

Wednesday, 17th July, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA

SIAYA COUNTY ASSEMBLY

THE HANSARD

Second County Assembly – Third Session

Wednesday, 17th July, 2019

The House met at the County Assembly Chamber at 9.30 a.m.

[The Speaker (Hon. Okode) in the Chair]

PRAYER

COMMUNICATION FROM THE CHAIR

COURT ORDER

Hon. Speaker: Hon. Members, I have communication to make, I have two issues; the Assembly is in receipt of a Court Order. The Assembly received this Court Order today in the morning at 8.25a.m. and the order is; this matter came up for hearing on 16th July, 2019 before Hon. Lady Justice R. E. Burili in the presence of Mr. Willis, advocate for the petitioner and Mr. Gordon Ogola, advocate for the respondent.

It is hereby ordered that:

The petitioner, Hon. Joseph Mboha shall be allowed to access the County Assembly of Siaya and to all Committee sittings that he is a Member,

That this order effectively compromises the contempt proceedings commenced against the respondent,

The parties herein to exchange written submissions to converse the main petition,

The petitioner to file and serve written submissions from 14 days from today,

The respondents to file and serve theirs within 14days from the date of this service and

The mention be on 18th September, 2019 to confirm compliance with the directions or orders of the Court given under my hand and seal of this Court 16th July, 2019, Hon. Lady Justice Aburili, issued at Siaya on 16th July, 2019.

The meaning of the Orders is that the Member be allowed to attend the precincts pending the determination of the case. We comply, however, Hon. Members, yesterday there was an ugly scene. Yesterday when the Assembly had just sat the same Hon. Mboha came with goons to the Assembly and disrupted the peace of the House. He shouted and with the assistance of goons accessed the House claiming that the Assembly had been served and that he had been given orders to come to the Assembly.

Disclaimer: *The electronic version of the official Hansard report is for information purposes Only. A certified version of this report can be obtained from the Hansard Editor.*

Wednesday, 17th July, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

At that time there were no orders known to the Assembly so Hon. Members pursuant to the provisions of Powers and Privileges Act 2017 section 17 (6) *A Member who has been suspended under sub section 3 of this Act is required to leave the precincts of the Assembly and cannot during the period of suspension and without a written permission of the Speaker enter the precincts for whatever purpose, participate in any activity of the County Assembly or Committee of the County Assembly.*

Hon. Members, notwithstanding provisions of both Powers and Privileges Act under our Standing Orders that guide this Hon. House on disciplinary matters, on 16th July, 2019 Hon. Mboha came to the Assembly accompanied by a gang of goons and attempted to storm the precincts of the Assembly with goons; he was, however, repulsed by the Assembly security agencies and it was at this point that with the assistance of his gang, Hon. Mboha jumped over the security wall of the County Assembly into the precincts.

Hon. Mboha while inside the House assaulted the serjeant-at-Arms who had tried to restrain his disorderly behavior. Hon. Members, he then proceeded to the reception area where he kept shouting at the top of his voice in the presence of staff and visitors demanding to know why he was being denied entry yet there was a Court Order granting him leave to enter the precincts and participate in Assembly activities.

While shouting at the reception, Hon. Mboha uttered disenchanting words against the Hon. Speaker and other officers of the Assembly. Hon. Members, we note that at this point no order had been received at the Assembly to confirm his claims. An order, however, was brought to the Assembly today 17th July, 2019 at 8.25a.m.

Hon. Members, our Standing Orders no.1 (12) gives clear specifications on what constitutes gross disorderly conduct. Grounds that shall be relied on to consider disciplinary action against the Hon. Member. Some of these include creating actual disorder (b) using violence or threatening a Member or another person.

Further, the following sections of Powers and Privileges Act define its Acts in respect to County Assembly and its Members. 26 (a) *A Member shall not assault, threaten use abusive language, obstruct, molest, insult any Member* (b) *Assault, threaten, use abusive language, interfere with, molest, resist or obstruct any Member or staff while in the Execution of his or her duty.*

A person commits an offence when the person obstructs, threatens, assaults or insults a Member of staff or police officer while carrying out service or sermons, uses abusive language directed at a Member of this House.

So Members, following the conduct of Hon. Mboha, and in order to respect the rule of law and protect dignity of this House, I direct as follows:

That, the Member having defied particularly provisions cited above, having been deemed to have been sent away three times and pursuant to section 3, (g) of County Assembly privileges Act and SO No. 115, the MCA is hereby suspended for 28 days of the days of the above fresh charge of disorderly conduct. Remember this is not in relation to the charges the disciplinary process that was on, this is a fresh charge on disorderly conduct.

Wednesday, 17th July, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

That, the conduct be reported to the Powers and Privileges Committee in the spirit of fairness and in respect of the County Assembly procedures for disciplinary proceedings.

That, on the reported matter of assault on the staff member by Hon. Member. I direct the affected staff to report the matter to the police so that criminal proceedings can be preferred against the Hon. Member. The House stands directed.

In summary, I am saying that we comply with the decision of the court to have the Member access the Assembly on the previous charges. On the new offence of yesterday creation of disorderly conduct pursuant to the provisions of our SO the Member is suspended for 28 days and his matter is reported to the Powers and Privileges Committee for considerations, reporting, and that be communicated by the office of the clerk to the Member immediately or forthwith.

Fourthly, That, the staff who was assaulted report the matter to the police to ensure that justice is done.

In addition, forthwith the serjeant-at-Arms to ensure that these directives are implemented and that there is no access unless with written authority of the Speaker because that is the Law.

Serjeant-at-Arms to ensure that the security of Members and this building is safe by making sure that the police are deployed in this place sufficiently to address any act of disorder by a Member or anybody.

Reports were laid yesterday, I don't know if we are ready for... Do we have any Motion? Okay, in the afternoon, Yes, Hon. Edwin.

STATEMENT

GRADING, CULVERTING AND MURRAMING OF KOTHACHA-OUYO-WICHLUM ROAD

Hon. Odhiambo: Thank you, Mr. Speaker, Sir.

Pursuant to SO 41(2c), I rise to seek a Statement from the County Executive Committee Member (CECM) for Public Works, Energy, Roads and Transport on the grading, culverting and murraming of Kothacha-Ouyo-Wichlum Road in South Sakwa Ward.

In the statement, the CECM should;

1. Explain why the contractor (Lizley) was paid Kshs. 1,000,526 without the approval and knowledge of the MCA Hon. Edwin Odhiambo, the project committee and the Ward Administrator.
2. Explain why the works done by contractor (Lizley) deviated from the specification of the BQs.
3. Explain the plans the County Government has in ensuring that the project is completed as per the specifications of the BQs.
4. Explain the plans the department has to avoid such occurrences and possible loss of public funds in projects that are paid for and not done.

Thank you.

Wednesday, 17th July, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Speaker: Yes, the chairman for the relevant Committee, may I find out, is this Committee ready with the report in the afternoon? The roads Committee I am told the chairman cannot be reached.

Hon. Booker: Thank you, Mr. Speaker, Sir. The chairman is not around and we are not ready with the report in the afternoon, but I also want to react to the Statement by Hon. Edwin, Member for South Sakwa that we have received the Statement and are requesting him to give us around 2 weeks to expedite on it.

I also request the Hon. Member or the clerk concerned to expunge from the Statement the words approval and knowledge of the area MCA Hon. Edwin Odhiambo because the area MCA does not approve the payment of the contractors. Thank you.

Hon. Speaker: I didn't see the Statement, but I do agree with you... can it be redrafted and you exclude the issues of the area MCA; you could talk about the project management Committee. Yes, Hon. Otiato!

Hon. Otiato: Maybe before I make a comment on my point of Order, in the last Sitting when we did a presentation here where I was doing a verbal request on your directive, you asked me to provide a written document, so I wanted to hand it over. I would not have known the actual point to make on some of my observations, on these issues that we have raised, especially on the issues of matters security. Following what happened yesterday, I was seated here, I realized that concerning what Hon. Dasani once talked about, two months ago; yesterday it was a serious breach.

How I wish that we would find a way of arming our serjeant- at- Arms. I was just trying to imagine when an outsider has jumped over the fence, and is ready to shoot everybody on site! Now we would be having serious casualties. I ask that this exercise be expedited, because yesterday we had some officers here, and on the occurrence of the incidence is when we were running up and down to look at where the officers were.

I know one sergeant at arms could not go and sleep at home, so we had to do a remote monitoring of where he is, and, maybe any threat that he can be having! Because these people wanted to attack him directly, and he now cannot even access the Assembly, out of fear for his life.

I don't know why we should be operating in such an environment. Some of these officers will be attacked even tomorrow. In some communication platforms, you see somebody saying that now we need to block the access to that particular Assembly.

Why should the exercise of this assembly be held at ransom because Assembly is in Alego, we cannot say anything! That is wrong! So, Mr. Speaker, through your letters, some people here too need to be armed because some of us have various experiences, so that if you come for war you will get it, and if we are taken to court, we will be ready to defend any decision that we have made.

So we cannot allow this to proceed, we cannot allow the life of our MCAs to be at risk. We were seated here with Winnie, she was helpless, but me I could not stand because I knew that if I am confronted, I could do the worst thing and bring somebody down very fast. So under their

Wednesday, 17th July, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

guidance I decided to sit back there, but with punches coming at the chest of a serjeant-- at - Arms, on everybody and people were making noise, it is not right! Our life is in danger.

Hon. Speaker: Hon Members, I know you are angry, I feel you, but let us not give the enemy prominence. We cannot be cowed, and we are not going anywhere. This is where we are sitting and debating. We have the entire mercenary, we have the legal framework and we have the will to ensure that evil does not prevail against us.

After this I am going to have a meeting with the Office of the Clerk and the serjeant –at-Arms to ensure that security is enhanced and we need it. Otherwise there being no much business, I want to communicate that when I leave the Deputy Speaker has something to tell you, so wait for him.

MOTION
ADJOURNMENT

There being no other Business, will you be upstanding for adjournment?

There being no other Business, the House stands adjourned until today the 17th of July 2019 at 2.30 p.m. in the Chamber.

The House rose at 10.11 a.m.