



**Kenya Association of Music Producers v Kenya Copyright Board;  
Nyakweba (Contemnor) (Miscellaneous Application 593 of 2024)  
[2024] KEHC 11288 (KLR) (Commercial and Tax) (26 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11288 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
MISCELLANEOUS APPLICATION 593 OF 2024  
A MABEYA, J  
SEPTEMBER 26, 2024**

**BETWEEN**

**KENYA ASSOCIATION OF MUSIC PRODUCERS ..... APPLICANT**

**AND**

**KENYA COPYRIGHT BOARD ..... RESPONDENT**

**AND**

**GEORGE NYAKWEBA ..... CONTEMNOR**

**RULING**

1. By a Notice of Motion dated 23/7/2024, the applicant sought to have one George Nyakweba held to be in contempt of the order of 16/7/2024 arising from copyright Tribunal Appeal Case No. E001 of 2024. That upon such finding, the aforesaid George Nyakweba be committed to prison to 6 months. Further, that he be fined a sum of Kshs. 200,000/= for contempt of Court.
2. The application was supported by the affidavit of Maurice Okoth sworn on 23/7/2024. It was contended for the applicant that vide a judgment of the Copyright Tribunal in the aforementioned case, the respondent was ordered to, interalia:
  - “a) The applications as lodged by KAMP, PAVRISK, and MCSK are hereby remitted for reconsideration and determination, based on the legal requirements under the *Copyright Act* and Regulations, and all enabling legal provisions to be completed, immediately nonetheless within twenty-one (21) days of this judgment.



- b) Pending the reconsideration and determination of the Applications as lodged by KAMP, PAVRISK, and MCSK, KECOBO is hereby directed to invoke section 46 (3A) of the Act and immediately issue provisional renewal licences to the KAMP, PAVRISK and MCSK.
  - c) KECOBO remains at liberty to conclude the process of registering a single collective Management Organization and ensure transparency, accountability and due regard for the law on procedural matters.
  - d) That all parties shall bear their own costs to this suit before the Copyright Tribunal.”
3. That specifically order (b) had been disobeyed by the respondent. That the order required the respondent to immediately issue provisional renewal licences to the KAMP, PAURISK and MCSK. That despite the aforesaid order, the Chief Executive Officer of the respondent, George Nyakweba had failed to comply with the said order. That in the premises, he was in contempt thereof and should be punished accordingly.
  4. The application was opposed by the respondent vide a replying affidavit of Paul Kaindo sworn on 14/8/2024. He averred that the Motion did not seek any orders against the respondent. That the judgment of the Tribunal, directed the respondent to, inter alia, “reconsider” the applications by KAMP, PAURISK and MCSK as lodged based on the legal requirements under the Copyright Act and Regulations. That the same was to be completed within 21 days.
  5. That immediately, the respondent commenced the process of reconsidering the applications of the three out of five applicants for an operating licence as a Collective Management Organization. That upon reconsideration, the respondent resolved to grant a licence of registration as a Collective Management Organization to PAURISK for 12 months effective 2/8/2024.
  6. It was contended that the outcome of the reconsideration was communicated to the public on 2/8/2024 well within the 21 days directed by the Tribunal. That on 9/8/2024, reasons for the decision was communicated to each of the four applicants. That in the premises, the order of the Tribunal had not been disobeyed.
  7. The application was argued orally and I have considered the submissions on record. The gravamen of the applicant’s contention is that the order of the Tribunal was in two parts, that the respondent was to reconsider the applications by KAMP, PAURISK and MCSK, but pending doing so, it was directed to immediately issue provisional renewal licences. That no such provisional licences had been issued.
  8. That I note that the judgment of the Tribunal was made on 16/7/2024. The respondent was supposed to effect the Tribunal’s directions before 6/8/2024. It was expected of it to issue provisional licences before reconsidering the applications.
  9. However, it would seem that instead of issuing provisional licences in the interim and then proceed to reconsider the applications, the respondent reconsidered the applications within the time frame directed by the Tribunal and communicated the decision to the public. That was on 2/8/2024.
  10. I note that the application was lodged on 23/7/2024, which was 7 days after the order of the Tribunal. That no provisional licences were issued as directed. However, since the applications were swiftly reconsidered and a decision made within the time frame directed, I do not think that it can be said that the order of the Tribunal was disobeyed.



11. In any event, there may not have been the necessity to issue those licences if the reconsideration was to be swiftly concluded, as it happened here. To my mind the matter is moot.
12. Accordingly, I find that the application is without merit and I dismiss the same. The summons issued herein before are hereby lifted and set aside.

It is so ordered.

**DATED AND DELIVERED AT NAIROBI THIS 26<sup>TH</sup> DAY OF SEPTEMBER, 2024**

**A. MABEYA, FCI ARB, EBS**

**JUDGE**

