

REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA

*(Coram: Koome, CJ & P, Mwilu, DCJ & VP, Ibrahim, Wanjala, Njoki, Lenaola,
Ouko SCJJ)*

PRESIDENTIAL ELECTION PETITION NO. NO. 1 OF 2022

BANJAMIN BARASA WAFULA..... 1ST PETITIONER

VERSUS

HON RAILA AMOLLO ODINGA,

FLAG BEARER FOR AZIMIO LA

UMOJA ONE KENYA ALLIANCE..... 1ST RESPONDENT

MARTHA WANGARI KARUA, DEPUTY

PRESIDENTIAL NOMINEE FOR AZIMIO

LA UMOJA ONE KENYA ALLIANCE.....2ND RESPONDENT

JULIANA WHONGE CHERERA,

VICE CHAIRPERSON IEBC.....3RD RESPONDENT

JUSTUS NYANG'AYA, COMMISSIONER

IEBC.....4TH RESPONDENT

FRANCIS WANDERI,

COMMISSIONER..... 7TH RESPONDENT

IRENE MASSIT, COMMISSIONER.....8TH RESPONDENT

AND

ROYAL MEDIA (MEDIA TELEVISION)1ST SUBSEQUENT PARTY

THE JUBILEE PARTY CHAIRMAN.....2ND SUBSEQUENT PARTY

FRANCIS ATWOLI SECRETARY GENERAL OF THE

CENTRAL ORGANIZATION OF TRADE

UNIONS (C.O.T.O).....3RD SUBSEQUENT PARTY
THE IEBC COMMISSION PRESIDING OFFICERS AT KWALE, NYANDARUA, NYERI, KIRINYAGA, WEST POKOT, VIHIGA & MIGORI COUNTIES.....4TH SUBSEQUENT PARTIES
JAMES ORENGO, CHARITY KALUKI NGILU
STEPHEN KALONZO & ALI HASSAN JOHO:
COMMANDERS OF THE PARAMILITARY AZIMIO
LA UMOJA ONE KENYA ALLIANCE OF POLITICAL
PARTIES.....5TH SUBSEQUENT PARTIES

(Being an application for orders to prosecute a preliminary objection dated 24th August 2022, and Counterclaim dated 24th August 2022 as a pauper)

RULING OF THE COURT

[1] UPON perusing the Notice of Motion dated 26th August 2022 seeking to prosecute a draft preliminary objection and counterclaim as a pauper due to lack of funds for payment of Court fees totaling to Kshs. 1,004,000/=; and

[2] UPON reading the Supporting Affidavit of Benjamin Barasa Wafula sworn on 26th August 2022; and

[3] UPON perusing the grounds adduced by the applicant in support of the orders sought wherein he contends that he was employed by Pan African Paper Mills (E.A) Company Ltd from 3rd January 1983 to 23rd September 2003 when his employment was terminated after he supported the government to raise the Pan African Paper Mills E.A Company Ltd employees' salaries, who were underpaid by 32.9%, that after his termination as a Quality Control Checker and Trade Unionist, his capacity to secure employment was crippled affecting his financial status; and

[4] FURTHERMORE, considering the applicant's preliminary objection and counterclaim where he contends there were manipulation of the IEBC tallying server by James Orengo, Charity Ngilu, Stephen Kalonzo and Ali Hassan Joho

being the commanders of the paramilitary Azimio la Umoja One Kenya Kwanza Alliance of Political Parties; and

[5] **HAVING** considered the Supreme Court (Presidential Election Petition) Rules, 2017 it is evident to us that the applicant is not a petitioner and/or has not been sued as a respondent in any of the Presidential Election Petitions before us, he has also not sought to participate as a friend of the Court. Consequently, we find that the application before us is not merited and is therefore, dismissed.

[6] For the foregoing reasons, the final Orders of the Court are as follows:

ORDERS:

- a. The application dated 26th August 2022 seeking waiver of fees; and leave to prosecute a preliminary objection and counterclaim is hereby dismissed.*
- b. There shall be no orders as to costs.*

[7] Orders accordingly.

DATED and DELIVERED at NAIROBI this 30th Day of August 2022.

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M.K KOOME
CHIEF JUSTICE & PRESIDENT OF THE SUPREME COURT

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**P.M MWILU DEPUTY CHIEF JUSTICE &
DEPUTY PRESIDENT OF THE SUPREME COURT**

.....
**M.K IBRAHIM
JUSTICE OF THE SUPREME COURT**

.....
S.C WANJALA

.....
NJOKI NDUNGU

JUSTICE OF THE SUPREME COURT

JUSTICE OF THE SUPREME COURT

.....

.....

I. LENAOLA
JUSTICE OF THE SUPREME COURT

W. OUKO
JUSTICE OF THE SUPREME COURT

I certify that this is a true copy of the original

REGISTRAR,
SUPREME COURT OF KENYA

