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**Dismiss Aids drugs case, AG tells court**

By NATION Correspondent

The Attorney General wants a case challenging the award of a tender to supply Aids drugs dismissed.

If the case continues unresolved, the country risked running short of the life saving medication, the AG said on Monday through State counsel Antony Ombwayo.

This means most of the country’s more than 1.4 million people living with HIV and Aids would continue to suffer the shortage of drugs.

In the case before a Nairobi court, the Kenya Medical Supply Agency (Kemsa) is seeking to quash a decision compelling it to accept a private firm’s tender documents for the supply of the drugs.

Mr Ombwayo told Lady Justice Jeanne Gacheche that the interests of the association were not those of the public and therefore the case should be dismissed.

The court will determine the fate of Kemsa’s case over the supply of anti-retrovirals on February 25.

The dispute between Kemsa and the Public Procurements Review Board arose from a board decision to force Kemsa to accept tender documents by a company called Hetero Drugs Limited.

Kemsa had refused to accept the company’s tender documents because it did not comply with procurement rules.

According to Kemsa, the company presented a scanned copy of the price schedule instead of an original copy as required by the law governing procurement.

Based on this, Kemsa found the bid by Hetero Drugs Limited to have failed to meet the mandatory requirements.

**Challenge**

Aggrieved by the decision to reject its bid, Hetero then moved to the procurement appeals board to challenge the decision.

The board nullified the award of five tender items and ordered Kemsa to accept Hetero’s bid documents and evaluate all bid documents afresh.

In arriving at its decision, the board acknowledged that Hetero had submitted a scanned copy, but ruled that the scanned copy would suffice.

According to Kemsa, the board exceeded its jurisdiction in determining that the price schedule was less important than the tender form.