

Wednesday, 27th May, 2020 COUNTY ASSEMBLY OF SIAYA DEBATES

REPUBLIC OF KENYA
SIAYA COUNTY ASSEMBLY
THE HANSARD

Second County Assembly - Fourth Session

Wednesday, 27th May, 2020

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

[The Deputy Speaker (Hon. Odongo) in the Chair]

PRAYERS

MOTION

EDUCATION BURSARY FUND FOR FY 2017/2018

Hon. Kinyanyi: I would wish to move that this House adopts the Report of Public Accounts Committee on the Auditor General's Report on the Financial Statements of Siaya County Education Bursary Fund for year ended 2018 laid on the Table of the House on Wednesday, May 20, 2020 at 9.30 A.M

Mr. Deputy Speaker, this report is also the same as the FY 2016 and since we are a Committee, I will not be too greedy myself and I will call upon Hon. Judy Patel to read the recommendations to us.

Hon. Deputy Speaker: You are reminding Members that this FY 2018 and the one that was discussed in the morning was for 2017.

Hon. Oyugi: Thank you, Hon. Deputy Speaker Sir. Pursuant to the Committee findings, the Committee made the following recommendations on the Auditor General's Report on the Siaya County Education Bursary Fund for FY 2017/2018.

1. Pursuant to Section 116 of the PFM Act No.18 of 2012, County Governments Act No. 17 of 2012 Section 6 of the Siaya County Education Bursary Fund for FY 2016 and Siaya County Assembly SOs, the CECM Finance should immediately appoint, designate an administrator of the Siaya County Education Bursary Fund and submit the said name of the appointee to the County Assembly for consideration within 30 days upon the adoption of the Bill.
2. That pursuant to the findings of over expenditure and unsupported expenditures on administrations of funds. The Committee deems it fit that the amendment for Siaya

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Wednesday, 27th May, 2020 COUNTY ASSEMBLY OF SIAYA DEBATES

County Education Bursary Fund Act initiated in order to provide specific guidelines as to the management of the an utilization of administrative course for proper management of the ---

3. Pursuant to Section 203 of the PMF Act No. 18 of 2012, the CECM Finance immediately initiates administrative disciplinary proceedings with the aim of possible recovering of Kshs. 301,000 from Siaya County Education Bursary Fund Administrator for the year 2017/2018 from Mr. Peter Otieno and Mr. Philip Odundo as a result of omissions and commissions of public funds amounting to Ksh. 301,000 being payment to fictitious, ghost beneficiaries of Education Bursary contrary to Section 196 together with 197 and 198 of the PFM Act 2012 and Siaya County Education Bursary Fund Act 2016.
4. Pursuant to Section 74 of the PMF Act No. 18 of 2012, the public officers Ethics Act 3186 and the Constitution of Kenya 2010. The general management of and the operations Siaya County Education Bursary Fund from June the FY 2016/2017 and 2017/2018 be investigated by EACC for possible wide spread cases of collusion between the fund manager, administrator and various schools to defraud the County Government of Siaya public funds by making fictitious disbursement to schools, non-existent and ineligible beneficiaries. That upon the adoption of this report the County Assembly Clerk should invite the EACC for doing further investigations.
- 5.

(Hon. Susan Okwiri seconded)

(Question proposed)

Hon. Deputy Speaker: Yes, Hon. Oriaro.

Hon. Oriaro: Thank you, Mr. Deputy Speaker Sir. I also won and on behalf of the people I represent I want give a nod to this standard reporting. Certain things are not necessarily captured in a report, but on the strength of having our official answer on because the report usually can become an evidence in itself.

Since the spirit of adoption of the report is what at times carries the day on the strength of having votes and proceedings and the report itself that may be required in the judicial corridors. Even towards further jurisprudence and I want to talk in the context of furthering jurisprudence.

Our Counties by mere revelations on this report it is very clear that the laws even though the 2010 constitution was progressive and in order to entrench those provisions Parliament was supposed to act that is why we have County Government and other laws. In the implementations of those Laws we have observed great loophole;

One, It is common knowledge that what has impeded good governance is the non-adherence to the Law. The Law says we have a substantive CO vetted by public by way of memorandum, vetted by this House legitimately and recommend to the Governor for substantive appointment.

We have been endlessly having acting Chief Officers. See how the acting CO Education brought us down! Acting CECM in the sector of Education! You will be

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Wednesday, 27th May, 2020 COUNTY ASSEMBLY OF SIAYA DEBATES

surprised the year in question even the acting CECM Finance...we must remind the National Assembly and the Senate must stand on its feet so that the Laws Governing the appointments of CO that the Assembly should be using and stamp its feet on. The Laws on CECMs, let the Law be there to allow acting CECMs and acting COs.

The chair had remarked ‘ an acting person in charge of over Ksh. 170 million that now has gone under that we are calling upon the EACC to find out and recommend justice to the prosecutor or the DPP further guides the EACC to dig deeper.

We want the National Assembly and the Senate to know that Laws on appointments, the in charges of our Counties are letting us down.

We also want the public to know that whenever we stamp our authority telling that we will not approve the CECMs and the COs list because they are defective vide the existing Laws, the public is made to gang against us saying that we are impeding the work of the Governor and by the definition of Law the so called the work of the Governor are neither here nor there.

I support.

Hon. Adalla: Thank you, Mr. Deputy Speaker Sir. I think it is a job well done and we have had instances where the stories have been about students suffering every now and then. I am impressed by recommendation No.1 that after the adoption of this report we want the Executive to send a name to this House for approval, because am assuming that the mixup is because we lack somebody who can handle these things.

Such that when issues arise like what we have identified we do not really have somebody we can really name. Therefore, if this is going to help then I will be in line with the Law that was passed in this Assembly. However, how I expected the Committee to have moved ahead and say that if the Executive fails to send a name by the laps of that time then it is possible that we will pass this report in our own way.

What happens if we adopt this report and he fails to send a name as we wish as a House? Because am aware that even now we have a queues of Bursaries which have not been paid. I know we took rescue with the Corona issue but I know that it will also be a thing of the past and we will be faced with the same predicament again.

How I wish we had added a rider that failure to this then what are the repercussions. Someone like Peter Otieno is not somebody who needs much, this is a person I have dealt with when we were handling the Liganua TTC and surprisingly in the report of the other financial year, his name is there and in this one, too his name is there.

I am just hoping that he will succeed then I wait for his name to come before us here for approval because it cannot be that someone's name is always coming up for the wrong reasons unless someone is using him or is he the one who is bad?it is my hope that once we pass this report then we will not have issues with our students suffering when those who are in charge to safe guard interest are safe. I support.

Wednesday, 27th May, 2020 COUNTY ASSEMBLY OF SIAYA DEBATES

Hon. Atieno: Thank you, Deputy Mr. Speaker. As a mother and a grandmother, I see tears rolling. When we walk out here, you find very good students who have passed so well but they are unable to go to school.

They cannot afford fees. This is a County which is blessed with very bright children who are supposed to go to very good schools. They pass very well but they can't go to these good schools because they can't afford to pay fees.

Devolution was meant to help people down here, now the money is down here but what do we do? It is very sad that our children can't go to school and yet the money is here and being misused. As representative of our people, I think we are not doing enough! We allow this to happen year in year out and we get nothing. I hope that the recommendations are going to be implemented. I support.

Hon. Opanga: Thank you, Mr. Deputy Speaker. I also rise to support the Motion. I support the report of the PAC on the auditor's general report. Indeed, this bursary issue has been a thorn in most of us both elected and nominated MCAs.

The generalization of the public view is that we are part of the cartel that collaborates with the County Department of Education in the Executive to make those who were awarded not to receive the funds.

On a personal note and maybe my brother Hon. Adala, who is also a Member of Ugenya can attest to this, I have been on many occasions blamed that I am part of the cartel that has been swindling the bursary money together with His Excellency the Governor.

The truth of the matter is, on many occasions, I am happy that even the person that has been named here as Peter Otieno is no longer operating in that office. The issue of bursary is a very serious issue, I have a case today, students who were given bursary in 2018/2019 and 2017/2018 who have not received bursary have gone to that office severally.

One was a student in Maseno, he is on the disbursement list that we were given and when we went to follow for the disbursement the funds were sent to MasindeMuliro University which has been a problem till today.

They are saying that they have written to MasindeMuliro to transfer the money back to Siaya County account so that the student can be given that money so that he can continue with his studies.

Another case here, I have a student who was studying at Kisii Polytechnic who followed the issue of bursary until he cleared his studies and he has never received that bursary. Through the Committee on Education based on recommendations of the PIC/PAC report, it will be my greatest desire that someone should be appointed to manage the funds independently.

Another concern is the mode of transmission because even for the PIC/ PAC Committee, it will be very easy for them to even quote a cheque number that was used on such and such a date and this will give you an easy way for the follow up. I support and those culpable should also serve as an example.

Hon. Wandera: Thank you, Mr. Speaker, Sir. I stand to support this report on the findings and the allegations. Since we came we have found the situation of the Bursary on going

Wednesday, 27th May, 2020 COUNTY ASSEMBLY OF SIAYA DEBATES

and I am not afraid to tell you that even in future don't be surprised if you find that the same person has fallen again to be a victim, that this particular person is again guilty of the misappropriation of funds.

As I talk now, I don't think that the Chairman does not know that I am the Vice Chairman of Education, but Mr. Speaker, Sir, you know this one very well, and you know how we went about interrogating the same party, the same people over bursary issues, and other situations, but not for now.

I just wanted to find out about this report, which has not been handled very well, without majorly the persons concerned contributing much, I stand to support.

Hon. Oduor: Thank you, Mr. Speaker, Sir. I am not happy at all because we are here discussing someone who embezzled funds meant for poor students. Sometime back, we used to boast of having very brilliant students from Siaya County, but of late the number has been going down, as very many students that are graduating you cannot hear 'O, O'.

Now if we have someone embezzling funds meant for the bright needy students, if he can embezzle the fees meant for our children, I think this guy should belong to jail. I say that because if he can embezzle fees, what can he do next? If you embezzle the fees of your children, what do you think he would do next?

I think this is one person who should be cursed because we cannot go on like this. I can remember when we came into the House that was some years back. I went to his office and there was a student whom he promised that he was going to sponsor through the Governor's funds. It never happened.

This student is now finishing his form 4, and he even wrote a letter to the school, that he was paying Kshs 20,000. He never did it, and I am sure this is part of the Kshs 301,000 that have gone missing from the Bursary account, and for that matter I want to support the report and I want to urge the Chairman to see to it that it reaches the furthest end and this criminal put in prison.

Hon. Oor: Thank you, Mr. Speaker, Sir. I would like to support the report and that Ward administrators should not be given the power to control Bursaries. Allocations should also be put in place for those who can give expertise advice for them to take over from the people who have been in tenure when their time is over. We also need extra allocations for those bright needy students to be identified in every sub location or ward.

The money which was wrongly used through corrupt actions should be taken against them, if not let us know them or they be listed, all those who embezzled the money for education, the Bursary. Let us also look for the independent bodies to run the Bursary and give us the correct report. Thank you.

Hon. Deputy Speaker: I would like to call upon the Mover to reply to this Motion. Before that I would like to correct the Hon. Majority that it's not the Ward Administrators.

Hon. Kinyanyi: I would like to thank the Honorable Members for contributing and supporting the report. Hon. Majority talked about the Ward Admins; it's not them but the secretary for the Bursary per ward.

Wednesday, 27th May, 2020 COUNTY ASSEMBLY OF SIAYA DEBATES

As per our investigation, the people who are sitting as Bursary Committee, this year, are the next people that Hon. Wandera just gave their names, but they had some misleading information showing that they are the present Members of the Bursary Committee, that one you really need to indicate. So that one now I am telling you that we should be very careful with those who are being given the Bursary by the committee.

As per these Ward Administrators as some Members are saying, some schools we only get Kshs 5000. This person got Kshs 90,000 for his daughter and we only act by the several schools that were given by the Auditor general. So you can see how the rot is there in that department. Members of this Honorable House, as our request, I think something should be done as soon as possible.

We have those people who can take care of the funds and t run the Bursaries. Like I said, we only visited Nyamira, Sawagongo and Chianda. These are samples of Auditor General's report. It might be we have a school in your area that requires audit, Hon. Majority, it's better for you to take a closer look.

Find audit on those people who are really getting the Bursary, because in this one we have only 4 schools, and we can see the rot in these 4 schools. So if we talk of whole County, we are in a big mess. So we need an urgent action. Get people who can run the Bursary fund.

As per this Report, the other things that maybe you do not know, the report we are given are the samples of the Nyamira, so when we dig deeper into this then we found other things. The information here is based on Nyamira, not even of Siaya.

As we decided to go further, the information given by the Auditor, they are Nyamira report, and that is why I asked if this House can come up with a proper arrangement of those people who can run the Bursary, through that we can help our children.

Leave alone the report that we are having. I think in the next meeting as a House, we should also give the information to the information department to give us those people who can run our Bursary fund in a proper way. Like this one you know we have like 5 samples, and this is the best we are getting.

Five samples for Siaya Bursary. So if we also work as a team, we could give a proposal of those who can help run a County and achieve the right purposes of Bursary. With those few who have supported, I thank you.

(Question put and agreed to)

MOTION

ADJOURNMENT

Hon. Deputy Speaker: There being no other Business, Members will you be upstanding for adjournment. There being no other Business, this House stands adjourned until tomorrow the Thursday of 28th May at 2.30 p.m. in the Chamber.

The House rose at 3.50 p.m.

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