

MOMBASA COUNTY ASSEMBLY**HANSARD REPORT****SPECIAL SITTING**

Friday, 29th April, 2016

The House met at 2.45pm.

(The Speaker (Hon. Thadius Rajwayi) in the Chair)

PRAYERS

Hon. Speaker: Thank you Hon. Members you may have your seats.

PAPER

Yes Hon. Hatimy.

Hon. Mohamed Hatimy: Ahsante Mheshimiwa Spika. Mheshimiwa Spika twaona ajabu ya kuwa bajeti imekua '*paper*'; bajeti iko katika kifungu kizima ndani ya Katiba, na bajeti iko kwa kifungu kizima ndani ya sheria ya matumizi ya pesa za umma yaani '*Public Finance Act*', na bajeti iko na maneno mengi sana kwa sheria za Bunge nambari 207 inajulikana kuwa bajeti si '*paper*'.

Bajeti ni kitu ambacho kinahusu...ni kama mpigo wa moyo ya serikali, na Mheshimiwa Spika kuna Kamati ambazo zina kazi zake za kufanya. Mheshimiwa Spika Kiongozi wa Walio Wengi Bungeni ni kiongozi wa chama na sio kiongozi wa Kamati za '*sectoral*'; ya pili nataka kusema kuwa hizi stakabadhi ya bajeti ni lazima ziwe zitakuja kutokana na taarifa kutoka kwa kiti chako, alafu Mwenyekiti atawasilisha stakabadhi hizi kwa Kamati, alafu Kamati itawasilisha kwa Kamati husika, kisha ziende kwa Kamati ya Fedha ambao watawasilisha stakabadhi hizo kwa Bunge.

(Applause)

Kwa hiyo sijui Mheshimiwa Spika huwa naona sheria ya PFM ambayo imetumika hapa sijui ni nani aliyeweza kutoa, kuweza kuuliza sisi tumeweza kuileta bajeti chini ya '*paper*', nafikiri Mheshimiwa Spika hii ni sheria na sheria ni lazima itatumika Mheshimiwa.

Jambo la pili Mheshimiwa Spika hatuna hio stakabadhi, hio stakabadhi hatuna na twaomba kupitia kwa Kiti chako stakabadhi mwisho wake ni kesho. Mheshimiwa Spika nafikiri yule aliyeweza kusema kuwa sisi tunaweza kutumia njia hii nafikiri amefanya makosa. Tukiendelea Mheshimiwa Spika kikao hiki ni kikao haramu...

(Applause)

Tuangualie sheria za Bunge nambari 26.3 inasema nini Mheshimiwa Spika tupate kujua kuwa sisi tunaenda ki sawa sawa; nambari ya nne Mheshimiwa Spika huu mkutano unatakikana kuwa umepangwa kwa sababu notisi imesema ni 2:30 mchana na tumeanza kuingia hapa kasorobo.

Kwa hivyo nafikiri Mheshimiwa Spika kikao hiki kifutiliwe mbali leo notisi itoke kwa njia ya sawa sawa alafu tuweze kuja kukaa na tuweze kuja kuizungumza hii bajeti kwa njia ile inayotakikana.

Hon. Speaker: Yes Hon. Saad Faraj Ahmed.

Hon. Faraj: Bwana Spika nimesimama kuunga mkono mazungumzo ya Mwenyekiti wa Kamati ya Fedha na ningependa kutaja sheria za Bunge nambari 26 ungeniruhusu niisome sehemu ya tatu ambayo inasema kuanzia sehemu ya kwanza;

(Hon. Faraj read)

- 1. Whenever during a Session the County Assembly stands adjourned, whether or not a day has been appointed for the next meeting, the Speaker may, on the request of the Leader of Majority Party or the Leader of the Minority Party appoint a day for a special sitting of the County Assembly.*
- 2. The Speaker may allow a request under paragraph (i) if the Speaker is satisfied that the business proposed to be transacted to any urgent and exceptional business as the Speaker may allow.*
- 3. The Speaker shall, by notice in the Gazette, notify the Members of the place, date and time appointed for the special sitting of the County Assembly.*

4. *Whenever the County Assembly meets for a special sitting under paragraph (1), the Speaker shall specify the business to be transacted on the day or days appointed and the business so specified shall be the only business before the County Assembly during the special sitting, following which the County Assembly shall stand adjourned until the day appointed in the County Assembly calendar.*

(Hon. Faraj ended reading Standing Order No. 26 part 1-3)

Mheshimiwa Spika kuorodheshwa katika gazeti la serikali yaani Kenya ‘*gazette*’ ya hiki kikao haikufanywa kwa ufasili wao nafikiri wao waliamua kufanya hivyo waliona ‘*gazette*’ ni kuweka katika gazeti la Nation kwa sababu leo tumeiona katika gazeti la Nation.

Kikao hiki kimezungumzwa wakati ilikuwa lazima iende ichapishwe kwa gazeti kwa ‘*government printer*’ ichapishwe iwe ni ‘*Kenyan gazette notice*’ ndio hapo mkutano huu kama kweli hii itakuwa ni ya halali.

Mheshimiwa Spika sidhani chochote kitakacho pita hii leo kulingana na mkutano wenyewe si ya halali itaweza ku ‘*validate*’ yale ambayo tutaweza kuyazungumza.

Kwa hivyo Mheshimiwa Spika mimi naomba kikao kifungwe twende tuangalie shughuli nyengine tuifanye kama inavyostahili kisheria kama tulivyowekwa sisi hapa. Ahsante Mheshimiwa Spika.

Hon. Speaker: Yes Hon. Patrick Siminyu.

Hon. Siminyu: Mr. Speaker it’s three years down the line and we do not understand the procedures; precedence is set, we are going to set a very bad precedence, procedures follow for calling this session like my colleague Hon. Saad Faraj has said it is supposed to be placed in the Kenya gazette not in Nation media, notices are supposed to be given, even we as Members of the County Assembly we were sworn in at the Kenya Gazette.

(Applause)

Mr. Speaker even the laying of paper we have seen Hon. Kasangamba the Leader of Majority, I've never seen a Leader of Majority from the National Parliament doing budget and Appropriation...

(Applause)

We are starting new things which are not there Mr. Speaker sir, we have never seen Duale placing, reading the budget, for the National Assembly, the whole aspect is wrong and Mr. Speaker I think I don't know how I can call this a Kamukunji or the procedures that are followed, I don't know where they go wrong we have a legal department and people should get accountable for misadvising this House.

Mr. Speaker I beg for your humble direction so that you can give this House a direction which is required by the law, somebody can just go to court, you know we have so many people who are watching this House and whatever we are doing and we have a legal department of, which is supposed to advice this House and I don't know why they misadvise Mr. Speaker.

Even the venue Mr. Speaker people shall be held responsible because we are using tax payer's money even to pay for the paper, this money must be recovered, Mr. Speaker I'm asking for your humble direction so that you can give us direction because am confused. Thank you.

Hon. Speaker: Yes Hon. Paul Onje.

Hon. Onje: Ahsante sana Mheshimiwa Spika kwa kunipa nafasi, mimi naiunga mkono hii bajeti jinsi inavyoletwa kwa sababu leo ndio mimi naona kuna tofauti inaletwa ndani ya hii Nyumba.

Kila siku vitu tunapitisha hapa si mara ya kwanza sisi kuletewa bajeti kama tulivyoletewa leo na hakuna hata mtu mmoja amewahi kuuliza na hii leo naona baadhi ya Waheshimiwa wenzangu wamechukua hili jambo liko na siasa ndani yake.

Kuna vile mambo yanaendelea ndani ya hii Nyumba na inafaa kuangaliwa uchunguzi kuangalia kitu gani kinaendelea mbele; mbona Nyumba kule zilikuwa zinapitisha bajeti bila kuangalia... hatujasikia habari ya 'gazette' tunajua Sheria za Bunge inasema na tunajua kwa

gazeti waliona kwamba umeenda ukaweka matangazo, ikiwa wengine wanafanya ni vibaya ikiwa wengine wamefanya ni vizuri, hapa hatukuja kuangalia mazuri sisi wote kama Waheshimiwa kitu kimoja, kwa hivyo bajeti jinsi ilivyokuja Bwana Spika sisi tutapiga kura na tuone upande gani utashinda.

Hon. Speaker: Yes Hon. Akinyi.

Hon. (Ms.) Akinyi: Ahsante sana Mheshimiwa Spika, mimi nashangaa kwa sababu juma lile lililopita ile wiki ya chini kabisa kabla watu waende Meru, Kiongozi wa Walio Wengi Bungeni alikuwa atoe mswada wa kuongeza siku, na hio siku hakuwa nikasimama mimi kwa niaba ya Kiongozi wa Walio Wengi Bungeni tukaongeza siku ili tusiende mapumzikoni kwa sababu ya haya mambo muhimu ambayo leo kumeitwa kikao maalum kwa sababu tulikuwa kuna ‘Bills’ zengine Mheshimiwa ambazo zilirudishwa kwa ‘memorandum’ tumalize na mambo mengine, pia yalikuwa ni kama mambo haya ya leo ambayo ni ya bajeti ambayo yalikuwa tulete, siku hio kufikia kesho yake tu wakaleta tena mswada mwengine hata kama haijamaliza miezi sita na mswada mwengine pia ukaja wa kuharibu huo mswada ambao ulikuwa umepita kuwa tunaweza kwenda mapumzikoni, nashangaa kwenye Nyumba hii tunaenda wapi, ahsante.

(Interruption)

Hon. Mohamed Hatimy: Point of order.

Hon. Speaker: Yes Hon. Hatimy.

Hon. Mohamed Hatimy: Bwana Spika Mheshimiwa aliyetoka kuongea anapotosha Nyumba, haimaanishi kuwa ni lazima ikae miezi sita, Sheria hizo hizo za Bunge zinatoa nguvu za kuweza kuregesha ule mswada kwa muda wowote ikiwa Spika atakubaliana, kwa hivyo anapotosha hii Nyumba kwa kusema kuwa ni lazima ikae miezi sita.

Hon. Speaker: Yes any other contribution, opinion, comment? Yes Hon. Mwidani.

Hon. Mwidani: Bwana Spika mimi nasimama kwa heshima na nidhamu, sheria ni kitu muhimu kwa sababu nimesikia hapa imenukuliwa sheria, pengine bahati mbaya hazikufuatwa na kama ni ukweli, tumekeuka sheria...

(Applause)

Ni bora tuchelewe, nafikiri kila siku nasema afadhali ufanye jambo ambalo hata kesho unajua ulikua sawa kuliko tufanye alafu kesho tuonekane hatuelewi, kama ilivyosemekana ya kwamba pengine notisi haikutoka vizuri, ni makosa kujua kosa na uendeleo kulifanya, na kweli ukitazama ‘*interpretation*’ ya kitu ‘*gazette*’ 206 imesema ‘*National gazette*’ kwa hivyo tuna Nation na Standard.

Wajua lazima tukubali ukweli kama kweli haikupelekwa kwa Kenya *gazette* ni afadhali tueleze saa hii kwa sababu sheria ni kitu muhimu kwa hivyo mimi ningeomba Bwana Spika kama ni bahati mbaya tulipitiliwa kisheria ningeomba tuwe *controlled* tutele hii kitu kulingana na sheria yake, mwanadamu hufanya makosa kwa hiyo tufuate sheria inavyoelekeza, hayo ndio mawazo yangu, ahsante.

Hon. Speaker: Thank you so much Hon. Mwidani, Hon. Madundo.

Hon. Mohamed Madundo: Thank you Mr. Speaker for your hospitality.

(Applause)

(Laughter)

Okay I think people don't understand the meaning of hospitality...

(Laughter)

Kwa Kiswahili ‘hospitality’ ni ukarimu...

(Applause)

Ahsante Bwana Spika kwa kunipa nafasi, yangu pia ni kuunga mkono kuwa kulingana na ratiba ya Bunge ya leo ambayo imeletwa kuhusu mambo ya bajeti hiyo kisheria sio sawa, kwa hivyo kama itawezekana itabidi kwanza yale marupurupu tupatiwe maana ni kama tumepoteza wakati wetu.

(Applause)

Kwa hivyo Bwana Spika ipangwe kirasmi kulingana na Mwenyekiti alivyoongea wa Fedha kisheria lazima ipitie kwake iende kwa Kamati yake alafu iletwe Bungeni tuikalie tuijadili, kwa hivyo Bwana Spika yangu mimi ni kuunga mkono saa hii hata tungekuwa tuko huko, ahsante.

Hon. Speaker: Hon. Meti.

Hon. Ahmed Ebrahim Omar: Ahsante Bwana Spika kwa hii fursa, tunajua Nyumba hii ni ya sheria na vile vile Nyumba hii imepata mapumziko lakini kulingana na umuhimu wa hili jambo tukaita kikao spesheli ili kuja kuleta hizi hesabu za bajeti, kuna kitengo cha sheria kama kuna kosa lolote limetokea ni kufanya wafanyikazi wetu wawajibike kwa sababu itakuwa ni aibu sisi tuje tupate mambo kama haya Bwana Spika.

Kwa hivyo naomba mwelekeo wako kwamba lazima watu wa kitengo cha sheria waangalie kabla ratiba ya Bunge iletwe hapa, twaomba mwelekeo.

Hon. Speaker: Hon. Thoya.

Hon. Thoya: Ahsante sana Bwana Spika, nimesimama kwa rukhsa yako ili niweze kuchangia hoja ilioko hapa, hii ni Nyumba ya sheria, wananchi tunawaongoza wana ufahamu wa katiba yetu, tulivyokuwa kwa '*public participation*' katika maswala ya bajeti kule Nyali, ambayo ilikuwa imekusanya Frere Town, Kongowea, Mkomani, wananchi walipokwenda kwa *public participation* kwa sababu hawakupewa notisi ya kutosha na pia serikali haikua imetangaza bajeti inavyofaa, wananchi waliweza kusimama kidete na wakasema mkutano huu hauwezi fanyika kwa sababu kulikuwa na notisi fupi.

Wananchi wakaomba wapewe mda waweze kupitia zile stakabadhi na baadae ndio tuweze kufanya zoezi kama hili; Bwana Spika nashukuru kwamba tuliweza kuelewana na wale wananchi, na juzi tulipokwenda tena kwa lile zoezi hakukuwa na matatizo yoyote kwa sababu sheria iliweza kuzingatiwa, madamu sheria imeweza kutajwa hapa tusiwe miongoni mwa wale ambao tunavunja sheria.

Kama sheria imetajwa ya kwamba bajeti hii haikuingia katika Nyumba hii kulingana na misingi ya kisheria basi ni jukumu letu tuweze kufuata sheria ili tuhakikishe kwamba hatutaingia

kwa lawama ya kuvunja sheria wakati sisi wenyewe ndio tulitengeza sheria kama hizi, ahsante sana.

Hon. Speaker: Hon. Mwalimu.

Hon. Fadhili: Ahsante Bwana Spika, kama waliotangulia kusema hii ni Nyumba ya sheria na ni haki sisi kufuata sheria na tusikubali kuwa kuna kipindi ama wakati twateleza basi tuendeleo kuteleza.

Mheshimiwa Spika itakuwa tunakosea na tuelewe twatumia pesa ya mwananchi, mimi nashangaa na kama Mwenye kiti wa Kamati ya Uhasibu lazima tufuatilie, ni kwa nini pesa hizi zimeharibiwa kupelekwa kwa gazeti la Nation badala ya *Kenya gazette* ambayo inaangaziwa na serikali.;

Bajeti hii ambayo hesabu tunazipokea huwa ni bajeti ambayo ina bajeti na ‘*executive*’ pamoja na Bunge ambayo imetoka kwa ‘*executive*’ Bwana Spika; mimi nina imani ile ya Bunge bado haijapitia kule iwekwe pamoja ili iletwe hapa katika hii Bunge, tuna imani kwa sababu nimeona mbio za Bunge zinavyofanywa, ikiwa bodi ilikuwa inaketia bajeti kule saa hii bado haijaenda, tunaelewa kuna muda wa mwisho wa bajeti, tunaelewa ikifika tarehe 28 inatakikana kufikia tarehe 20 mwezi wa April inatakiwa imefika, tusiwe na haraka ya kuvunja sheria na hali tunaweza kurekebisha, tarehe 10 pia tunaweza tukaja kuzipitisha ikiwa sheria zitafuatwa, haikusema kuwa ni lazima leo ama kesho imesema tu kufikia tarehe 30 April stakabadhi zipeanwe kwa Bunge la Kaunti, tunaelewa kuwa ofisi yako labda ilipokea sisi tuko mapumzikoni, tarehe 10 tukifungua tutazungumza hii lakini ifuate taratibu zinazotakikana.

Mheshimiwa Spika kama nilivyosema kama Mwenyekiti wa Kamati ya Uhasibu sitishi mtu lakini nasema ikiwa kikao hichi kitaruhusiwa kuendelea basi mimi ni mmoja katika wale ambao watapeleka malalamiko Seneti kuhakikisha hesabu hizi hazikufuata taratibu zinazotakikana na vile vile wale ambao walihusika katika kuchapisha mambo haya badala ya kuchapisha kule wakachapisha kwa magazeti pia tutapeleka malalamiko yetu kule. Ahsante sana Mheshimiwa Spika.

Hon. Speaker: Any contribution? Yes Leader of Majority.

Leader of Majority (Hon. Kasangamba): Ahsante sana Mheshimiwa Spika, kulingana na hali halisi iliopo Mheshimiwa Spika na kuelimisha Jumba hili ya taratibu ya hizi hesabu za bajeti ambazo zinatakikana kweli kikao cha dharura kinatakikana kichapishwe kwa gazeti la Kenya na gazeti la wananchi la kawaida ambalo watu wanasoma ila tunatambua kwamba kuchapisha katika sehemu ya serikali ya uchapishaji yachukua muda sio kitu cha siku mbili ama tatu kama vile kwenye magazeti yale ambayo yalipwa kwa sababu huwa magazeti mengine ni biashara lakini yale ya serikali kuna uchapishaji mwingi sana wa serikali yatakikana kuchapishwa.

Mheshimiwa Spika hiyo ilileta sababu ya kuwa huku ikiwa tunaendelea na kikao hichi ni kuwa kule uchapishaji waendelea na basi tuwe tunawajulisha wananchi huku lakini sio shida ama hamna tatizo lolote iwapo Waheshimiwa watasema sio sawa basi hichi kikao kupitia kwako kitakuwa cha haramu, watu pia pesa wasizichukue kwa sababu ni haramu.

Kwa hiyo vile vile na ikiwa ni jambo la muda basi muda tuliokosea Mheshimiwa Spika hii itakuwa ni tatizo ambalo litaathiri bajeti yetu iwapo ni mtu ataathirika basi tukubali jukumu hilo pia la kuathirika kwa muda kwa sababu makadirio ya fedha hayajapita kwa wakati unaofaa.

Mimi yangu tu ni maono na uamuzi mkubwa uko kwa Jumba hili kwa hivyo Mheshimiwa Spika naomba utuelekeze basi tupate uamuzi ulio sahihi. Ahsante.

Hon. Speaker: Well you have actually received enough airtime Hon. Hatimy and you actually have to appreciate that you received that enough airtime.

Ladies and gentlemen first i want to take this very important opportunity to thank you all who are in this Hon. House because i know some of the Hon. Members were really busy on the ground conducting serious business to their electorates in their respective Wards and even constituency for those who are Nominated Members, so thank you Hon. Members for that.

The second statement that i will want to make is to appreciate and thank the Leader of Minority and the Leader of Majority having consulted and it is very important that we are coming with the budget process for the budget estimates to be placed in this Hon. House; again third statement ladies and gentlemen having made very clear observations on certain grievances and the main thing that i want to say is that there's misunderstanding, the misunderstanding that we are addressing here i want to say that these are just estimates and it is very simple that once

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you have received them it is not going to be taken anywhere but it is going to be subjected to each sectoral committees and i want to tell you even if you have it not now but each committee must now start scrutinizing, then the Committee of Budget and Appropriation will now handle it.

I would like to inform this Hon. House that if you have a problem that is supposed to be brought on 8 and you find it is brought on 9 be assured that all the business that must be transacted before 9 must be given a priority and for that reason therefore what the Leader of Majority and Minority has done very well if you look at our Standing Order i want to look to 207 part (1)...

(Hon. Speaker read Standing Order 207 part (1))

The Member of County Executive Committee responsible for Finance and Accounting Officer of the County Assembly Service Board shall, not later than 30th April, respectively submit to the County Assembly budget estimates and related documents specified in law for the County government, and County Assembly.

(Hon. Speaker ended reading Standing Order 207 part (1))

Ladies and gentlemen you will agree with me that the Executive that is being referred here finalized not even that in the budget estimates but that of Public participation in Nyali Sub County just this week on Tuesday; that tells you something that there's no way that you could have called for any meeting before the Executive itself finalizes on their estimates.

That is what we are saying and looking at the deadline here and what you have done actually this is just a procedure and to you there's nothing that can interfere with the operations, even what you have said today is part of the legislation, even if you say that there's no any other meeting what so ever no session or so ever and that we will resume on 10th May, 2016 this particular business is already done so there's no cause of argument whether we are going to meet the deadline or not.

Already the Assembly has done it whether it is tabled or not tabled because of consequences so it is important what i want just to inform this Hon. House the most important thing how do

you do what you are supposed to do and for that reason therefore it is not a must that this particular estimates must be accepted today, it isn't a matter because the session has been called and the process of the legislation has indicated otherwise and for that reason therefore ladies and gentlemen it is really yourselves if you have decided that we have this particular session adjourned until 10th May, 2016.

Nobody will object and remember we are even going to the level of Standing Order 24 where we are not even going for the National gazette but the County gazette, this is also an option so am just trying to say that in future we must move with speed towards also in terms of creating our own calendars as Assembly that way as an Assembly we are also allowed in order 24 those who have their Standing Orders to refer to that and see that certain things, and it is important to move with speed on legislation and how this particular clause assists us whenever we call our special sittings in terms of our calendar and for any error that might have occurred it is important that we involve ourselves and take it with a lot of seriousness and concerned individuals will be directed to make sure that they exactly improve on that.

ADJOURNMENT

Otherwise as it is ladies and gentlemen i would want to get two; from both sides just the way you are seated two from gender, may be after this and see how best we can handle this in regards to the submissions that have been placed even before this House because before already i have the program from the Executive Member in Charge of Finance which it is already before me and having considered all the submissions ladies and gentlemen there's no question that is going to be put in this particular matter but direct that this House stands adjourned until that day it will notified by the House.

(Applause)

The House rose at 3.25pm.