



COUNTY GOVERNMENT OF KITUI
THE COUNTY ASSEMBLY
THIRD ASSEMBLY - (FOURTH SESSION)
COMMUNICATION FROM THE CHAIR

No. 55 of 2025

**COMMUNICATION FROM THE CHAIR AS RELATES TO COURT ORDER
ISSUING CONSERVATORY ORDERS ON THE SUSPENSION OF ELEVEN
HONOURABLE MEMBERS VIDE HCCHPET/E005/2025.**

Honourable Members,

As you may recall, during the afternoon sitting held on Wednesday, 1st October 2025, I issued a communication relating to the misconduct of the following Honourable Members on various occasions, whereupon I suspended them from participating in the business of the Assembly for a period of ninety (90) days;

1. Hon. Munyoki Mwinzi
2. Hon. Jacinta Mary Mwoni
3. Hon. Daniel Kimanzi Ngoima
4. Hon. Cyrus Kisavi Musyoka
5. Hon. Mercy Muliwa Muema
6. Hon. Mary P. Ndumbu
7. Hon. Erastus Musyoka Mbuno
8. Hon. Sylvester Kitheka Munyalo
9. Hon. Mathew Ngovi Vuthi
10. Hon. Mary Mwende Mutune
11. Hon. Hussein Mwandia

Honourable Members,

On 7th October 2025, the Office of the Clerk received a Court Order issued by the High Court of Kenya at Kitui in Constitutional Petition No. HCCHRPET/E005/2025 – Hon. Sylvester Kitheka Munyalo & Ten Others vs. Speaker, County Assembly of Kitui & Three Others.

The Petitioners, who are Members of the County Assembly of Kitui, challenged the directives communicated on 1st October 2025 vide Communications Nos. 050, 051, and 052, which suspended them from participating in the affairs and programmes of the County Assembly for ninety (90) calendar days.

Honorable Members,

In their Petition, the suspended Members sought several interim conservatory orders, including the following:

1. That a conservatory order be issued suspending the Speaker's decision contained in Communications Nos. 050, 051 and 052, thereby lifting the ninety (90) days suspension imposed upon the Petitioners.
2. That a conservatory order be issued restraining the Speaker from excluding the 2nd and 3rd Petitioners from participating in the affairs of the County Assembly Service Board.
3. That a conservatory order be issued restraining the Speaker from invoking or applying Standing Orders Nos. 103, 103A, 104, and 105 to impose sanctions on any Member of the County Assembly for conduct that did not occur during Assembly proceedings.

Upon considering the application, the High Court granted interim conservatory orders in favour of them, thereby suspending my communications and restoring them to their positions pending the hearing and determination of the matter in Court.

Honourable Members,

Upon reviewing the interim orders, it is evident that the orders raise several important constitutional and institutional considerations, which I wish to highlight as follows:

1. Principle of separation of powers

The doctrine of separation of powers, as recognized under Articles 1, 2, 94, 159, and 185 of the Constitution of Kenya, 2010, clearly demarcates the functions of the three arms of government the Legislature, Executive and Judiciary.

Honourable Members,

While the Judiciary has the constitutional mandate to interpret the law and uphold the Constitution, it is generally restrained from interfering with the internal workings of the Legislature, except where there is a clear violation of the Constitution or fundamental rights.

By granting interim conservatory orders that suspend disciplinary actions taken by the Speaker and restrain the use of Standing Orders, the Court's intervention may be perceived as encroaching upon the exclusive legislative competence of the County Assembly.

Honourable Members,

Nonetheless, the Judiciary's supervisory jurisdiction under Article 165(3)(d) empowers it to determine whether any legislative action or decision conforms to the Constitution.

Therefore, while these orders may appear to limit the Assembly's autonomy, they remain binding unless and until they are varied or set aside by the same Court or an appellate Court.

2. Interference with the internal operations and Privileges of the County Assembly

Honorable Members,

The County Assembly enjoys institutional autonomy and exclusive control over its internal affairs as guaranteed under:

- Article 196 of the Constitution (conduct of business of County Assemblies);
- Section 14 of the County Governments Act, 2012; and

- Sections 16 and 17 of the County Assemblies Powers and Privileges Act, 2017.

Judicial interference with disciplinary measures taken under the Standing Orders may potentially erode the principle of legislative self-regulation, which is fundamental to parliamentary democracy.

Honorable Members,

However, it is equally important to note that the Powers and Privileges Act recognizes that all actions of the Assembly must comply with the Constitution, and therefore, judicial oversight is permissible where there is an alleged breach of fundamental rights or procedural fairness.

Accordingly, the Court's orders should be viewed as a temporary supervisory intervention and not a permanent curtailment of the Assembly's authority.

3. Powers of the Speaker to enforce discipline in the Assembly

Honorable Members,

The Speaker derives authority to maintain order and discipline within the Assembly from:

- Article 178 of the Constitution of Kenya, 2010
- Section 9 of the County Governments Act, 2012 and
- Standing Orders Nos. 1, 103, 103A, 104, and 105.

These provisions empower the Speaker to preserve decorum, dignity, and orderly conduct of the House.

Honorable Members,

However, the High Court's Conservatory orders have, for the time being, suspended the exercise of these disciplinary powers vested on the Speaker while on the Chair in respect of the eleven Members. As such, the Assembly is legally bound to comply with the interim orders until the case is heard and determined.

Honorable Members,

It's worth to note that, the said Court Order does not shield or grant immunity to the eleven Members from being subjected to internal disciplinary

mechanisms of the County Assembly. It also does not bar the Committee on Powers and Privileges from investigating their conduct in accordance with the County Assemblies Powers and Privileges Act.

Honorable Members,

In the case of **Ali & 2 Others v. Speaker, County Assembly of Garissa & Another (Constitutional Petition E019 of 2023) [2024] KEHC 2633**, the Court held that:

“In the absence of powers exercisable under the Standing Orders, what recourse does the Speaker have? Ultimately, the law provides disciplinary measures exercisable by the Speaker or the Assembly under the County Assemblies Powers and Privileges Act. Section 15 of the Act establishes the Powers and Privileges Committee chaired by the Speaker, whose mandate includes inquiring into Members’ conduct in breach of privilege as specified under Section 16, and performing such other functions as may be prescribed in the Act.”

Honorable Members,

This precedent reinforces the Speaker’s authority and the Assembly’s right to maintain discipline through lawful internal mechanisms, even in the presence of judicial scrutiny.

Honourable Members,

In light of the foregoing, and while ensuring compliance with the Court Order, I hereby direct the Committee on Powers and Privileges to commence investigations into the alleged misconduct of the eleven (11) Honourable Members within sixty (60) calendar days.

This process shall ensure that the affected Members are accorded their constitutional right to a fair hearing, consistent with the principle laid down in **Onyango Oloo v. Attorney General [1986–1989] EA 456**, where the Court held that:

“There must be ever present to the mind the fact that our laws of procedure are grounded on the principle of natural justice which requires that no person should be condemned unheard; that decisions should not be reached behind their backs; and that proceedings affecting their rights should not continue in their absence.”

Honourable Members,

The Assembly remains committed to upholding the Constitution, respecting the rule of law and protecting its institutional integrity. While the Court's orders must be observed, this House equally retains the right and duty to enforce discipline, maintain decorum and safeguard the dignity of the County Assembly of Kitui.

Thank you.



HON. KEVIN KINENGO KATISYA

SPEAKER, COUNTY ASSEMBLY OF KITUI

8TH OCTOBER 2025