



COUNTY GOVERNMENT OF KITUI

THE COUNTY ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY 20TH NOVEMBER, 2019 AT 2.30 P.M.

1. The House convened at Thirty Minutes Past Two O'clock.
2. The proceedings were opened with a prayer.
3. **PRESIDING** - Hon. Speaker on the Chair.
4. **COMMUNICATION FROM THE CHAIR;**

The speaker conveyed the following communication from the chair:-

RULING ON THE REPORT BY THE SPECIAL COMMITTEE INVESTIGATING
THE REMOVAL FROM OFFICE OF THE COUNTY EXECUTIVE COMMITTEE
MEMBER (CECM), COUNTY MINISTRY OF HEALTH AND SANITATION- MS.
ROSAITA MBUKUA NGINA

Hon. Members,

The aforementioned Special Committee in the morning sitting requested me to give a ruling on the following issues:

1. Whether the County Assembly shall debate this Report considering that Ms. Rosaita Mbukua Ngina is no longer working as the CECM- County Ministry of Health and Sanitation;
2. Whether Ms. Rosaita Mbukua Ngina shall be called upon to submit to the County Assembly pursuant to Standing Order No. 63(1)(b) on the right to be heard by the County Assembly, considering that she

WEDNESDAY 20TH NOVEMBER, 2019

423

(103)

(422)

is no longer working as the CECM- County Ministry of Health and Sanitation.

My ruling on each issue is as hereunder:

ISSUE NO. 1:

Whether the County Assembly shall debate this Report considering that the Ms. Rosaita Mbukua Ngina is no longer working as the CECM- County Ministry of Health and Sanitation;

Hon. Members,

The purpose of any proceedings for removal from office (impeachment), like the ones instantly before this House is to cause the County Assembly to make a resolution for the Governor to dismiss a CECM from Office in line with section 40 of the County Governments Act.

Section 40 of the County Governments Act provides that where a special committee finds that the allegations on which basis a CECM is to be removed from office are substantiated, the County Assembly shall vote to either approve or reject the resolution that such a CECM be dismissed from office by the Governor.

Hon. Members,

The special committee carried out its mandate and on 14th November, 2019 laid the Report and gave a Notice of Motion on the floor of the House. In the Report, the Committee finds every allegation substantiated save for one allegation which in my view is not material and does not affect the overall decision by the Committee that all allegations have been substantiated.

Hon. Members,

According to Standing Order No. 62(9) once the allegations are reported to be substantiated, and after hearing the CECM, the County Assembly

(103)

424
(423)

should vote on whether to approve or not approve the resolution requiring the CECM to be dismissed.

Hon. Members,

I have had the opportunity to study the report by the Committee as well as examined the evidence annexed to the Report and I have come to the logical conclusion that Ms. Rosaita Mbukua Ngina is no longer a CECM in Kitui County.

Further to this, and in my assessment of the evidence contained in the Report as well its annexures, it is my humble view that Ms. Rosaita Mbukua Ngina ceased being a CECM when her employer at the time, that is H.E. The Governor, re-designated her to another office that was not that of a CECM.

Granted, Hon. Members, had the County Assembly been aware that this re-designation had been done prior to these proceedings, I would not have allowed the same to continue.

Hon. Members,

We must be guided by the fact that the law under section 40 of the County Governments Act, gives the County Assembly power and authority to remove from office CECMs, and not any other person.

This being the legal position, this County Assembly cannot seek to remove from office someone who is no longer in office, or someone who holds another position, except for that of a CECM. The latter position has been occasioned by Ms. Rosaita Mbukua Ngina having been officially re-designated to the position of a Donor Co-ordination and Liaison Officer by the appointing authority.

Hon. Members,

In light of the above therefore, I rule on this issue as below: **THAT:**

WEDNESDAY 20TH NOVEMBER, 2019

425

(103)

(424)

- i) The Motion on adoption of the Report by the Special Committee investigating the Removal from office of the CECM, County Ministry of Health and Sanitation- Ms. Rosaita Mbukua Ngina shall not be seconded;
- ii) As a result of the aforementioned Motion not being seconded, debate shall not arise and therefore there will be no question put;
- iii) Seeing that the question will not be put, there shall as a result not be any voting;
- iv) The purpose of the Mover reading the contents of the Report is for information only.

ISSUE NO. 2

Whether the Accused person shall be called upon to submit to the County Assembly pursuant to Standing Order No. 63(1)(b) on the right to be heard by the County Assembly, considering that she is no longer working as the CECM- County Ministry of Health and Sanitation.

Hon Members,

I have already ruled that there shall not be any debate in the Motion on the question.

It is my honest belief that the architects of Standing Order Nos. 62(9) and 63(1)(b) in requiring the County Assembly to accord a CECM the opportunity to be heard before taking a vote on a Motion for removal from office wanted to create a last opportunity for that CECM to plead with the House in the hope that the CECM would sway the Assembly and have them vote to reject the resolution to have him or her removed from office. In my view, this is an opportunity available to someone who is still in office and who intends to defend his or her removal from that office.

Hon. Members,

WEDNESDAY 20TH NOVEMBER, 2019

(103)

426
(425)

In our instant case, Ms. Rosaita Mbukua Ngina is no longer a CECM in Kitui County as stated earlier and therefore in my view, according her an opportunity to be heard by this House would be tantamount to according a stranger an opportunity to be heard on a matter that is non-existent.

It is therefore my ruling that Ms. Rosaita Mbukua Ngina will not be heard by this County Assembly on account of the Motion on adoption of the Report by the Special Committee investigating the Removal from office of the CECM, County Ministry of Health and Sanitation- Ms. Rosaita Mbukua Ngina, for the reasons stated above.

Thank you.

5. MOTION ON ADOPTION OF THE REPORT BY THE SPECIAL COMMITTEE INVESTIGATING THE REMOVAL FROM OFFICE OF THE COUNTY EXECUTIVE COMMITTEE MEMBER FOR HEALTH AND SANITATION- MS. ROSAITA MBUKUA NGINA

(Chairperson Special Committee on Investigations)

THAT, Pursuant to the provisions of Section 40 of the County Governments Act, 2012 as read together with Standing Order No. 62, this Assembly hereby adopts the Report by the Special Committee investigating the removal from office of the County Executive Committee Member for Health and Sanitation- Ms. Rosaita Mbukua Ngina laid on the Table of the House on Thursday 14th November, 2019.

(Hon Philip Nguli- M.C.A.)

(The Speaker directed that his ruling above conclusively dealt with this matter)

WEDNESDAY 20TH NOVEMBER, 2019

423

(103)

(426)

6. THE KITUI COUNTY APPROPRIATION BILL, 2019 (COUNTY ASSEMBLY BILL NO. 4, 2019)- FIRST READING

A Bill for

AN ACT of the County Assembly of Kitui to authorize the issue of a sum of money out of the County Revenue Fund and its application towards the service of the year ending on the 30th June, 2020 and to appropriate those sums for certain public services and purposes.

10. ADJOURNMENT - And the time being Twenty minutes to Four O'clock, the Hon. Speaker adjourned the House.

11. ASSEMBLY ROSE - at Twenty minutes to Four O'clock.

MEMORANDUM

*The Honorable Speaker will take the chair on
Thursday, 21th October, 2019 at 2.30 P.M.*

--X--