



8th May

Lamu Coal Judgement Postponed

For immediate Press Release

Nairobi – Petitioners from Lamu, who travelled overnight to reach Nairobi for an important judgment that was set to be delivered today, were disappointed when the National Environment Tribunal (NET) postponed the judgment until 24 June, without reason.

The judgment was to give verdict on a case that was challenging the Environment Impact Assessment (EIA) licence granted by the National Environment Management Authority (NEMA) to Amu Power, the company that plans to build the controversial Lamu Coal Plant.

Some of the petitioners who were not amused lamented that the NET had made this a habit throughout the hearing of this case, much to their disadvantage.

Mohammed Bwana, Save Lamu Vice Chairperson, noted that the NET had similarly cancelled scheduled hearings at the last moment throughout the litigation. Expert witnesses traveled from abroad multiple times to attend scheduled hearings, yet went home without testifying, and ultimately had their testimony excluded, after the court adjourned the case.

“Firstly, you must know that this case has taken a lot of time. We’ve had similar adjournments during the case where our international expert witnesses were not able to testify because the tribunal changed hearing dates on short notice.”, said Mr.Bwana.

This morning, the four sitting members of the tribunal wasted no time the moment the court sat, announcing that they had adjourned the judgment to June 24th. The Chairman, Mohammed Balala, said they needed more time to deliver the judgment.

“Judgment itself is not ready. There are still issues. It will come on the 24th of June.”, he said adding that he did not anticipate any further delays past the 24th.

The NET also observed that the case had now gathered a lot of public interest and promised to move to a bigger court room.

The lead lawyers for NEMA was not present while Amu Power lead lawyer, Masika had his colleagues fill in for him.

Katiba Institute lawyers who were present expressed optimism the judgment will be delivered on the 24th saying it’s a normal practice for the courts to adjourn.

“Judges adjourn cases from time to time the world over. We don’t read any ulterior motives. We believe they’re taking their time to write a well-reasoned judgment.”, said Mr. Lempaa Suyianka, lawyer for the petitioner with Katiba Institute.

The adjournment nonetheless may affect the turnout on 24th June, especially from the affected petitioners, who said they have spent money travelling and booking lodges just to be present in court for the judgment, for which they have waited for more than two years.

One of the community leaders and organizers, Ms. Raya Famau Ahmed, faulted the NET for sending out the notice only to adjourn, saying it was suspicious.

“This was very disappointing, considering it’s the month of Ramadhan and most of us are fasting. People may never come back on the 24th because we can’t be too sure. And it’s expensive traveling here and looking for a place to stay – even if for a day!”

The tribunal’s notice of judgment had explicitly cautioned, “Take further notice that in the event of non-attendance by yourselves the case shall proceed and such directions granted as the Court may deem fit and just your absence notwithstanding.”

Environmental Human Rights defenders in the country and around the world are very keen on this case particularly because the Lamu Coal Plant will contribute to adverse climate change with projected greenhouse gas (GHG) emissions as high as 8.8 million tons of CO₂eq per year which is in violation of Kenya’s commitment to abate GHG emissions by 30% by 2030. Also, in the wake of Cyclone Idai and Cyclone Kenneth; climate change risks are only more visible.

“It’s unfortunate that the people of Lamu have had to deal with the adjournment despite travelling from far. However, their resilient spirit won’t be crushed by this. Natural Justice shall continue to stand by them as we anticipate the judgment on 24th June.”, said Mark Ogada, Lawyer with Natural Justice.

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