



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

No. 11 of 2025

**COMMUNICATION AS RELATES TO COURT ORDER ISSUING
CONSERVATORY ORDERS ON SELECT AND SECTORAL COMMITTEES.**

Honourable Members,

On 4th March 2025, the County Assembly received a Court Order dated 3rd March 2025, issued by the High Court of Kenya at Kitui in Constitutional Petition No. HCCHRPET/E001/2025. The Order grants conservatory measures suspending the reconstitution of Select and Sectoral Committees, which had been reconstituted on 14th February, 2025. The Honourable Speaker, the Acting Clerk of Assembly and the Leader of the Majority Party have been named as respondents in this petition.

Following receipt of this Court Order, I sought legal advice from the legal department through the Office of the Clerk on the appropriate course of action. I now present the legal guidance as received.

"I hereby provide my considered legal opinion on the Petition as follows:

A. Facts

Hon. Mark K. Nding'o & Thirty-Four Others filed Constitutional Petition No. E001/2025 in the High Court of Kitui, seeking the following interim reliefs:

- 1. Conservatory Orders suspending the reconstituted Kitui County Assembly Select and Sectoral Committees, which were established through a resolution of the House on 14th February 2025.*

2. *Restraining Orders preventing the said committees from conducting sittings, incurring expenditures in terms of allowances or other means, or performing any functions under the County Assembly Standing Orders.*

B. Issue

What are the legal implications of the conservatory orders issued by the High Court?

C. Analysis

*The conservatory orders have significant legal and operational implications. Of particular concern is the impact on statutory committees such as the **Committee on Budget and Appropriations**, the **Committee on Public Investments and Accounts** and the **Committee on Finance and Planning**. These committees are mandated by law to review and recommend for approval of these statutory documents to the Assembly within specific timelines, including but not limited to:*

- *The County Fiscal Strategy Paper*
- *The County Annual and Supplementary Budgets together with Appropriation Bills.*
- *The Annual Development Plan*
- *The Auditor General Reports*

The issuance of the conservatory orders effectively stalls the operations of these committees. Consequently, their inability to discharge their statutory mandates within the prescribed timelines may have detrimental effects on governance and service delivery within the County Assembly, ultimately affecting common people.

Honourable Members,

In light of the legal advice received and in relation to my earlier communication committing the County Fiscal Strategy Paper (CFSP), the Debt Management Strategy Paper (DMSP) for the Financial Year 2025/2026, and the Auditor General's Report to the County Budget and Appropriations, and the Public Investments and Accounts Committees respectively, I wish to direct as follows:

1. Consideration of these vital documents shall be deferred pending either:
 - The lifting of the Court Orders, or
 - The Court's ruling on the matter, whichever comes first.

2. The Assembly will expeditiously pursue legal recourse to seek the vacation of the Court Orders to allow statutory committees to proceed with their functions.
3. Until the conservatory orders are lifted or the case is determined, the affected committees are prohibited from undertaking any activities related to these documents.

Honourable Members,

The Assembly remains committed to upholding the rule of law while ensuring effective legislative oversight and service delivery to the people of Kitui. I will keep the House informed of any developments regarding this matter.

Thank you.



HON. KEVIN KINENGO KATISYA

SPEAKER, COUNTY ASSEMBLY OF KITUI

5TH MARCH, 2025

