

**REPUBLIC OF KENYA**



**COUNTY ASSEMBLY OF SIAYA  
SECOND ASSEMBLY  
(SECOND SESSION)**

**COMMUNICATION FROM THE CHAIR**

**ON INVITATION AND SUMMONING OF WITNESSES**

**Honorable Members,** on 3<sup>rd</sup> October, 2018 during the Afternoon Sitting of this Honorable House, the Committee on Finance, Trade, Industry and Cooperatives sought guidance from the Speaker on the actions which should be undertaken by the Committee on the County Executive Committee Member for Finance, Trade, Industry and Cooperatives after his continuous depiction of disobedience to the Committee by failing to honor the committee's invites and requests for information.

Thereupon, this House while debating the Motion on removal of the County Executive Committee Member from office, it became apparent to the Chair that Members of the Executive Committee have continued to undermine the authority of this House by failing to honor invitations to Committees and providing information to the House.

**Honorable Members,** this House in discharging its mandate as stipulated in Article 185 of the Constitution of Kenya, 2010 read together with Section 8 of the County Governments Act, 2012 has been conferred upon the power to invite and summon witnesses to provide it and any of its Committees with evidence and information, requisite for undertaking effective and efficient oversight. Article 195 of the Constitution of Kenya, 2010 on the County Assembly's power to summon witnesses states as follows;

**195. (1) A county assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information.**

**(2) For the purposes of clause (1), an assembly has the same powers as the High Court to—**

**a) enforce the attendance of witnesses and examining them on oath, affirmation or otherwise;**

**b) compel the production of documents; and**

**c) issue a commission or request to examine witnesses abroad.**

**Honorable Members**, with regard to CEC Members, the County Government Act, 2012 compels their appearance and dealing with questions relating to Members responsibilities. Section 39 (2) states succinctly as follows;

**(2) A committee of the county assembly may require a member of the executive committee to—**

- a) attend or appear before the committee; and**
- b) answer any question relating to the member's responsibilities.**

In addition, Hon Members, the County Assemblies Powers and Privileges Act, 2017 vests on the County Assembly the power to invite and summon witnesses. Section 18 of the Act elucidates as follows;

**18. (1) A county assembly or its committees may invite or summon any person to appear before it for the purpose of giving evidence or providing any information, paper, book, record or document in the possession or under the control of that person and, in this respect, a county assembly and its committees shall have the same powers as the High Court as specified under Article 195 of the Constitution.**

Moreover, Standing Order No. 181 provides that;

**Committees shall enjoy and exercise all the powers and privileges bestowed on the Assembly by the Constitution and the statute, including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the Government and the public.**

**Honorable Members**, my attention has been particularly drawn to the continuous dishonor portrayed by the CEC Member for Finance – Mr. Joseph Warega who despite having been avidly invited by the Committee on Finance, Trade, Industry and Cooperatives, has, and with supreme impunity, failed to honor the invites. A case in point is the invites vide letters referenced SC.ASS/CORRES/C.EXC/18 VOLXII-4 and SC.ASS/CORRES/C.EXC/18 VOLXII- 56 dated 14<sup>th</sup> September, 2018 and 17<sup>th</sup> September, 2018 respectively which he neither responded nor minded to attend the meetings.

**Honorable Members**, after perusal of invite letters sent to Mr. Warega and minutes of the Committee, I can in deed confirm that the CEC Member did not heed to the invites. It is therefore my considered finding that the CEC Member, Mr. Joseph Warega, has interminably and without any justifiable reason undermined the authority of this House; an action that amounts to breach of privilege and contempt of the House.

**Honorable Members**, by virtue of its inherent right to control its own proceedings and maintain its dignity, this House has the powers to protect its privileges and to punish those who violate its privileges or commit contempt of the House. These penal powers of the House are vested in Section 27 of the County Assemblies Powers and Privileges Act, 2017 which stipulates that;

**27. (1) A person commits an offence where the person-**

**(a) Having been duly summoned in terms of section 18 fails, without sufficient cause to-**

- i. Attend at the time and place specified in the summons; or**
- ii. Remain in attendance until excused from further attendance by the person presiding at the inquiry;**

**(b) When called upon under section 18, refuses to be sworn in or to make an affirmation as a witness; or**

**(c) Fails or disobeys without sufficient cause to-**

- i. Answer fully and satisfactorily all questions lawfully put to the person under section 18;**
- ii. Produce any document, paper, book or record in the person's possession, custody or control which the person has been required to produce under section 18.**

**(2) A person who commits an offence under subsection (1) is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.**

**Honorable Members**, I wish to reaffirm that this House shall endeavor to forever uphold its dignity and protect its powers and privileges. The House shall **NOT** treat casually, any actions geared towards undermining its authority and spiting on its powers. I therefore direct that the House through its relevant Committee, should debate on these actions by Mr. Warega and recommend the full enforcement of Section 27 (2) of the County Assemblies Powers and Privileges Act, 2017 on any CEC Member or public officer who fails to appear before this House and its Committees without any justifiable reasons, including the fining of these officers.

The House stands guided!

**THE HON. GEORGE OKODE,  
SPEAKER  
THE COUNTY ASSEMBLY OF SIAYA  
Tuesday, 13<sup>th</sup> November, 2018**