

# REPUBLIC OF KENYA



## COUNTY ASSEMBLY OF SIAYA

### SECOND ASSEMBLY

#### (THIRD SESSION)

### COMMUNICATION FROM THE CHAIR

#### ON THE PETITION FOR THE REMOVAL OF HON. AMBROSE AKUNO, MEMBER FOR WEST ASEMBO WARD

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**Honorable Members,**

On Monday, 2<sup>nd</sup> September, 2019, the County Assembly received a petition signed by persons calling themselves, Bernard Genga, Charles Omondi Simbe, Benard Akumu Abidha, Lilian Omondi Jometho and Peter Omedo Ombere. Inter alia, the petitioners' prayers to the Assembly were:-

1. That I invoke 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 eight sittings of the Assembly and 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 this Article.

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

**Hon, Members,** in considering as to whether to admit this petition or not, I'm guided by the principles of form and merit.

**Hon Members**, 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) 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;
- 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 207 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.

**Honourable Members**, 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 is in this case, it is impossible for the Clerk to reach the petitioners with the view to amend the petition to comply with the law.

**Honourable Members**, you do realise that the petition is firstly defeated on account of form.

**Honorable Members**, 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 Honorable Member for West Asembo.

Upon quick perusal of the dates indicated in the petition of which the Honorable Ambrose Akuno is alleged to have missed House sittings, there is adequate

documentation of permission granted to the Honorable 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 and his absence is duly authorized. For this reason, the petition fails on account of merit.

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 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.

Honorable Members, in my utmost considered opinion; I find the petition to be frivolous, vexatious and an abuse of the proceedings of this House and therefore lacks merit.

To this regard, the petition is in - **admissible 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.**

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

In conclusion, the Petition stands DISMISSED.

The House stands guided!

**THE HON. GEORGE OKODE, MBS**  
**SPEAKER**  
**THE COUNTY ASSEMBLY OF SIAYA**  
**Tuesday, 10<sup>th</sup> September, 2019**

