



Republic v Regional Director of Education/Secretary - CEB Nairobi; Saint Nicholus Junior Academy Embakasi Limited (Exparte); Attorney General & 4 others (Interested Parties) (Environment and Land Judicial Review Miscellaneous Application E001 of 2023) [2023] KEELC 21785 (KLR) (21 November 2023) (Judgment)

Neutral citation: [2023] KEELC 21785 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

**ENVIRONMENT AND LAND JUDICIAL REVIEW
MISCELLANEOUS APPLICATION E001 OF 2023**

JA MOGENI, J

NOVEMBER 21, 2023

IN THE MATTER OF AN APPLICATION BY SAINT NICHOLUS JUNIOR ACADEMY EMBAKASI LIMITED FOR JUDICIAL REVIEW FOR ORDERS OF CERTIORARI AND PROHIBITION

IN THE MATTER OF ARTICLES 21. 22. 23. 27. 28. 40. 43. 47. 48. 50. 53. 55. 159. AND 165 OF THE CONSTITUTION

AND

IN THE MATTER OF THE ENVIRONMENT AND LAND COURT ACT, NO 19 OF 2011

AND

IN THE MATTER OF THE BASIC EDUCATION , ACT NO. 14 OF 2013

AND

IN THE MATTER SECTIONS 4. 7. 8 AND 11 OF THE FAIR ADMINISTRATIVE ACTIONS ACT, 2015

IN THE MATTER OF THE LAND REGISTRATION ACT NO.3 OF 2012

AND

IN THE MATTER OF THE PHYSICAL AND LAND USE PLANNING ACT, NO. 13 OF 2019

BETWEEN

REPUBLIC APPLICANT

AND

REGIONAL DIRECTOR OF EDUCATION/SECRETARY - CEB NAIROBI RESPONDENT



AND

SAINT NICHOLUS JUNIOR ACADEMY EMBAKASI LIMITED EXPARTE

AND

ATTORNEY GENERAL INTERESTED PARTY

PS, MINISTRY OF EDUCATION INTERESTED PARTY

DIRECTOR OF QUALITY ASSURANCE& STANDARDD, MINISTRY OF
EDUCATION INTERESTED PARTY

COUNTY COMMISSIONER, NAIROBI INTERESTED PARTY

NAIROBI COUNTY EDUCATION BOARD INTERESTED PARTY

JUDGMENT

1. The genesis of the application before me is by way of notice of motion dated 28/07/2023 and the *Ex Parte* Chamber Summons dated 28/07/2023 filed the applicant seeking leave to apply for judicial review to seek prohibition and certiorari in respect of the decision of the respondent made on 03/07/2023 by which the *Ex Parte* Applicant's learning institutions were closed down. The *Ex Parte* applicant received a letter dated 3/07/2023 written by Margaret Lessuda Regional Director of Education. It stated in pertinent part as follows:

“In view of the above, this letter serves as a notice of closure to the institution by Nairobi County Education Board. You are required to communicate the CEB's resolution to the parents and to vacate the land by 30th November, 2023”

2. In response to that letter, the applicant proceeded to the superior court for leave to apply for judicial review orders of certiorari and prohibition. It filed chamber summons dated 28/07/2023 seeking those orders. The leave sought was granted on 01/08/2023 this Honorable Court and directed that the application be served upon the respondents and scheduled the application for hearing on 18/09/2023. When the parties appeared in court the Counsel for the Respondents and the Interested Party stated that he had not been served.
3. The court stayed the implementation of the decision communicated through the letter dated 3/07/2023 and asked the parties to try an out of court settlement which however did not succeed and the parties attended court on 26/09/2023 to update the court on progress. Alongside the Chamber Summons, the Applicant had filed a Notice of Motion dated 28/07/2023 which the court admitted as properly filed on 01/08/2023.
4. On 26/09/2023 the court following the application of the applicant allowed the parties to canvass the application by way of written submissions, and the order given was to operate as a stay pending the hearing and determination of the suit. The Notice of Motion Application seeks the following orders:
 - a. Prohibition does issue Against the Respondent- the Regional Director of Education / Secretary- C.E.B, Nairobi, and Margaret Lesuuda from enforcing letter dated 3rd July, 2023 against the *Ex Parte* Applicant closing its Learning Institutions.



- b. An Order of Certiorari to remove to the Environment & Land Court and quash the decision of the Regional Director of Education / Secretary-C.E. B, Nairobi, Margaret Lesuuda given vide its letter dated the 3rd July, 2023 against the *Ex Parte* Applicant closing its Learning Institutions.
 - c. That in the alternative an Order does issue that the decision of the Regional Director of Education/Secretary-C.E. B, Nairobi, Margaret Lesuuda vide letter dated 3rd July, 2023 against the *Ex Parte* Applicant closing its Learning Institutions be deemed as irregular, illegal and unlawful.
 - d. That the grant of leave herein do operate as stay against the decision of the Regional Director of Education/Secretary- C.E.B, Nairobi, Margaret Lesuuda vide letter dated 3rd July, 2023 & any further proceedings therefrom.
 - e. That costs of these proceedings be borne by the Respondents.
5. The application was supported by a statement dated 28/07/2023 and a verifying affidavit sworn on even dated by Mary Olubayi the Managing Director of the *Ex Parte* Applicant. The Managing Director averred that adverse final Orders were given on the 3rd July 2023 *Ex Parte* without the *Ex Parte* applicant being served and/or being heard at all. The *Ex Parte* orders directed that there should be closing/shutting down of the *Ex Parte* Applicant’s institution which constitute the kindergarten, primary school, Junior High School and Teachers Training College (hereinafter “the *Ex Parte* Applicant’s Learning Institution”). She attached a copy of the letter that was sent to her marked MM/2.
 6. It is the *Ex Parte* applicant’s contention that the action by the respondents that the learning institutions are closed without giving her a chance to be heard, contravenes the [Constitution](#), the [Land Registration Act](#), the [Physical and Land Use Planning Act](#) and the Fair Administrative Actions Act 2015. In addition, that the respondents’ action is oppressive to the rights of the *Ex Parte* applicant, extortive and unfair without any basis at all.
 7. The *Ex Parte* Applicant averred that the purported closure is allegedly because the land that the *Ex Parte* Applicant occupies and is registered as the proprietor under the Land Registration Act is public land-yet the *Ex Parte* Applicant is so registered to and pays both the land rates and rents, as appropriate. The *Ex Parte* Applicant attached a copy of the Provisional Certificate of Title IR 174228 marked as MM3.
 8. That when *Ex Parte* applicant lost its certificate of title IR 174228 they were issued with a provisional title by the Registrar upon following due process which included advertisement being made for the lost title. She attached a copy of the advertisement and a copy of the certificate of title that was lost marked as MM/4 &MM/5. Further that the old title was migrated to a new number vide the Kenya Gazette dated 11/02/2022 from LR No 209/21592 to 2025. That the *Ex Parte* applicant’s title to the suit property has never been cancelled.
 9. She averred that the Ex-parte applicant’s developments on the suit property are approved and she attached copies of the approval Nairobi City County, Nairobi City Water & Sewerage Company Limited and the Executive Office of the President’s Nairobi Metropolitan Services.
 10. That the *Ex Parte* applicant’s learning institution has a student population of 500 students and 50 teachers and other support staff who would be greatly disadvantaged and prejudiced if the institution were to be abruptly closed. Further that the respondents had no power to revoke the title to land without following the due process.



11. In response to the Application, Margaret Lesuuda the Regional Director of Education, Nairobi swore an affidavit stating that the *Ex Parte* applicant school was registered in March 2014 with a lease agreement dated August 2013 for a parcel of land number LR No. 209/11047/2 she attached a copy of the lease document dated 17/08/2017 and marked as ML2.
12. That paragraph 3 of the lease agreement states that Mukuru Community Centre was leasing one acre of the suit property to the *Ex Parte* applicant for 8 years and the leased area comprised of classrooms, toilets, administrative block and a playing field. That according to her this means that a school owned by Mukuru existed on the suit property LR 209/11047/2.
13. That the *Ex Parte* applicant's school was registered to operate for only for one year since the rules for operating a basic education facility allowed for registration for only one year. However, she avers that the *Ex Parte* applicant operated without a licence till 2021.
14. The gist of her averments is that the *Ex Parte* applicant's institution sits on public land whose title reverted back to government following the intervention of NLC in 2015. Further that the documents submitted by St Nicholas Junior Academy show the land is registered as LR No. 209/21592 and the original number as LR No. 209/21374/2. That the County Education Board that deals with registration of schools noted that the title documents submitted by *Ex Parte* applicant kept changing since 2017.
15. The respondent averred that the suit property parcel was derived from the parcel number 209/21374 and that according to the survey map this particular parcel this was originally parcel number 209/19552 and this was declared as public land in 2015.
16. She stated that the *Ex Parte* applicant's application for registration was rejected by the County Education Board because it is a requirement that an applicant must submit to the board a valid title deed or lease agreement when one is registering a school. According to her the *Ex Parte* applicant did not have a valid title deed nor a valid lead agreement and therefore the board communicated the decision to not register the school vide a letter dated 3/07/2023 which was produced as "ML16". The letter required that the *Ex Parte* applicant closes its school by 30/11/2023.
17. Following the replying affidavit filed by the respondent, the *Ex Parte* applicant filed a supplementary affidavit sworn on 2/10/2023 and averred that it is not the function of Margaret Lesuuda, the respondent to issue or cancel leases or title deeds issued by the Chief Land Registrar under the provisions of the [Land Act](#).
18. She averred that the *Ex Parte* applicant and St.Nicholus Teachers Training College Limited are separate institutions. The *Ex Parte* applicant was a lessee to the suit property for 8 years on the 1-acre parcel registration number LR 209/11047/2 she provided copies of the same marked as ML-2 and ML-3 and further averred that the lease was approved for subdivision after the Commissioner of Land gave his approval. (see MM11 copy of the Commissioner's letter).
19. Further that at the lapse of the lease, the lessor who are Trustees of Mukuru Community Center the suit property for sale the leased portion (now LR 209/21592) to the *Ex Parte* applicant following the sub-division of LR 209/11047/2.
20. It was averred by the *Ex Parte* applicant that following the assessment conducted by the Ministry of Education on 1/2/2023 the *Ex Parte* applicant was given permission to admit junior secondary school learners and therefore the cancellation is not founded on any legal process.
21. That the title to the *Ex Parte* applicant LR No. 209/21592 has not been cancelled.



Submissions

22. Both the *Ex Parte* applicant and the respondent filed their submissions dated 17/10/2023 and 19/10/2023 respectively.
23. It was the *Ex Parte* applicant's submissions that their title has not been cancelled and therefore the closure of the learning institutions is an illegality. Further that they were not given opportunity to present their case before the County Board of Education. In his submissions the Counsel also referred to the case of Harrison Kiambuthi Wanjiru & Another v District Land Registrar Nairobi & 3 Others [2022] eKLR.
24. On the other hand, the respondents who filed their submissions dated 19/10/2023 addressed themselves to one issue which is whether the *Ex Parte* applicant has met the threshold for granting JR orders sought.
25. The Counsel for the Respondent Senior State Counsel Jonathan Mwambonu in his submissions referred to Section 7(2) of the *Fair Administrative Action Act* and considered the courts' decisions in the cases of Samwuel Njoroge Gitukuli & 4 Others v Attorney General & Another [2017] eKLR and Kenya National Examination Council v Republic *Ex Parte* Geoffrey Gathenji Njoroge & 9 Others [1997] eKLR.
26. It was his submission that the process and subsequent notice of closure of the learning institutions complained of by the Applicant was free from aspects of illegality, nationality and procedural impropriety. That the *Ex Parte* Applicant has not met the threshold for grant of judicial review orders. That the application should be dismissed with costs to the respondents.
27. The *Ex Parte* applicant filed their submission dated 17/10/2023

Analysis and determination

28. The court has considered the pleadings, affidavits and written submissions by the ex-parte applicant and the respondents. The Court has narrowed down to the issues for determination as follows:
 - a. Whether the Ex - Parte Applicant is entitled to the reliefs sought vide the Notice of Motion dated 28/07/2023 to the prerogative orders of Certiorari and Prohibition sought under the Provisions of Order 53 of the Civil Procedure Rules, 2010.
 - b. Who will bear the costs of the application?

a. Whether the Ex-Parte Applicant is entitled to the reliefs sought vide the Notice of Motion dated 28/07/2023 to the prerogative orders of Certiorari.

29. The ex-parte applicant herein averred that the suit property's title in question registered in the name of the *Ex Parte* applicant has not been cancelled. The respondent's position is that the *Ex Parte* applicant's learning institutions are sitting on public land and therefore this being the case, the *Ex Parte* applicant has failed to comply with guidelines for the registration of learning institutions leading to the decision to close the learning institutions. The decision was communicated vide the letter dated 3/07/2023 Ref RDE/NRB/REG/1/58 Vol.1.
30. The court has had an opportunity to refer to the documents submitted by the *Ex Parte* applicant and the respondent. The right to own property is provided in Article 40 of the *Constitution*, which is subject to Article 65. An individual or association with others can acquire and own property.



31. Further Article 47 provides for fair administrative action. It provides as follows:
1. Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.
 2. If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.
32. In the instant case, the *Ex Parte* applicant contends that their title has never been cancelled and indeed the respondents did not present before the court any document that would show cancellation of title. The *Ex Parte* applicant alleges that the adverse orders given by the County Education Board of Nairobi were given without giving the applicant a chance to be heard.
33. The applicant states that she has gone through several due diligence processes for purposes of licensing for her learning institutions and as it were, she has constructed on the one-acre suit property a school housing 500 pupils who are served by 50 teachers. The initial plot was held by Mukuru Community Centre who leased it to the *Ex Parte* applicant for a period of 8 years.
34. The court in the case of *Onyango v. Attorney General* [1987] KLR stated that a person against whom a decision is to be taken must be given an opportunity to be heard on what is alleged against him so that he can present his own case. The same issue was also highlighted in the case of *Oloo v. Kenya Posts and telecommunications Operations* [1985] eKLR where the principle of natural justice was emphasized. the *Constitution* recognizes that all people are equal before the law and even a wrong doer has an equal protection under the right to fair hearing to be heard as provided in Article 50(1) which provides as follows:
- “Every person has the right to have any dispute that can be resolved by the application of law, decided in fair public hearing, before a court or if appropriate another independent and impartial tribunal or body”
35. The respondents in their submissions were of the view that for an application of Judicial Review to succeed the applicant must satisfy three criteria being that action of the public officer must outrightly be illegal, irrational and procedural improper.
36. The applicant had submitted that she is the registered proprietor of the suit property to which she pays land rates and rents as appropriate. She submitted that section 25 and 26 of the *Land Registration Act* lends credence to her claim of ownership since a certificate of title in law is held as conclusive evidence of proprietorship and can only be cancelled on grounds of fraud or misrepresentation. Even so there must be proof that the person claiming ownership was a party to the fraud or that the property was acquired illegally, unprocedurally or through a corrupt scheme.
37. The applicant herein has submitted that they bought land and put up a school the title got lost and this matter was reported to the Land Registrar, who followed due process and the loss was advertised in the newspaper, Kenya Gazette and finally a provisional certificate was issued this documents were annexed to the application. At no point did they find out that the land transaction was irregular thus making it void. They did not fall short of any compliance or due diligence to render the whole transfer and title void. They knew they had a clean title.
38. In the case of *Gordon v. Metropolitan* [1910] 2 K.B 1080, Lindley J. held that no court ought to enforce an illegal contract or allow itself to be made the instrument of enforcing obligations alleged to arise out of a contract or transaction which is illegal if the illegality is duly brought to the notice of the court.



And in *National Bank of Kenya v. Wilson Ndolo Ayah* Civil Appeal No. 119 of 2002 it was emphasized as public policy that courts should not aid in the perpetuation of illegalities, this was a case where an Advocate who had not taken out a practicing certificate drew conveyance instruments.

39. Be that as it may, the judicial review court shall not go into the merit of the title being valid or having been obtained in an illegal manner as submitted by the respondents. What is of concern is whether the *Ex Parte* applicant was given a chance to be heard before the decision to close their school was communicated. I find that this was not done therefore I am convinced that.
40. In *Council of Civil Service Unions v. Minister for the Civil Service* {1985} AC 374. Lord Diplock enumerated a threefold classification of grounds of Judicial Review, any one of which would render an administrative decision and/or action in concern, ultra vires. I had already referred to these grounds which are; illegality, irrationality and procedural impropriety. Later judicial decisions have incorporated a fourth ground to Lord Diplock's classification, namely; proportionality. This principle of proportionality has however not been accepted. It is a principle that implies that the Court has to necessarily go into the pros and cons of any administrative action. Yet judicial review is concerned about the process and not the merit.
41. What Lord Diplock meant by "Illegality" as a ground of Judicial Review was that the decision-maker must understand correctly the law that regulates his decision-making and must give effect to it. His Lordship explained the term "Irrationality" by succinctly referring it to "unreasonableness" in the case of *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation* [1948] 1 KB 223. By "Procedural Impropriety" His Lordship sought to include those heads of Judicial Review, which uphold procedural standards to which administrative decision-makers must, in certain circumstances, adhere.
42. In the instant case I hold the view that the respondents acted illegally having failed to give a chance to the applicant to be heard. They condemned him unheard, further they purported to address the legality or otherwise of the title of the *Ex Parte* applicant and close the learning institutions because according to their decision the institutions sat on a public land.
43. All these decisions may or may not be right but the process founding the decisions is questionable for failure to adhere to natural justice rules. The decision therefore is for quashing.

What is the purpose of judicial review?

44. Is the Judicial Review Court entitled to consider the merits of the dispute and, consequently in this case, to go behind the *Ex Parte* applicant's title to investigate how it acquired title to the land? Should the Court in these proceedings find, as a matter of law, on the facts that the initial allocation of the land, under which the *Ex Parte* applicant derives title, was a nullity because the land belonged to Mukuru Community Centre and it was surrendered to NLC as alienated public land set apart for a public purpose, the said land could not be re-allocated to the *Ex Parte* applicant in title, and that, consequently, the Registrar could on the logic of once a nullity always a nullity, revoke the *Ex Parte* applicant's title to restore the position as regards the ownership of the land as it ought to be, and that the revocation of a null and void title cannot be ultra vires?
45. The English Court of Appeal in the case of *R v. Minister of Defense ex-parte Smith* [1996] 2 WLR 305 has held that a court may not interfere with the exercise of an administrative discretion on substantive grounds save where the court is satisfied that the decision is unreasonable in the sense that it is beyond the range of responses open to a reasonable decision maker.



46. In the case of *Commissioner of Lands v Kunste Hotel* Civil Appeal No.234 of 1995 it was stated that the standard for any judicial Review is in the decision making process and not with the merits of the decision itself. It deals with the legality of decisions of bodies or persons whose decisions are susceptible to judicial review. A decision can be upset through certiorari on a matter of law if on the face of it, it is made without jurisdiction or in consequence or an error of law, and prohibition restrains abuse or excess of power.
47. The respondents had a duty to investigate the matter at hand before issuing the letter directing that the exparte applicant's learning institutions should be closed by 30/11/2023.
48. Section 27 of the *Registered Land Act* gives the effect of Registration, as follows:
- a. the registration of a person as the proprietor of land shall vest in that person the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto.
 - b. the registration of a person as the proprietor of a lease shall vest in that person the leasehold interest described in the lease, together with all implied and expressed rights and privileges belonging or appurtenant thereto and subject to all implied and expressed agreements, liabilities and incidents of the lease.
49. Further Section 28 provides that, "the rights of a proprietor whether acquired on first registration or whether acquired subsequently for valuable consideration or by an order of court, shall not be liable to be defeated except as provided in this Act, and shall be held by the proprietor, together with all privileges and appurtenances belonging thereto, free from all other interests and claims." The applicant's title has not been affected by any method stated in the above clause.
50. Indeed, section 28 of The *Registered Land Act* does not give any powers to the respondents to revoke titles in case of an illegal allocation or fraud or nullity if at all it is established. The title can only be declared null and void by a court of law after determination.
51. The Court finds that the letter dated 3/07/2023 purporting to cancel the licence of the applicant on the ground that the title to the suit property is questionable was made without jurisdiction and it was illegal.

Public interest.

52. The Respondent in her replying affidavit averred that the suit property is public land which was reverted back to the Government of Kenya by National Land Commission and set aside for Provincial Administration and is therefore not available for private use. A letter dated 30/09/2015 was attached.
53. What I find contradictory though is that on 17/06/2019 the *Ex Parte* applicant presented to the County Board Education an application for full registration for its school and presented a transfer agreement of the suit property LR 209/19552 yet on 30/09/2015 the same suit property had reverted back to government through the intervention of National Land Commission. Again, the court's role in a judicial review does not examine the merits of the case but focuses on the process.
54. Indeed, the Court held in *Milankumarn Shah v. City Council of Nairobi* HCCC No. 1024 of 2005 that where land had been alienated and designated for a particular purpose then it was not open for the commissioner of Lands to re-alienate the same. As I said above this court would not get into the issue on how the ex-parte applicant became the registered owner and whether the transaction was null and void. The respondent can lodge a complaint with the National Land because the public interest



doctrine rested on the principle that certain resources have great importance to the public as a whole that it would be wholly unjustified to make them a subject of private ownership.

55. The scope of the Judicial Review was emphasized in *Makupa Transit Shade Limited & another v. Kenya Ports Authority & another* [2015] eKLR (Okwengu, Makhandia & Sichale, JJA) as follows:

“Finally, we would observe that Judicial Review Jurisdiction is a special Jurisdiction that it is neither criminal nor civil. It operates within narrow confines of the *Law Reform Act* and order 53 of the *Civil Procedure Rules*. As it is narrow, it should never be mixed or combined with other Jurisdictions”.

56. In the same Makupa Transit Shade (*supra*) case, the principle that Judicial Review looks at the process rather the merits of the decision was emphasized as follows:

“It should also be noted, that judicial review remedies cannot be used to assert private law, the very issues the appellants are attempting to do by trying to force a crystallization of the 2002 negotiations into a formal lease agreement. In *Commissioner of Lands v. Kunste Hotel Limited* [1997] eKLR this Court held that:

““But it must be remembered that judicial review is concerned not with private rights or the merits of the decision being challenged but with the decision making process. Its purpose is to ensure that the individual is given fair treatment by the authority to which he has been subjected”

57. It is now trite that Judicial Review deals with the legality of the process of decision-making rather than the merits of the decision of the administrative or quasi-judicial body. In this case, it matters not the strength of the argument in opposition of the applicant’s ownership of the suit property, as the forum for determination is wrong. It is also now established that where a procedure for determination of a dispute has been provided for under the *Constitution* or statute, the same must be strictly followed.

58. On the issue of grant of orders of Certiorari. I am guided by the case of *Republic v Chief Magistrate Milimani Commercial Court & 2 Others Ex Parte Violet Ndanu Mutinda & 5 Others* [2014] eKLR the court stated thus:-

“...the court would concern itself with such issues as to whether the decision makers had the jurisdiction, whether the persons affected by the decision were heard before it was made and whether in making the decision, the decision took into account relevant matters, or did take into account irrelevant matters....The court should not act as a Court of Appeal over the decider which would involve going into the merits of the decision itself such as whether there was or there was not sufficient evidence to support the decision.....”.

59. On the other hand, on the issue of orders of prohibition. I am guided by the case of *Kenya National Examination Council Exparte Gathenji & Others* Civ. Appeal NO 266 of 1996 where the Court Appeal stated thus:-

“.....prohibition cannot quash a decision which has already been made; it can only prevent the making of contemplated decision.

.....prohibition is an order from the High Court directed to an inferior tribunal or body which forbids that tribunal or body to continue proceedings therein in excess of its



jurisdiction in contravention of the laws of the land. It lies, not only for excess of jurisdiction in absence of it but also for a departure from the rules of natural justice.....”.

b. Who will bear the costs

60. In conclusion, I find merit in this application. I find that the applicant has made out a case for the grant of the judicial reliefs sought. However, in view of the public nature of the action challenged by the judicial review proceedings herein, the Court does not make any order as to costs.

Disposal Orders

61. Accordingly, I grant the orders sought namely: -

- a. That an order of certiorari is hereby issued to remove into this court for purposes of being quashed, the decision of the Regional Director of Education /Secretary-C.E.B, Nairobi Margaret Lesuuda given vide its letter dated 3rd July 2023 against the *Ex Parte* Applicant closing its learning institutions and the same is quashed.
- b. That this Honourable court do and hereby issues an order of prohibition prohibiting the Regional Director of Education Secretary-C.E. B, Nairobi Margaret Lesuuda from implementing the decision contained in the letter dated 3rd July 2023 against the *Ex Parte* Applicant.
- c. That each party do bear own costs.

Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 21ST DAY OF NOVEMBER, 2023.

MOGENI J

JUDGE

In the virtual presence of :-

Mr. Mwambonu for the Applicant

No appearance for the Applicant

Ms. C. Sagina: Court Assistant

MOGENI J

JUDGE

