



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW APPLICATION NO. E1156 OF 2020

IN THE MATTER OF AN APPLICATION FOR LEAVE FOR JUDICIAL REVIEW ORDERS OF MANDAMUS

BETWEEN

REPUBLIC.....APPLICANT

VERSUS

THE PERMANENT SECRETARY,

MINISTRY OF EDUCATION.....1ST RESPONDENT

ATTORNEY GENERAL.....2ND RESPONDENT

THE CABINET SECRETARY,

NATIONAL TREASURY.....3RD RESPONDENT

EX PARTE APPLICANT:

MESHACK OCHIENG'

RULING

1. On 4th February 2021, this Court reserved the Applicant's Chamber Summons dated 14th December 2020 seeking leave to commence judicial review proceedings for ruling on 17th May 2021.

2. The Applicant has since filed further affidavits and submissions, and has also now filed a Chamber Summons dated 16th February 2021 under certificate of urgency as follows:

1. That this Honourable Court be pleased to have the directions dated the 4th day of February, 2021 before Honourable Lady Justice PAULINE NYAMWEYA J. be set aside as the same were reviewed by the Honourable (Mr.) G.V. ODUNGA J. on the 23rd day of March, 2017.

2. That this Honourable Court be pleased to rely on the SUMMARY JUDGEMENT dated the 15th day of February 2021 (filed by Ex-parte Applicant) UPON fourteen (14) days NOTICE served upon the Attorney General on 4th February, 2021.

3. That the Respondents be compelled to pay as per Certificate of Order Against the Government dated the 12th day of November, 2020 within thirty (30) days with effect from 14th December, 2020 of Chamber Summons.

4. Any other or further orders that this Honourable may deem fair and just to grant.

5. That costs of this application be provided for.

3. The Applicant thereupon filed further letter and submissions dated 18th and 22nd February 2021.

4. In the circumstances, I hereby direct and order as follows:

I. The Applicant's Notice of Motion dated 16th February 2021 shall be heard and determined together with his Chamber Summons dated 14th December 2020 and Respondent's Notice of Preliminary Objection dated 29th January 2021.

II. The Applicant shall serve the Respondent with the Notice of Motion dated 16th February 2021, and all letters, pleadings and submissions he has filed since this matter was reserved for ruling on 4th February 2021, and shall also file an affidavit attesting to such service within fourteen (14) days of today's date.

III. The Respondent is at liberty to file and serve a response to the Notice of Motion dated 16th February 2021 and reply submissions thereon within fourteen (14) days of service.

IV. The ruling on the Applicant's Notice of Motion dated 16th February 2021 and Chamber Summons dated 14th December 2020, and the Respondent's Notice of Preliminary Objection dated 29th January 2021 shall be delivered by email on 17th May 2021.

V. The Deputy Registrar of the Judicial Review Division shall put this matter on the Division's causelist for ruling on 17th May 2021.

VI. The Deputy Registrar of the Judicial Review Division shall send a copy of these directions to the Applicant and Respondent by Thursday, 25th February 2021.

VII. Parties shall be at liberty to apply.

5. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 22ND DAY OF FEBRUARY 2021

P. NYAMWEYA

JUDGE