

Tuesday, 10th September, 2019 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA

SIAYA COUNTY ASSEMBLY

THE HANSARD

Second County Assembly - Third Session

Tuesday, 10th September, 2019

The House met at the County Assembly Chamber at 2.30 p.m.

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

PRAYER

COMMUNICATION FROM THE CHAIR

WELCOME FROM RECESS

Hon. Speaker: Hon. Members, allow me to welcome you back from the short recess. I am aware that we will be here for another one and half months and we have CASA games ahead of us. We also agreed that we have to conclude the businesses that were pending from the previous sessions. I hope that you feel energized and that you are ready for work, and I wish you the best interactive moments during our sessions in the House.

PETITION

RULING ON A PETITION

Hon. Speaker: Hon. Members, I am going to give a ruling on a petition that we received some time back after Order No. 7 before adjournment.

PAPER

PENDING BUSINESS

Hon. Speaker: Hon. Members, I direct that the House Business Committee meets tomorrow at 9.00 a.m. to deliberate on the agendas that are pending before this House for direction.

STATEMENT

LIGANUA VOCATIONAL TRAINING CENTER

Hon. Speaker: Yes, Hon. Oriaro, then I will ask Hon. Wandera to make some statement on invitation.

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Hon. Oriaro: Thank you, Mr. Speaker, Sir. As it pleases you, I didn't have a written Statement going by the urgency of the matter I had gathered when we were through with the informal Sitting. My wish is just that you allow me to present a verbal Statement request.

Hon. Speaker: Okay, go on.

Hon. Oriaro: I want to put a Statement request to the chair of Education on matters concerning Liganua Vocational Training Center formerly Liganua Polytechnic situated at Ndere in Alego. Allow me to give a background on those specific items of Statement.

Liganua Polytechnic is mistaken as Ndere Polytechnic because it is within Ndere market, has been having problems, real problems that threaten the wellbeing of students and staffers since the inauguration of the current Government.

I am adequately aware that since 2018 petitions have been drawn to the Governor, the CECM Education and we are very lucky that the CECM on Education we had approved her services at that time, County Secretary, CO of Education and EACC concerning those problems.

Problems written by students, by Kakumu Kombewa villagers regarding the mishandling of the Polytechnic by the Board Membership led by the chair by the name Oganga. Interestingly, within that Board, Oganga has two brothers and one is called Joseph Nyangor. Again, the area chief is also his brother majorly making them operate the institution as if they are the managers of this institution.

Unfortunately, these have fallen into deaf ears and in March, student did a protest to do a follow up of their grievances brought by the petition that was formal but also fell into deaf ears. Towards the end of July they also did another petition and the CECM said that one of the students told her that she is the one having powers of the Board members.

As I am speaking now, I am learning that the student opened the school yesterday, some travelling from wherever they were only to be told by the CECM via her communication that school is closed until Thursday. Reasons unknown!

I am aware that last week a team chaired by the County Secretary, the acting CECM herself and CECM on Governance had summoned the Board members on matters that are not clear. However, in the end of it all, it was communicated verbally to the Board members and the managers that they are not supposed to go to that school because they will be suspended.

Interestingly, after that suspension a day later, Oganga the chair called the lady to go and draw for him blank cheque but the lady refused. On Thursday, they were reconvened and given suspension letters including the manager. On Friday, the same CECM calling the manager, Lilian Nyangor Odianga to go and draw for her blank cheque though the lady did refuse.

Therefore, my statement request in general is:

1. I want to know the existing policies governing issues of appointments to Board to our polytechnics in particular Liganua.
2. How the CECM has been relating to that particular Institution on matters of administration etc.
3. In general, the cries have been that the Board chair has been going overboard. I want to know the practical approaches the CECM has so far taken to address issues presented to her since 2018. Above all, that the school is closed and one thing that I want to underscore here is that when the lady assumed the office in 2018 the population in the school was 203. Nevertheless, as I speak now the population is 495 of which 200 students

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are pursuing hairdressing whereby the lady in charge is the trainer but now she is out of office yet exams are just to be done in a few days to come with practical provision from the lady.

4. What necessitated the closure of the facility yesterday on matters of administration because the lady's paper, the CECM is an academician. The circumstances under which she closed the school and she knows very well that exams are just around the corner, and above all if suspension had been given it would be believed that the deputy to that lady takes over.

I want to say that the day they received the suspension letter, the one who was deputizing the lady by the name Mr. Lawrence Okwany who is disabled was transferred to Malunga under unknown circumstances. I am informed that they have brought a new deputy, is there something that they want to cover up?

Thank you and I believe we can get the answer by Thursday next week in the morning so that I can pick on it procedurally.

Hon. Odongo: Thank you Mr. Speaker, Sir. I would like to also add something on Hon. Oriaro's sentiments that it's okay, but as we know the procedure Hon. Oriaro, I wonder how the Statement will stand committed to the relevant Committee that is Education as addressed because it is not a written document.

Hon. Speaker: Yes, Hon. Booker.

Hon. Booker: Thank you, Mr. Speaker, Sir. Allow me to remind the Hon. Member that he is not above the chair because it is you who has allowed Hon. Oriaro to put across his statement.

Hon. Speaker: You are all right. Hon. Members, if I look at our second schedule on the domain of Education, Youth Affairs, Gender and Social services, they have a duty to investigate on matters relating to preprimary education, Village polytechnics, Home craft centers and child care facilities, regulations control, and cultural activities including betting occasion's ext.

Being that the matter in question is a matter of County importance, I will direct that Hon. Oriaro puts his concerns in writing by close of business today and it be committed to Committee on Education so that by Tuesday next week at 2.30p.m. we get a response on those allegations.

I further direct that you consider the following documentations available from Hon. Oriaro; you look into the petitions he has referred to several Petitions which have been written before. You interview the CECM, you also have a discussion with the Board, if they are ready to meet you and the school management so that by Tuesday next week we are able to get a response on this matter.

The Deputy Speaker is right that we needed to have this in writing but I allowed because of the urgency. The Member for North Uyoma is equally very right that I allowed him to present because the matter was urgent and therefore it is me to permit and I have done so. The House stands guided.

There is another statement by Hon. Wandera.

Hon. Wandera: Thank you, Mr. Speaker Sir. As a Member representing the interests of the people of Sidindi Ward, I rise on behalf of the Roman Catholic Church situated in Rang'ala Mission Centre. She is celebrating or commemorating 100 years Anniversary on 13th of this

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month and has the pleasure to invite the County Assembly of Siaya with special regards to the Hon. Speaker.

During the function, the mission has invited the President of the Republic of Kenya, His Excellency, Hon. Uhuru Kenyatta and His Excellency, the People's President, Eng. Dr. Raila Amolo Odinga. However, the latter has registered his attendance but the former is yet to communicate. I take this opportunity on behalf of the Mission to invite all the Members of the County Assembly of Siaya. Please come, don't embarrass the Hon. Member of the area, come one come all.

Hon. Speaker: Point noted, we also hope you won't embarrass us. Next order!

PETITION

REMOVAL OF HON. AMBROSE AKUNO

Hon. Speaker: Hon. Members, I told you I will be giving direction on a matter of petition which was presented to this House and I have communication on the same. Petition for the removal of Hon. Ambrose Akuno, Member for West Asembo Ward.

On Monday, 2nd September, 2019, the County Assembly received a petition signed by persons calling themselves, Bernard Genga, Charles Omondi Simbe, Bernard Akumu Abidha, Lillian Omondi Jometho and Peter Omedo Ombere. Inter alia, the petitioners prayers to the Assembly were as follows:-

1. That the Speaker invokes Article 194(1) (b) of the Constitution of Kenya, 2010, and declare the office of the Member of County Assembly for West Asembo Ward vacant, on grounds that the Member has been absent for more than eight sittings of the Assembly on various dates indicated in the petition.
2. That an investigation be launched on possible abuse of office by the Speaker of Siaya Assembly for failing to invoke Article 194(1)(b) thereby allowing Hon. Ambrose Akuno to remain in office despite violations of the provision of the said Article.

It is instructive to note that yesterday, Monday the 9th of September, 2019; my office received a letter from two of the petitioners; Charles Omondi Simbe and Lillian Omondi Jometho, withdrawing their names, signature and participation from the said petition. In their letter, the two opined that their involvement of the petition was hitherto based on illiteracy and absolute ignorance on the purpose and intentions of the petition authors.

(Applause)

In considering as to whether to admit this petition or not, I am guided by the principles of form and merit. Standing Order 207, on the Form of petition provides among other things that a petition shall:

- e) have its subject-matter indicated on every sheet if it consists of more than one sheet
- f) indicates whether any efforts have been made to have the matter addressed by a relevant body and whether there has been any response from that body or whether the response has been unsatisfactory

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- g) indicate whether the issues in respect of which the petition is made are pending before any court of law or other Constitutional or legal body
- i) subject to paragraph (m), contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner where there is more than one petitioner.

Contrary to the provisions of the Standing Order 27 stated therein above, the purported petition lacks in form and is at great variance in the following ways:

1. It does not have its subject matter indicated on every sheet
2. It does not indicate whether any efforts have been made to have the matter addressed by a relevant body and whether there has been any response from that body or whether the response has been unsatisfactory.
3. It does not indicate if the matter in respect of which the petition is made is pending before any court of law or other constitutional or legal body
4. It does not indicate the address of the petitioners.

Standing Order 204(4) requires the Clerk of the County Assembly to give directions as are necessary to ensure that the petition is amended to comply with the Standing Order and the law. However, in the circumstances where the address and contacts of the petitioners are missing, as in this case, it is impossible for the Clerk to reach the petitioners with the view to amending the petition to comply with the law. You do realize that the petition is firstly defeated on account of form.

(Applause)

In line with the provision of Standing Order no. 1, I have made attempt to assess the merit of the matter being that it is an issue which heavily calls into question the integrity of the House and that of the Hon. Member for West Asembo.

Upon quick perusal of the dates indicated in the petition of which the Hon. Ambrose Akuno is alleged to have missed House Sitzings, there is adequate documentation of permission granted to the Hon. Member in the custody of the Office of the Clerk as the custodian of House records.

The said permissions have been sought and granted in writing as per the provisions of Article 194(1) (b) of the Constitution of Kenya 2010 on vacation of office of Member of County Assembly which states that; *if a Member is absent from eight sittings of the Assembly without permission in writing of the Speaker of the Assembly and is unable to offer satisfactory explanation of the absence.*

Records at our disposal indicate that the Member has been seeking permission from the Assembly Speaker and his absence is dully authorized. For this reason, the petition fails on account of merit.

(Applause)

An inquiry into this if allowed, knowing very well that it fails on merit and form, will most definitely lead to misuse of public resources which is in contravention of Article 201 (d) of

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the Constitution of Kenya, 2010 and Section 147(1) (a) and (d) the Public Finance Management Act, 2015, which calls for the prudent use of public resources.

In my utmost considered opinion, I find the petition to be frivolous, vexatious and an abuse of the proceedings of this House and therefore lack merit. To this regard, the petition is inadmissible on the account of form and merit, and hence, cannot be entertained by this House for consideration for that will lead to abuse of Assembly time, resources and abuse of procedures.

The petitioners are hell-bent in recalling their Member of County Assembly, they should resort to Section 27(3) of the County Government Act which states that a recall of a Member of a County Assembly shall be initiated upon judgment or finding by a High Court confirming the grounds specified in subsection (2) or get their forms and facts right before presenting petition for removal to this House.

On abuse of office, I find no basis on this argument. I am persuaded to think that the petitioners are acting from a point of ignorance of law and procedure. They are advised to seek redress from a court of law or other bodies like the Ethics and Anti-Corruption Commission and Ombudsman for appropriate guidance and action. In conclusion, the petition stands dismissed. The House stands guided!

(Applause)

Next order!

MOTION
ADJOURNMENT

Hon. Speaker: There being no other Business, will you be upstanding for adjournment!

(Hon. Members on their feet)

Hon. Speaker: Hon. Members, there being no other Business, this House adjourns until tomorrow 11th September, 2019 at 9.30 a.m. in the Chamber.

The House rose at 3.49 p.m.