Arthur v Commission for University Education; Independent Electoral and Boundaries Commission & 3 others (Interested Parties) (Petition E343 of 2022) [2022] KEHC 11515 (KLR) (Constitutional and Human Rights) (1 August 2022) (Ruling)

Neutral citation: [2022] KEHC 11515 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

CONSTITUTIONAL AND HUMAN RIGHTS

PETITION E343 OF 2022

HI ONG'UDI, J

AUGUST 1, 2022

IN THE MATTER OF: THE CONSTITUTION OF KENYA, 2010 ARTICLES 10, 19 (2); 20 (1), (2), (3) & (4); 21(1); 22, 23(3); 27, 47 (1); 48; 50; 88 258 (1); AND 259 (1)

AND

IN THE MATTER OF THE FAIR ADMINISTRATIVE ACTIONS ACT (NO. 4 OF 2015)

AND

IN THE MATTER OF THE DECISION OF THE COMMISSION FOR UNIVERSITY EDUCATION VIDE A LETTER DATED 29TH JUNE, 2022.

BETWEEN

JOHNSON SAKAJA ARTHUR ..... PETITIONER

AND

COMMISSION FOR UNIVERSITY EDUCATION ..... RESPONDENT

AND

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION ..... INTERESTED PARTY

UNITED DEMOCRATIC ALLIANCE PARTY ..... INTERESTED PARTY

DAVID GITAU ..... INTERESTED PARTY

TIMOTHY CHARO ODHIAMBO ..... INTERESTED PARTY

RULING

1. Before Court for determination is the Petitioner's application dated 25th July 2022. It is brought pursuant to Article 22, 23, 159, 165 (3) (d), 258 and 259 of the *Constitution* of Kenya 2010; Rules 19, 23 and 24 of *Constitution of Kenya (Supervisory Jurisdiction and Protection of fundamental Freedoms) Practice and Procedure Rules* 2013; the Inherent jurisdiction of the Court and all other enabling provisions of the law.

2. It is seeking orders: -

    a. Spent

    b. That pending the hearing and determination of this Application, and the main petition this Honourable Court be pleased to issue orders compelling the Respondent to receive the Applicant's substantive grounds of appeal, his records of appeal together with crucial documents and other materials he intends to rely on in support of his appeal and thereafter deliberate over the same before rendering a verdict on appeal challenging the recognition of his degree from Team University in compliance with Regulation 85 of the *Universities Act*.

    c. An order compelling the Respondent to supply the Applicant with copies of the transcriptions of proceedings / minutes of the meeting held on 22nd July 2022 at the Respondent's headquarters between the Commission on the one hand and the Applicant and his lawyers on the other hand. In the Alternative the Respondents be directed to file the said minutes/ transcriptions of proceedings in court.

    d. That pending the hearing and determination of this application the decision of the Respondent dated 22nd July 2022 be stayed.

    e. That this Honourable Court be pleased to issue any other orders it deems fit.

3. The application is premised on the grounds on its face and the petitioner's affidavit sworn on 25th July 2022. The summary of the grounds are, that;

    i. On 12th July 2022 this court stayed proceedings herein to grant both the petitioner and respondent a chance to pursue a review/ appeal of the impugned decision rendered on 29th June 2022.

    ii. The respondents have denied him a chance to present his case before them and hence dismissed his grievances without granting him a chance to present/ prosecute his appeal as envisaged by Regulation 85 of the *Universities Act*.

    iii. He therefore wants this court to compel the respondents to receive his grounds and records of appeal and crucial documents; and deliberate over the same before determining the issue on recognition of his degree from Team University. He further sets out a chronology of the events that took place as hereunder: -

        a. After agreeing with the CEO of the Respondent for a meeting on 22nd July 2022 for him to get guidance on the mode, approach and the date of prosecuting the appeal. *Vide* the letter dated 20th July 2022 served upon his lawyers at 2.30 pm the same day, the respondent indicated they had changed the said date to the following day on 21st July 2022 at 10.00 am.

b. The said date was not convenient as his advocate had other engagements. Hence, the 22nd July 2022 was retained.

c. On 22nd July 2022 during the meeting in the preliminaries, he sought for clarifications and guidance on the issue of prosecuting the appeal; on the basis of revocation of the recognition of his degree; a response to his request for one of the members to excuse himself; and a request to file comprehensive grounds of appeal, further particulars, records of appeal and submissions if need be.

d. The commission retreated to consider the requests and revert. This was not to be as the respondent wrote to the him vide letter dated 22nd July 2022 but served on 24th July 2022 via email indicating that the appeal had been dismissed.

iv. The decision he argues violated Article 47 of *Constitution* and Section 4 of the *Fair administrative Action Act*, 2015.

v. It is therefore urgent that the orders sought be granted. Further that copies of the transcriptions of the proceedings and minutes will reveal that the decision complained of was rendered before he could prosecute his case.

4. In the affidavit he reiterates the facts and the grounds on the face of the application

The respondent's case

5. The respondent filed an affidavit by Prof. Grace N. Njoroge sworn on 25th July 2022. She reiterated the contents of the petitioner's pleadings and set out the chronology of events hereunder: -

i. *Vide* letter dated 18th July 2022 to the firm of Adrian Kamotho Njenga & Co. Advocates copied to the firm of Mutuma Gichuru & Associates Advocates (petitioner's Advocates), the respondent indicated that it was proceeding to consider the petitioner's appeal on its merit. It further advised that the petitioner had the right to, submit; any additional information and documentation in his possession; the information previously requested in the respondent's letters dated 17th June 2022, 25th June 2022 and 26th June 2022 in support of his appeal; and, a further written statement by 5.00p.m on 19th July 2022 after which the respondent would consider the Appeal.

ii. *Vide* a letter addressed to the Respondent dated 19th July 2022, The petitioner's advocates indicated that they had attended the Respondent's offices on 19th July 2022 in the company of the Petitioner seeking to have a session with the Respondent's CEO but were informed that he was on terminal leave. They indicated that they had proposed to proceed through physical representations and thereby sought audience on 22nd July 2022 with a view on agreeing on the best mode of proceeding.

iii. *Vide* letter dated 20th July 2022 addressed to the petitioner's advocates, the respondents invited the petitioner for a hearing of his appeal on 21st July 2022 at the respondent's offices. They again reminded him of the opportunity to submit documentation previously requested and still gave him chance to submit any documents which could be supplemented by a further written statement in support of his appeal required to reach the respondent's offices by 5.00p.m on 29th July 2022.

iv. The petitioner's advocates in response indicated that the date was not convenient and confirmed their availability on 22nd July 2022 vide letter dated 21st July 2022.

v. *Vide* letter dated 21st July 2022 addressed to the petitioner's advocates the Respondent noted that pursuant to the directions issued by this court on 14th July 2022, the contents of the respondent's letter dated 7th July 2022 had been overtaken by the directions. They further invited the petitioner for hearing on Friday 22nd July 2022 at 12pm at the respondent's office. On 22nd July 2022, the petitioner's advocates on record attended the respondent's office for hearing.

vi. *Vide* letter dated 22nd July 2022 addressed to the Firms of Adrian Kamotho Njenga & co. advocates, Mutuma Gichuru & Associates advocates, Okatch & Partners and copied to the Deputy Registrar of this division, the respondent rendered a decision on the petitioner's Appeal dated 1st July 2022.

6. The 1st, 2nd and 4th interested parties did not file responses to the application.

The 3rd interested party's case

7. The 3rd interested party filed a replying affidavit sworn by himself on 26th July 2022. He deposed that the respondent considered the petitioner's Appeal dated 1st July 2022.

8. He averred that, there is a procedure under Regulation 85 of the *University Regulations* 2014 which the Petitioner can use to challenge the decision of the respondent; the petitioner has intentionally failed to exhaust all the legal avenues available to him but preferred to file his application in the wrong forum; and, the Honourable Court has no jurisdiction to hear the Petition and Notice of Motion filed by the petitioner. They should be dismissed with costs.

Oral submissions

9. Mr. Mutuma for the petitioner submitted that the applicant wants to be heard by the respondent. He reiterated that they have refused to hear the applicant and have frustrated him. He further submitted that on 22nd July 2022 no hearing took place, the meeting was for housekeeping. According to him, the issues raised before the respondent retreated, were supposed to be responded to and they were ready to file the documents the respondent wanted only that they were waiting for communication. It was only fair that they give a response on the issue of recusal.

10. He requested for minutes of the hearing vide letter dated 25th July 2022 and there is no reason why they are not availing the same. He submitted that the complaint is not only related to the elections but even the petitioner's future. He urged the court to grant the orders sought.

11. Mr. Kamotho also for the petitioner in addition submitted that the decision purportedly made by the CUE was not made by the Commission. Pursuant to Section 6 of the *Universities Act*, it consists of Chair, P/S Ministry of education, P/S National Treasury among others. None of them was present when the petitioner appeared. The person who sat in that commission and even signed the decision is a complete stranger and therefore the decision cannot stand.

12. He argued that Fair administrative process is a requisite, and the demands made to the petitioner by CUE have no logical foundation but the petitioner is still willing to avail them. He was promised an opportunity to present the documents and be heard. No ruling date was given as there was no hearing. The petitioner's rights were trampled upon. According to him, the decision in respect of his appeal is not sound and he is entitled to fairness of process. He urged the court to accord him a befitting opportunity to be heard. He maintained that the CUE decision cannot stand as the letter dated 29th June 2022 on its own cannot impact on his degree.

13. Mr. Thande Kuria for the respondent relied on the affidavit by Prof. Grace Njoroge. He submitted that on 12th July 2022 when the Court stayed the proceedings the petitioner said an appeal had been filed under section 5 of the *Universities Act*. He took time to find out. There were grounds of Appeal. The CUE confirmed to them that they could be heard. The court had timelines set. He wrote to the respondents to expedite the matter. He stated that it is CUE to confirm the degree of the petitioner and that they were allowed to file more documents which has not been done.

14. He told court that there is a letter dated 25th July 2022 by the petitioner's counsel which is different from what the respondent had. He confirmed that the CUE may not have handled a similar Appeal before and that it proceeded on the grounds in the letter dated 1st July 2022. He also confirmed that the composition was not complete. He however stated that under section 55(2) of the *Universities Act*, the commission can delegate its functions. The acting CEO never sat in those proceedings. No law bars one acting from exercising full powers. He submitted that Review is provided for under Section 5 while Regulation 85 allows for an appeal/ review to the CS. That even under the *Fair Administrative Actions Act* one must exhaust the processes provided. He urged that the application be dismissed with costs.

15. Mr. Achola for 1st interested party indicated that he would not submit, on the application.

16. Mr. Kiprono for the 2nd IP submitted that the nature of the prayers sought touch on the petitioner and the respondent only so he did not submit.

17. Mr. Wathuita for the 3rd interested party submitted that on the prayer for stay the same should not be granted. However Mr. Kamotho's arguments were good before the CS. That from the petition there appeared to have been no appeal. According to him, Prayers 2 & 3 tend to seek for documents and information and would only come here if the respondent had declined to give the said documents. He also pointed out that there was failure to comply with exhaustion. Lastly, he submitted that they had two versions of the letter dated 25th July 2022.

18. Mr. Nyamodi for the 4th interested party, submitted that there is an application dated 7th July 2022 by the petitioner and it is abandoned. It seeks a stay of the letter dated 22nd June 2022.and that these stays are out to cause delays. The prayers sought in the present application should not be granted; Prayer 2 & 3 seek mandatory orders which are given in certain circumstances only. He stated that there is no nexus between the reliefs in the petition and the present application and that there is no amended petition.

19. According to him, the replying affidavit by Prof Grace Njoroge reveals a lot; Para 58 of the notice of motion dated 7th July 2022 speaks a lot, and the intention is to delay everything. He submitted that the application should be disallowed. He also submitted that the petition falls short of every provision of the law and the application seeks to render the applicant temporarily qualified. He therefore asked that the petition be heard expeditiously. He submitted that Section 9(4) of the *Fair Administrative Actions Act* amounts to a statutory restriction. He urged for the dismissal of both the petition and application and argued that there was no prayer seeking to quash the decision of 22nd July 2022.

20. In Reply Mr. Mutuma argued that what is before court is the application dated 25th July 2022 and not 7th July 2022 as argued. There is no application for dismissal of the Petition. That this Court has supervisory jurisdiction over Courts and other bodies and they were not asking the court to give a decision on merit. According to them, the exhaustion is not applicable now; they are only pleading to be given an opportunity to be heard and urged the court to consider. He told the Court that Mr. Thande confirmed that there were no rules of procedure in respect of an appeal; they should have given them the rules. He urged that the minutes be availed. That without the proceedings the petitioner cannot appeal. He urged that prayer 2 be granted.

21. Mr. Kamotho further submitted that from Mr. Thande's submissions section 4 of the 1st schedule of the *Universities Act*, there must be 5 commissioners. Regulation 85 does not provide for specifics and affirmed that the petitioner was keen on prosecuting the appeal and has not been asking for stay. He submitted that the doctrine of exhaustion has been raised and it has exemptions. The exhaustion requirement should not undermine the principle values. He urged that the application be allowed.

Analysis and determination

22. Having carefully considered the parties' pleadings and oral submissions I find that the following issue arises for determination:-

    i. Whether this petition offends the doctrine of exhaustion

23. What depicts itself is whether the application offends the doctrine of exhaustion by dint of Regulation 85 of the *Universities Act*. The respondent and some of the interested parties have argued so. The petitioner on the other hand has argued to the contrary and submitted that there are exemptions to that doctrine.

24. Regulation 85 of the *Universities (Amendment), Regulations* 2019 provides as follows: -

    85. Reviews/Appeals

    (1) Any person or institution who or which is aggrieved by an act or decision of the Commission taken in accordance with any of the provisions of these Regulations, who desires to question that act or decision, or any part of it, may, within thirty days of the date of such act or decision:

    (a) seek review of the decision in writing to the Commission which shall review and decide on the matter in question and respond within a period of three months; and

    (b) appeal to the Cabinet Secretary thereafter, if not satisfied with the decision of the Commission following the results of the review. Following the appeal, the Cabinet Secretary may give such orders or instructions as may be deemed necessary within a period of three months.

    (2) Notwithstanding the provisions of Regulation 85(1)(b) the decision of the Cabinet Secretary shall be final unless otherwise provided by the Act.

25. The doctrine of exhaustion in Kenya is provided for under Article 159(2)(c) of *Constitution* that recognizes and entrenches the use of alternative mechanisms of dispute resolution in the following terms: -

    159

    (2) In exercising judicial authority, the Courts and tribunals shall be guided by the following principles-

    (a) ...

    (b) ...

    (c) alternative forms of dispute resolution including resolution, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted, subject to clause 3.

26. It was substantively dealt with by a 5-Judge Bench in Mombasa High Court Constitutional Petition No. 159 of 2018 consolidated with Constitutional Petition No. 201 of 2019 *William Odhiambo Ramogi & 3 others v Attorney General & 4 others; Muslims for Human Rights & 2 others (Interested Parties)* (2020) eKLR. The Court stated as follows:

> 52. The question of exhaustion of administrative remedies arises when a litigant, aggrieved by an agency's action, seeks redress from a Court of law on an action without pursuing available remedies before the agency itself. The exhaustion doctrine serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is, first of all, diligent in the protection of his own interest within the mechanisms in place for resolution outside the Courts. This encourages alternative dispute resolution mechanisms in line with Article 159 of *Constitution* and was aptly elucidated by the High Court in *R v Independent Electoral and Boundaries Commission (I.E.B.C) Ex Parte National Super Alliance (NASA) Kenya and 6 others* [2017] eKLR, where the Court opined thus:
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> > 42. This doctrine is now of esteemed juridical lineage in Kenya. It was perhaps most felicitously stated by the Court of Appeal in *Speaker of National Assembly v Karume* [1992] KLR 21 in the following oft-repeated words:
> >
> > > Where there is a clear procedure for redress of any particular grievance prescribed by *Constitution* or an Act of Parliament, that procedure should be strictly followed. Accordingly, the special procedure provided by any law must be strictly adhered to since there are good reasons for such special procedures.
> >
> > 43. While this case was decided before *Constitution* of Kenya 2010 was promulgated, many cases in the Post-2010 era have found the reasoning sound and provided justification and rationale for the doctrine under the 2010 Constitution. We can do no better in this regard than cite another Court of Appeal decision which provides the Constitutional rationale and basis for the doctrine. This is *Geoffrey Muthiga Kabiru & 2 others v Samuel Munga Henry & 1756 others* [2015] eKLR, where the Court of Appeal stated that:
> >
> > > It is imperative that where a dispute resolution mechanism exists outside Courts, the same be exhausted before the jurisdiction of the Courts is invoked. Courts ought to be fora of last resort and not the first port of call the moment a storm brews...The exhaustion doctrine is a sound one and serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is first of all diligent in the protection of his own interest within the mechanisms in place for resolution outside the Courts. The Ex Parte Applicants argue that this accords with Article 159 of *Constitution* which commands Courts to encourage alternative means of dispute resolution.

27. The Court further dealt with exceptions to the doctrine of exhaustion as follows: -

> 59. However, our case law has developed a number of exceptions to the doctrine of exhaustion. In *R. vs Independent Electoral and Boundaries Commission (I.E.B.C.) & others ex parte*

The National Super Alliance Kenya (NASA) (supra), after exhaustively reviewing Kenya's decisional law on the exhaustion doctrine, the High Court described the first exception thus:

> What emerges from our jurisprudence in these cases are at least two principles: while, exceptions to the exhaustion requirement are not clearly delineated, Courts must undertake an extensive analysis of the facts, regulatory scheme involved, the nature of the interests involved – including level of public interest involved and the polycentricity of the issue (and hence the ability of a statutory forum to balance them) to determine whether an exception applies. As the Court of Appeal acknowledged in the *Shikara Limited Case* (*supra*), the High Court may, in exceptional circumstances, find that exhaustion requirement would not serve the values enshrined in *Constitution* or law and permit the suit to proceed before it. This exception to the exhaustion requirement is particularly likely where a party pleads issues that verge on Constitutional interpretation especially in virgin areas or where an important constitutional value is at stake. See also *Moffat Kamau and 9 others vs Aelous (K) Ltd and 9 Others*.)

60. As observed above, the first principle is that the High Court may, in exceptional circumstances consider, and determine that the exhaustion requirement would not serve the values enshrined in *Constitution* or law and allow the suit to proceed before it. It is also essential for the Court to consider the suitability of the appeal mechanism available in the context of the particular case and determine whether it is suitable to determine the issues raised.

61. The second principle is that the jurisdiction of the Courts to consider valid grievances from parties who lack adequate audience before a forum created by a statute, or who may not have the quality of audience before the forum which is proportionate to the interests the party wishes to advance in a suit must not be ousted. The rationale behind this precept is that statutory provisions ousting Court's jurisdiction must be construed restrictively. This was extensively elaborated by Mativo J in *Night Rose Cosmetics (1972) Ltd v Nairobi County Government & 2 others* [2018] eKLR.

62. In the instant case, the Petitioners allege violation of their fundamental rights. Where a suit primarily seeks to enforce fundamental rights and freedoms and it is demonstrated that the claimed constitutional violations are not mere "bootstraps" or merely framed in Bill of Rights language as a pretext to gain entry to the Court, it is not barred by the doctrine of exhaustion. This is especially so because the enforcement of fundamental rights or freedoms is a question which can only be determined by the High Court.

28. The above decision was appealed against by the Respondents. The Court of Appeal in upholding the decision and in dismissing the appeal in Mombasa Civil Appeal No. 166 of 2018 *Kenya Ports Authority v William Odhiambo Ramogi & 8 others* [2019] eKLR held as follows: -

> The jurisdiction of the High Court is derived from Article 165 (3) and (6) of *Constitution*. Accordingly, the High Court has unlimited original jurisdiction in criminal and civil matters, including determination of a question of enforcement of the bill of rights and interpretation of *Constitution* encompassing determination of any matter relating to the Constitutional relationship between the different levels of government.
>
> At the High Court, we note that the learned Judges dealt with this matter under the question framed as follows: Is the court barred from considering the suit at present by virtue of Article 189 of *Constitution* and sections 33 and 34 of *Inter-Governmental Relations Act* of

2012 (IGRA)? The parties have advanced similar arguments as before the learned Judges of the High Court. The High Court went further than just looking at the ruling by Ogola J. They also took into account the doctrine of exhaustion as enunciated in *Republic v Independent Election and Boundaries Commission (IEBC) ex parte National Super Alliance (NASA) Kenya & 6 Others* [2017] eKLR. They applied a dual pronged approach before concluding that the dispute was not an inter-governmental dispute under IGRA. First, they considered that the test for determining the matter as an inter-governmental dispute for purposes of application of IGRA was not simply to look at who the parties to the dispute were, but the nature of the claim in question and; secondly, they considered that the claimed Constitutional violations seeking to be enforced are not mere "bootstraps." We have keenly addressed our minds to the learned Judges' decision and are satisfied that they stayed within the expected contours and properly directed themselves. Once they determined that the dispute was not inter-governmental in nature, we do not think it is necessary to consider whether the petitioners had exhausted their legal avenue. Jurisdiction by the High Court under Article 165 (5) of *Constitution* became automatic. And in our view, it could not be ousted or substituted.

29. Further, in Civil Appeal 158 of 2017, *Fleur Investments Limited v Commissioner of Domestic Taxes & another* [2018] eKLR, the Learned Judges of the Court of Appeal relying on the decision in *Speaker of National Assembly v Njenga Karume* (1990-1994) EA 546 to assume jurisdiction by bypassing the mechanism under Income Tax Tribunal. They observed as follows: -

> 23. For the reasons we have given earlier and others that will become apparent, there were definitely exceptional circumstances that existed in this case that were outside the ambit of the Income Tax Tribunal which called for intervention by way of judicial review. Whereas courts of Law are enjoined to defer to specialised Tribunals and other Alternative Dispute Resolution Statutory bodies created by Parliament to resolve certain specific disputes, the court cannot, being a bastion of Justice, sit back and watch such institutions ride roughshod on the rights of citizens who seek refuge under the *Constitution* and other legislations for protection. The court is perfectly in order to intervene where there is clear abuse of discretion by such bodies, where arbitrariness, malice, capriciousness and disrespect of the Rules of natural justice are manifest. Persons charged with statutory powers and duties ought to exercise the same reasonably and fairly.

30. In the present case, there is a procedure provided for in law for the petitioner to explore Regulation 85 of the *Universities (Amendment) Regulation* 2019, provides for the procedure to adopt if a party is aggrieved by the decision of the commission (respondent). This procedure has been set out at paragraph 24 of this Ruling. From Regulation 85(1)(a) & (b) the process of review / appeal takes a period of six (6) months. The decision forming the basis of this petition was made on 29th June 2022 which is just one month ago.

31. From what is before this Court the petitioner /applicant has only explored the avenue under Regulation 85(1)(a). He is challenging the decision made on 22nd July 2022. The grounds he is raising in his application may form the basis of an appeal or review on the platform he chooses. The Regulation provides for an Appeal to the Cabinet Secretary whose decision is said to be final. The decision before this Court is not that of the Cabinet Secretary so as to be said to be final.

32. This matter may be presenting itself as a pre-election one, but it's substratum is the genuineness of the degree certificate in possession of the petitioner. Regulation 85 has clearly indicated that the decision

by the respondent is subject to review/appeal first by the respondent itself and the 2nd appeal is by the Cabinet Secretary.

33. The petitioner is still within the timelines given by the law under the *Universities Act*. As he exercises that right of appeal to the Cabinet Secretary he can seek for the documents he is asking for in the application dated 25th July 2022, which I hereby dismiss. In the interest of fairness and justice, I grant the petitioner time to file an appeal with the Cabinet Secretary as provided for under Regulation 85(1) (b) of the *Universities Act*.

34. This is done bearing in mind that it is only eight (8) days to the general elections and ballot papers have already been printed. It would cost the tax payers millions of shillings to reprint fresh ballot papers. See Court of Appeal Civil Application No. E253 of 2022. *IEBC & another vs. Reuben Kigame Lichete & another*.

    (ii) The 3rd & 4th interested parties still have opportunities to challenge the 3rd respondent's election after the general election should he be successful. The key thing is for the Court to do and be seen to do justice.

35. These proceedings will therefore be stayed pending the outcome of the said Appeal which should be filed within 10 days. Mention on 6th October 2022 to confirm the position. The parties are at liberty to move the court once the Cabinet Secretary determines the appeal.

    Orders accordingly.

DELIVERED, DATED AND SIGNED THIS 1ST DAY OF AUGUST, 2022 IN OPEN COURT.

H. I. Ong'udi

Judge of the High Court