya

REASONS WHEREFORE:

THE PETITIONER HUMBLY PRAY FOR ORDERS THAT:

- a. **The Presidential Nomination and Clearance of the 1st to 4th Interested Parties for the August 9th, 2022 Presidential Election was null and void.**
- b. **The Presidential Election held on August 9th, 2022 be and is hereby voided and/or rendered null and void.**
- c. **The political and human rights of the Petitioner were violated by the impugned acts of the Respondents.**
- d. **The Honorable Court be pleased to issue an order for costs in favor of the Petitioner.**
- e. **The Honorable Court be pleased to issue any other or further remedy that it shall deem fit to grant in the interests of justice in the circumstances of this Petition.**

Dated at Nairobi this 22nd day of August 2022.

**ASEMBO & COMPANY
ADVOCATES FOR THE PETITIONER**

DRAWN & FILED BY:

**ASEMBO & COMPANY
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E-MAIL: asemboasembo@gmail.com
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NAIROBI.**

TO BE SERVED UPON:

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VERSUS

**THE INDEPENDENT ELECTORAL &
 BOUNDARIES COMMISSION.....1ST RESPONDENT**

**THE CHAIRPERSON INDEPENDENT ELECTORAL &
 BOUNDARIES COMMISSION2ND RESPONDENT**

AND

ODINGA RAILA..... 1ST INTERESTED PARTY
RUTO WILLIAM SAMOEI.....2ND INTERESTED PARTY
WAIHIGA DAVID MWAURE..... 3RD INTERESTED PARTY
WAJACKOYAH GEORGE LUCHIRI.....4TH INTERESTED PARTY
FREE KENYA INITIATIVE(MOVEMENT).....5TH INTERESTED PARTY

AFFIDAVIT IN SUPPORT OF THE PETITION

I, **REUBEN KIGAME LICHETE**, holder of Kenyan National Identity Card Number 7969141 and resident of Uasin Gishu County, of Post Office Box Number 3608-30100, Eldoret do hereby make oath and solemnly state as follows:

1. **THAT** I am a male adult of sound mind and disposition, the Petitioner herein well conversant with the facts in issue before this Honorable Court hence competent to swear this affidavit.
2. **THAT** I am a gospel music artiste, a PhD student and teacher at the Africa International University, a Person Living with Disability duly registered with the National Council for Persons Living with Disability Number

NCPWD/P/116865. Annexed herewith and marked “RKL-O1” is a copy of my membership Card

3. **THAT** as at 27th April 2022, I had been cleared by the Office of the Registrar of Political Parties (**‘the ORPP’**) to vie in the August 9th 2022 General Elections as a Presidential aspirant conducted by the 1st Respondent. Annexed herewith and marked “RKL-O2(a) and (b)” respectively are a copy of my clearance letter and approved symbol by the ORPP to vie as an independent candidate for the Presidential Seat.
4. **THAT** on or about I was one among 47 other Independent Presidential Aspirants constituting well over 7000 Independent Candidates among the over 7000 reported candidates for various elective posts created by the Constitution of Kenya cleared by the Office of the Registrar of Political Parties (**‘the ORPP’**) to vie in the August 2022 General Elections conducted by the 1st Respondent who published our names in the Kenya Gazette Notice Number 5519 Volume CXXIV, No.89. Annexed herewith and marked “RKL-O3” is a copy of relevant excerpts of the said Kenya Gazette Notice.
5. **THAT** the 1st Respondent had issued a press release citing various Election Regulations, placed unreasonable deadline/timelines of up to the midnight of 23rd May 2022 for Presidential Election Aspirants like myself to submit the **copies of identity cards** of at least 48000 registered voters from at least 24 counties as supporters for nomination; 2000 registered voters from the county for a Senatorial candidate, 1000 registered voters for Member of National Assembly in the Constituency, and 500 registered voters for Member County Assembly, all in their respective electoral area contested. Annexed herewith and marked “RKL-O4” is a copy of the said press statement.

6. **THAT** my dream together with that of other Independent aspirants in exercising our civil and political rights got into jeopardy as a result of the unreasonableness and discriminatory actions by the 1st Respondent. The afore-stated regulation requirements of candidates submitting ***copies of identity cards*** remain quite contestable in the wake of provisions under the Data Protection Act, notwithstanding the unreasonableness in the timelines/deadlines set by the 1st Respondent. *Annexed herewith and marked "RKL-O5" is a copy of the of the various legal notices by the 1st Respondent detailing the various regulation requirements including the contested one of submitting the physical copies of identity cards of registered voters as supporters of aspirants.*
7. **THAT** a quick perusal of the aforesaid notice depicts a clear violation of Articles 31 and 38 of the Constitution of Kenya, 2010 by the 1st Respondent against me and the over 7000 reported independent candidates, hence a matter of grave public interest.
8. **THAT** the afore-stated requirement of aspirants submitting ***copies of identity cards*** remains quite contestable in the wake of provisions under the Data Protection Act, and violates Article 31 of the Constitution on the Right to Privacy notwithstanding the unreasonableness in the timelines/deadlines set by the 1st Respondent.
9. **THAT** the Regulations 24 (2) (c), 28 (2) (c), 32 (2) (c) and 36 (2) (c) of the Elections General Regulations requiring Independent Candidates to submit forms set out in the schedule of the regulations together with ***copies of identity cards*** of their supporters while the said Sections 22(1), 24(1), and 25 of the Elections Act do not demand of the same.

10. **THAT** in mid-May 2022, myself and a number of other Independent Aspirants protested the implementation of the said electoral regulations by the 1st and 2nd Respondents and we variously contested their legality, validity and constitutionality in the High Court of Kenya for being an impediment to exercise of our civil and/or political rights under **Article 38** of the Constitution unreasonably and unfairly, by filing a number of Petitions which were consolidated into the Constitutional Petition Number **E160 of 2022**.
11. **THAT** in the obstinate determination to implement the electoral regulations, the 1st Respondent vide a communique dated May 19th, 2022, through the 2nd Respondent invited all the Presidential election aspirants to a pre-nomination meeting scheduled for May 23rd, 2022 to present to the 1st Respondent, lists of names, respective signatures, copies of identity cards/passport numbers of at least 2000 registered voters from at least 24 counties as supporters of the candidates. Annexed herewith and marked “**RKL-O6**” is a copy of the said comunique.
12. **THAT** on May 23rd, 2022 the presidential aspirants myself included were give a further deadline of upto May 29th 2022 to submit the requirements of signatures and copies of identity cards per the checklist issued by the 1st Respondent. I complied with this deadline. Annexed herewith and marked “**RKL-O7(a) and (b)**” are respective copies of the presidential candidates checklist nad my stamped copy of proof of receipt of submissions by the 1st Respondent.
13. **THAT** on 29th May 2022 at about 10p.m., I received an email from the 1st Respondent forwarding a letter by the 2nd Respondent stating that I had not complied with the requirements for clearance by the 1st and 2nd Respondents to be on the ballot and giving disappointingly very scanty details as to how I

had not complied. Annexed herewith and marked "RKL-O8" is a copy of the said letter.

14.THAT it is quite apparent the denial by the Respondents to have me on the presidential ballot was unfair, unreasonable, baseless and unfounded, despite my determined efforts. I expressed my displeasure by my demand letter to the Respondents dated 31st May 2022. Annexed herewith and marked "RKL-O9" is a copy of the letter.

15.THAT notwithstanding the foregoing frustrations by the Respondents, the Consolidated Constitutional Petition No. E160 of 2022 was successful and in the judgement thereof delivered on **July 5th, 2022**, the unfair electoral regulations were fortunately declared null and void and unconstitutional. Annexed herewith and marked "RKL-10" is a copy of the Judgement in the Constitutional Petition Number E160 of 2022.

16.THAT following the judgement and declarations of the High Court in the **Consolidated Petition No. E160 of 2022**, the 5th Interested Party as an umbrella movement of all independent aspirants and candidates in the general election, wrote to the Respondents urging a meeting to have a way forward on the judgement to pave way for clearance of the independents to be candidates for the August 2022 polls. The Respondents were evasive, unbothered and non-responsive. Annexed herewith and marked "RKL-11" is a copy of the letter by the 5th Interested Party to the Respondents

17. THAT I was left with no choice but to seek further legal redress by firstly lodging a complaint dated the 16th June 2022 with the 1st Respondent's Dispute Resolution Committee, which in a well maintained and sustained script readily dismissed my complaint and grievances. Annexed herewith and

marked “RKL-12” is a bundle of my complaint and the resultant decision of the 1st Respondent’s Dispute Resolution Committee.

18. **THAT** I ended finding myself once more at the High Court vide the Constitutional Petition Number **E275 OF 2022** that I filed seeking the remedy from the spirited frustration by the Respondents not to have me on the presidential ballot in the August 2022 polls.
19. **THAT** the said constitutional petition was successful quashing the 1st Respondent’s Dispute Resolution Committee findings and the Respondents were ordered to accept my nomination papers amongst other orders. Annexed herewith and marked “RKL-13” is a copy of the Judgement of 18th July 2022 in the Constitutional Petition Number E275 of 2022.
20. **THAT** on 19th July 2022, the 1st Respondent through its Officer one MOSES SUNKULI contacted my office asking that we collect the Presidential checklist for my clearance in compliance with the Court Orders of 18th July 2022. I collected the said checklist on the morning of 20th July 2022 at the 1st Respondent’s head office, Anniversary Towers and prepared for the clearance meeting.
21. **THAT** later in the evening of the said 19th July 2022, the 2nd Respondent through a news bulletin on citizen tv at 10pm stated that the 1st Respondent would respect and uphold the judgement in the Constitutional Petition Number **E275 OF 2022** on in and were willing to give the second chance to be cleared to contest and undertook to have audience with me “process” me.
22. **THAT** indeed the 2nd Respondent did schedule a meeting with me on the 22nd July 2022 at 11a.m at the Bomas of Kenya, Nairobi geared towards looking

into the judgement, the constitution and the law to have my nomination clearance actualized.

23. **THAT** to my chagrin and true to their callous character, the Respondents reneged on their plan to have me cleared by the 22nd July 2022, but instead went on to the Court of Appeal to both stay the Judgement and Orders of 18th July 2022, and to also further their mischief to unfairly lock me out from the presidential ballot. It is imperative to note that the Respondents in the thick scheme of things deliberately ensured that unlike in the past elections No Single Independent Candidate out of the possible 47 aspirants cleared by the ORPP made it on the Presidential Ballot in the August 2022 polls.

24. **THAT** it is therefore manifestly clear that the Presidential Election nomination and clearance process by the Respondents was shrouded in illegalities, irregularities, mischief and unfairness. This Honorable Court has ruled in the precedent of **Raila Odinga Petition 2017** that *Election is not an event but a process.*

25. **THAT** throughout the nomination and clearance process, the behaviour of the 2nd Respondent came out as capricious, vexatious and unreasonable and in absolute disregard of the rule of law, acting in a manner that brings dishonor to the institution he serves and the office he holds.

26. **THAT** as a Person Living with Disability, the Respondents acted contrary to my status in contravening and violating both the constitutional provisions under **Article 54** and the known statutory and international conventions by failing to facilitate my clearance but instead constrained it.

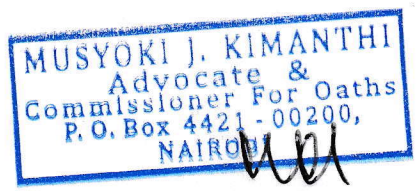
27. **THAT** it is in the interest of free, fair, equal, credible and transparent elections, that the orders sought herein are granted to not only protect the

political and civil rights of the Independents more so to protect the over 7000 independent candidates who wished to exercise their political and civil rights by voiding and nullifying the 9th August 2022 Presidential Elections.

28. **THAT** the Honorable Court is charged with the fundamental duty to “observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights” of the Constitution of the Republic of Kenya
29. **THAT** the Article 258 of the Constitution entrenches the right of every person to institute court proceedings claiming that the Constitution has been contravened or is threatened with contravention whether in person or acting in the public interest.
30. **THAT** the Honorable Court is obligated to interpret the Constitution in a manner that “advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights” under Article 259(1) (b).
31. **THAT** the Respondents through the impugned Regulations has placed unreasonable constraints and hurdles on candidates vying for various political seats which constraints should be declared unconstitutional.
32. **THAT** myself as well as the over 7000 independents stand the risk to suffer irreparable damage and loss in terms of their disenfranchised political rights, curtailed political pursuits, loss of financial and time resources at the behest of the Respondents, for which the Supreme Court can award the suitable remedy and/or redress.
33. **THAT** I swear this Affidavit in support of my Petition filed herein.
34. **THAT** what is deponed herein is true to the best of my knowledge, information and belief.

SWORN by the said **REUBEN KIGAME LICHETE**).....
this 22nd day of August, 2022) DEPONENT
)
)
)
)
)
)
)
)

BEFORE ME



COMMISSIONER FOR OATHS

DRAWN & FILED BY:

ASEMBO & COMPANY
ADVOCATES
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TO BE SERVED UPON:

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NAIROBI**

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**WAIHIGA DAVID MWAURE
NAIROBI**

**WAJACKOYAH GEORGE LUCHIRI
NAIROBI**

**FREE KENYA INITIATIVE(MOVEMENT)
NAIROBI**

24-

Annexure "RKL
-01"

is the exhibit marked "RKL-01"

referred to in the annexed Affidavit / Declaration.

Of Benken Kigame Kichete

Sworn / Declared before me this 22nd


day Of August 2022 at Nairobi

WW

Commissioner for Oaths

referred to in the Affidavit / Declaration
of Reuben K. Niche
This 4th day of June 2022
at LL in the Republic of Kenya before me
Commissioner for Oaths / Notary Public

EX-1
25

 NATIONAL COUNCIL
FOR PERSONS WITH
DISABILITIES

NAME: REUBEN KIGAME NICHETE

REG NO: NCPWD/PM/16885

DISABILITY: BLIND

DISTRICT: VHIKA

Date of issue: 28/06/2016



This is the Exhibit Marked "RKL-1"
referred to in the Affidavit / Declaration
of Reuben K. Niche Sworn
This 4th day of July 2022 of 6
at LL in the Republic of Kenya before me
Commissioner for Oaths / Notary Public