



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CONSTITUTIONAL AND HUMAN RIGHTS DIVISION**

**PETITION NO. 309 OF 2016**

**PAULINE ANNA BENADETTE ONYANGO.....PETITIONER**

**VERSUS**

**THE KENYA SCHOOL OF LAW.....RESPONDENT**

**JUDGMENT**

1. The petitioner, **Pauline Ann Benadette Onyango**, was admitted to the respondent, Kenya School of Law, (The School), for the 2005/2006 academic year's Advocates' Training Programme (**ATP**). She however deferred her studies due to lack of fees. She rejoined the school for the 2010/2011 academic year, but again sought to defer her studies. The request was rejected on grounds that deferment is allowed only once. She was advised to apply a fresh when she was ready. The petitioner applied to join the ATP for the 2015/2016 academic, but her application was declined on grounds that she was not qualified to join the programme as required by the Kenya School of Law Act, 2012. She therefore filed this petition seeking the following reliefs;

- a. A declaration that the conducts (sic) of the agents of the respondent are contrary to and inconsistent with the provisions of Articles 10, 73 and 232 of the Constitution, 2010.*
- b. A declaration that the respondent violated and/or its likely (sic) to violate the constitutional rights of the petitioner and in particular Articles 27, 43, 47 and 48 of the constitution of Kenya.*
- c. An order to set aside and or quash the respondent's decision contained in the respondent's letter to the petitioner dated 1<sup>st</sup> December 2014 titled; "Re: Admission to the Kenya School of Law- 2015/2016 Academic Year"*
- d. An order to compel the respondent to consider the petitioner for admission to its Advocates Training Programme (ATP) when the course is offered next.*
- e. An order of prohibition to prohibit the respondent from denying Kes 50,000 paid by the petitioner has (sic) part of tuition fees for the ATP.*
- f. Any other or further relief that this honorable court shall deem fit and just to grant in the circumstances.*
- g. Costs of this petition.*

2. The respondent filed a replying affidavit by Prof. P.L.O Lumumba filed in court on 29<sup>th</sup> March 2017. It was deposed that indeed the petitioner applied to join the School in 2004, was interviewed and advised to sit for a proficiency test in English before she could be considered for admission to the ATP. The petitioner sat and passed the test and was thus admitted for the year 2005/2006. Which she deferred it was deposed, the petitioner was then re admitted for the 2010/2011 academic year, but sought to defer which was declined. It was deposed that the petitioner was informed that deferment can be done once. She advised her to submit a new application when she was ready.

3. Prof. Lumumba deposed that by the time the petitioner submitted her application for the 2015/2016 academic year in 2015, the Kenya School of Law Act 2012 had come into force and by virtue of the new Act, the petitioner was not qualified. It was deposed that the decision not to admit the petitioner was made in accordance with the law and the petitioner duly notified.

### **Petitioner's submissions**

4. **Mr. Nzau**, learned counsel for the petitioner, submitted that the respondent was wrong in its decision to subject the petitioner to the Kenya School of Law Act, 2012. It was contended that the action violated the petitioner's rights under **Article 43(f)** of the **Constitution**. Learned counsel faulted the respondent for holding the view that the proficiency test the petitioner had taken and passed was inapplicable in the face of the new Act.

5. Learned counsel referred to the case of *Kelvin K. Mwiti & others v Kenya School of Law & 2 others [2015] eKLR* for the submission that students admitted to LLB programme prior to the new law were not affected by that Act. Counsel further contended that the respondent violated the petitioner's right to legitimate expectation that the respondent would follow the letter of the law when dealing with the petitioner's application to join **ATP**.

6. According to counsel, the petitioners' KCSE grades are in conformity with **Part II (ii)** of the First Schedule to the Council of Legal Education Act (Kenya School of Law Regulations, 2009) on admission requirements into the ATP. Counsel argued that by applying the Kenya School of Law Act 2012, the respondent applied the law retrospectively which was wrong. In counsel's view, the applicable regulation was regulation 5 of the First Schedule which required an applicant to have LLB degree and of a minimum grade of C (plain) in KCSE and C (minus) in English language.

7. It was further submitted that the respondent violated the principles of natural justice, acted *ultra vires*, unreasonably, acted with improver motive, and against the principle of proportionality. It was also submitted that the respondent violated **Article 47** of the Constitution and the **Fair Administrative Act**. Counsel contended that the respondent was wrong in applying the law retrospectively yet the petitioner had been admitted to the LLB programme before enactment of the Kenya School of Law Act 2012. According to counsel, the applicable regulations were the Kenya School of Law Regulations, 2009 which should have been followed.

8. Counsel referred to the case of *Republic v Council of Legal Education & another Exparte Mount Kenya University [2016] eKLR* to support the proposition that the decision of the respondent violated fair administrative action, *Republic v Kenya School of Law & 2 others Exparte Juliet Wanjiru Njoroge & 5 others [2015] eKLR* for the proposition that the respondent's decision amounted to an illegality, and *Republic v The Hon. Chief Justice of Kenya & others Exparte Moijo Mataiyo Ole Keiwua misc. appl no. 1298 of 2004* for the submission that when a body has to make a decision which would affect a right of an individual, it has to consider any statutory or other legal framework under which it operates.

9. It was therefore submitted that the petitioner was discriminated against in violation of Article 27(4) of the Constitution and referred to the case of *R v Cabinet Secretary for Transport and Infrastructure & 5 others Exparte Kenya Country Bus Owners Association & 8 others [2014] eKLR* to support this submission.

### **Respondent's submissions**

10. The respondent filed written submissions but did not attend court for highlighting. In its written submissions the respondent contended that it followed the law and procedure in making the decision on whether or not to admit the petitioner to the ATP. According to the respondent, the applicable law is the Kenya School of Law Act, 2012, and accordingly, the petitioner's KCSE grades are not in conformity with **Part III** of the Act and the Second Schedule thereof. The respondent contended that the decision was made on the basis of the law which requires a minimum grade of C (plus) in KCSE and B (plain) in English or Kiswahili language. The respondent referred to the case of **Republic v The Council of Legal Education Exparte James Njuguna & 14 others misc. application No. 137 of 2004** which held that the Council of Legal Education followed the law and that the court had no reason to intervene so as to interfere with merit of the decision.

11. The respondent further submitted that it followed proper and lawful procedures and processes, that it never breached or violated any principle of law, and that its decision was not **ultra vires**. It was also submitted that the respondent never violated the right to fair administrative action, but acted in accordance with provisions of the applicable Law. Reference was made to the case of **Overseas Private Investment Corporation & 2 others v Attorney General [2013] eKLR** for the proposition that the duty of the Court is to give effect to the will of parliament, and if a legislation provides for retrospective operation, courts will not impugn it merely because the legislation appears unfair. The respondent further referred to the case of **Associated Provincial Picture Houses Ltd v Wednesbury Corporation [1948] 1 KB 223** for the proposition that a court has an appellate authority to overwrite a decision of a quasi-judicial body, but as the judicial authority, its concern is to see whether the quasi-judicial body contravened the law.

12. The respondent again referred to the case of **Republic v The Council of Legal Education Exparte James Njuguna & 14 others (supra)** for the submission that a Court of law would only be entitled to inquire into the merits of a decision in circumstances where the decision maker abused its discretion, exercised its discretion for an improper purpose, acted in breach of a duty to act fairly or failed to exercise its duty reasonably.

13. It was the respondent's submission that it acted reasonably, and referred to the case of **Chief Constable North Wales Police v Evans [1982] 1 Review 115**, where it was stated that Judicial review is concerned not with the decision, but the decision making process. It asked that the petition be dismissed.

### **Analysis and determination**

14. I have considered the pleadings, submissions by both sides and authorities cited. The main issue raised for determination in this petition, is whether the respondent followed the law in determining the petitioner's application for admission to the ATP at the School.

15. The petition challenges the respondent's decision not to admit her to ATP to pursue her desire to qualify as an advocate. The petitioner holds a Bachelor of Laws (LL.B.) degree. She was first admitted to join the ATP in the 2005/2006 academic year but deferred her studies. She was again re admitted for the 2010/2011 academic year but again did not take up her place because of lack of fees. Her wish to defer again could not be allowed. At the time, the applicable law was the Council of Legal Education Act (Cap 16 A). Meanwhile, a new law came into operation namely; the Kenya School of Law Act, 2012, which came into force in January 2013. The new law changed qualifications for admission into the ATP. It was on the basis of this new law that the petitioner's application was rejected prompting this petition.

16. From the facts of this case and evidence adduced, the petitioner reapplied for admission in 2014 and received a regret through a letter dated 1<sup>st</sup> December 2014. The reason given in the letter was that she did not meet the requirements for admission. The petitioner has however maintained that she had the necessary qualifications for admission to ATP at the School. In the petitioner's view, the new law could not be applied in her case. She contended that the admission regulations introduced in the 2012 Act should have been applied retrogressively against her.

17. The petitioner's admission in 2005/2006 and 2010/2011 was based on a different legislation, namely;

the **Council of Legal Education Act (Cap 16 A)**, and in particular **Kenya School of Law Regulations, 2009** under that Act. Regulations 4 and 5 which are relevant to this petition provided as follows:

4. *“A person shall not qualify for admission to a course of study at the School, unless that person has met the admission requirements, set out in the First Schedule to these Regulations for that course.*

5. (1) *Any person who wishes to be admitted to any course of study at the School, shall make an application to the School in Form KSL No. 1 set out in the Third Schedule and pay the fees set out in the Fourth Schedule to these Regulations.*

2. *The application under paragraph (1) shall be accompanied by–*

a. *academic transcripts for the relevant qualifying examinations;*

b. *academic certificate or any other academic award*

c. *a copy of the National identification Card*

d. *two passport photographs; of the applicant and any other document the School may from time to time require.*

3. *The School shall consider an application submitted under paragraph (2) and if it is satisfied that the applicant meets the admission requirements, admit the applicant to the School.*

18. Part II of the First Schedule to the Regulations which contained admission requirements provided;

1. *“. A person shall not be eligible for admission for the Post Graduate Diploma (Advocate Training Programme) unless that person has–*

a. *passed the relevant examination of any recognized university in Kenya, he holds or has become eligible for the conferment of the Bachelor of Laws Degree (LL.B) of that university;*

b. *passed the relevant examinations of a university, university college or other institutions prescribed by the Council, he holds or has become eligible for the conferment of the Bachelor of Laws Degree (LL.B) in the grant of that university, university college or other institution, had prior to enrolling at that university, university college or other institution–*

i. *attained a minimum entry requirements for admission to a university in Kenya; and*

ii. *a minimum grade B (plain) in English Language and a mean grade of C (plus) in the Kenya Certificate of Secondary Examination or its equivalent;*

c. *Bachelor of Laws Degree (LL.B) from a recognized university and attained a minimum grade of C+ (C plus) in English and a minimum aggregate grade of C (plain) in the Kenya Certificate of Secondary Examination, holds a higher qualification e.g. “A” levels, “IB”, relevant “Diploma”, other “undergraduate degree” or has attained a higher degree in Law after the undergraduate studies in the Bachelor of Laws Programme; or*

*d. a Bachelor of Laws Degree (LL.B) from recognized university and attained a minimum grade of C- (C minus) in English and a minimum of an aggregate grade of C- (C minus) in the Kenya Certificate of Secondary Examination sits and passes the Pre-Bar Examination set by the Council of Legal Education as a pre-condition for admission.(emphasis)*

19. In 2014, when the petitioner reapplied again, the law had changed. The Kenya School of Law Act, 2012 had come into operation and requirements for entry into the ATP changed. Section 16 of the new

Act now provides;

***“A person shall not qualify for admission to the school unless that person has met admission requirements set out in the Second Schedule for that course.***

20. The Second Schedule to the Act states with regard to qualifications for admission as follows;

*i “A person shall be admitted to the School if:*

*a. having passed the relevant examination of any recognized university in Kenya holds, or has become eligible for the conferment of the Bachelor of Laws Degree (LL.B) of that university; or*

*b. having passed the relevant examinations of a university, university college or other institutions prescribed by the Council of Legal Education, holds or has become eligible for the conferment of the Bachelor of Laws Degree (LL.B) in the grant of that university, university college or other institution:*

*i. attained a minimum entry requirements for admission to a university in Kenya; and obtained a minimum grade B (plain) in English Language or Kiswahili and a mean grade of C (plus) in the Kenya Certificate of Secondary Education or its equivalent; or*

*ii. obtained a minimum grade of B (Plain) in English language or Kiswahili and a mean grade of C (Plus) in the Kenya Certificate of Secondary Education or its equivalent or*

*2. has sat and passed the Pre-Bar examination set by the School.”*

21. From the above provisions it is clear that qualification for admission to ATP are now different from those of pre- 2012. In particular, and of relevance to this petition, is qualification under (1)(d) where one who had LLB degree, grade C (minus) in KCSE and C (minus) in English, could be admitted to the School if the person passed pre bar examinations. The current regulations removed that particular qualification.

22. Although the petitioner did not say what her qualifications in KCSE were, the respondent stated in its letter of regret to petitioner that she had grade C (minus) in KCSE and C (minus) in English. If this be correct, and there is no reason to doubt it, it is clear that the petitioner did not meet admission requirements set in the new Act.

23. The preamble to the new Act states that it is “*an Act of Parliament to provide for establishment of Kenya School of Law and provide for its powers and functions.*” The Kenya School of Law is established under Section 3 of the Act as a body corporate with perpetual succession and a common seal. Section 4 states that the school is the successor to the Kenya School of Law previously established under the Council of Legal Education Act.

24. One of the functions of the School is to train persons to become advocates under the Advocates Act. The second Schedule to the Act contains regulations and qualifications for admission to the ATP at the School which now guide the respondent in performing its functions under the Act which is to train persons who meet the admission requirements to be advocates.

25. The regulations under the Second Schedule to the Kenya School of Law Act, 2012 supersede any previous regulations, and in particular, the Kenya School of Law Regulations 2009, which were in the Council of Legal Education Act in so far as qualification and admission to the ATP in the School is concerned.

26. Moreover, the Council of Legal Education Act was repealed by the Legal Education Act, 2012. The

petitioner's counsel's submission that the applicable regulations were the Kenya School of Law Regulations, 2009 cannot be true since they are no longer in force.

27. The petitioner contends that since she has LL.B. degree and had previously sat and passed a proficiency test in English which enabled her to gain admission previously, she still qualifies for admission to the School. She contends that subjecting her to the new legal regime is to apply the law retrospectively and is discriminatory.

28. The petitioner's complaint is not without merit. She obtained her academic qualifications way before the law was amended to introduce new admission requirements for the ATP. The new Act does not contain transitional provisions from those who obtained their Law degrees under the old legal regime to the new Act. It would therefore be unreasonable to subject the petitioner to a law that was not in place or did not exist when she obtained her law degree a qualification that allowed one join the School. That would be akin to applying the law retrospectively in violation of the petitioner's right to seek admission to the School.

29. It is a cardinal rule of statutory construction that a retrospective operation should not be given to a statute so as to impair an existing right or obligation, except with regard to procedure.

30. In *Francis Bennion's Statutory Interpretation*, 2<sup>nd</sup> Edition, (Butter works, 1984) the position was put thus;

*"The essential idea of legal system is that current law should govern current activities... If we do something today, we feel that the law applying to it should be the law in force today, not tomorrow's backward adjustment of it. Such, we believe, is the nature of law... The true principle is that *lex prospicit non respicit* (law looks forward not back). As Willes, J. said retrospective legislation is 'contrary to the general principle that legislation by which the conduct of mankind is to be regulated ought, when introduced for the first time, to deal with future acts, and ought not to change the character of past transaction carried on upon the faith of the then existing law."*

31. According to *Maxwell on the Interpretation of Statutes*, 12<sup>th</sup> Edition (Sweet & Maxwell 1969). The Authors put the law thus.

*"Perhaps no rule of construction is more firmly established than thus - that a retrospective operation is not to be given to a statute so as to impair an existing right or obligation, otherwise than as regards matters of procedure, unless that effect cannot be avoided without doing violence to the language of the enactment. If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only. The rule has, in fact, two aspects, for it, "involves another and subordinate rule, to the effect that a statute is not to be construed so as to have a greater retrospective operation than its language renders necessary. "*

32. The Supreme Court of India deciding in the case of *Mithilesh Kumari and another, vs. Prem Behari Khare*, AIR 1989 SC 1247, stated;

***"A retrospective operation is not to be given to a statute so as to impair existing right or obligation, otherwise than as regards matter of procedure unless that effect cannot be avoided without doing violence to the language of the enactment. Before applying a statute retrospectively the Court has to be satisfied that the statute is in fact retrospective. The presumption against retrospective operation is strong in cases in which the statute, if operated retrospectively, would prejudicially affect vested rights or the illegality of past transaction, or impair contracts, or impose new duty or attach new disability in respect of past transactions or considerations already passed, However, a statute is not properly called a retrospective statute because a part of the requisites for its action is drawn from a time antecedent to its passing. The general scope and purview of the statute and the remedy sought to be applied must be looked into and what was the former state of law and what the legislation contemplated has to be considered. Every law that impairs or takes away rights vested agreeably to existing laws is retrospective, and***

***is generally unjust and may be oppressive. But laws made justly and for the benefit of individuals and the community as a whole may relate to a time antecedent to their commencement. The presumption against retrospectivity may in such cases be rebutted by necessary implications from the language employed in the statute. It cannot be said to be an invariable rule that a statute could not be retrospective unless so expressed in the very terms of the section which had to be construed. The question is whether on a proper construction the legislature may be said to have so expressed its intention". (Emphasis)***

33. The Supreme Court restated the same position in the case of ***Samuel Kamau Macharia and Another v Kenya Commercial Bank Ltd and 2 Others***, SCK Application No. 2 of 2011 [2012] eKLR where the Court observed that,

***“As for non-criminal legislation, the general rule is that all statutes other than those which are merely declaratory or which relate only to matters of procedure or evidence are prima facie prospective, and retrospective is not to be given to them unless, by express words or necessary implication, it appears that this was the intention of the legislature.”***

34. It emerges clearly from the above pronouncements, therefore, that Statutes dealing with or affecting substantive rights are, *prima facie*, prospective in their application unless otherwise expressly stated or can by necessary implications appear to have been intended to have a retrospective operation.

35. In the present case, when the petitioner obtained her LLB degree, the law allowed anyone who had that degree, had had C (minus) in KCSE with C (minus) in English, and passed pre-Bar Examination, to be admitted to the ATP at the respondent school. This was allowed under the Council of Legal Education (Kenya School of Law Regulations), 2009. It was on that basis that the petitioner had been admitted to the school in her earlier application.

36. Applying the principle that the law looks to the future to the present case, it is not lost that the petitioner had obtained her educational qualifications which, under the law existing then, made her qualify to apply for admission and had indeed been admitted to the ATP. That was a right that accrued to her and which could not be taken away by application of the new legal regime. Any such application would impair her right and desire to seek admission to the School.

37. The respondent’s decision that the petitioner was not qualified to join the ATP by virtue of the Kenya School of Law, 2012, was irrational and unreasonable. It was made without justification. The respondent could not apply the provisions of the Act retrospectively to render qualifications obtained before its enactment irrelevant.

38. Reasonableness of administrative decisions is now a constitutional requirement under Article 47(1) of the constitution which provides that ***every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.***

39. In the case of ***The President of the Republic of South Africa & others v South African Rugby Football Union and Others (CCT 16/98) 2000(1)SA 1***, the South African Court stated the importance of fair administrative action under section 33 of the constitution of South Africa which is similar to our Article 47(1), and held;

***“The right to just administrative action is now entrenched as a constitutional control over the exercise of power, principles previously established by the common law will be important though not necessarily decisive in determining not only the scope of section 33, but also its content. The principle function of section 33 is to regulate conduct of public administration, and in particular, to ensure that where action taken by the administration affects or threatens individuals, the procedure followed comply with the constitutional standards of administrative justice. These standards will of course be informed by the common law principles developed over the years.”***

40. The Court of Appeal, on its part addressed its mind on Article 47(1) of the Constitution in the case of

**Judicial Service Commission v Mbalu Mutava Musyimi [2015] eKLR**, and stated;

*“Article 47(1) marks an important and transformative development of administrative justice for not it only lays a constitutional foundation for control of the powers of the state organs and other administrative bodies, but also entrenches the right to fair administrative action in the Bill of Rights. The right to fair administrative action is a reflection of the national values in Article 10 such as the rule of law, human dignity, social justice, good governance, transparency and accountability. The administrative actions of public officers, state organs and other administrative bodies are now subjected by Article 47(1) to the principle of constitutionality rather than the doctrine of ultra vires from which administrative law under the common law was developed.”*

41. In that regard, if an administrative action or decision falls short of the constitutional demand of reasonableness, it would be unconstitutional. As stated herein above, the decision by the respondent to subject the petitioner to provisions of the new Act in determining her qualification to join the ATP, when those qualifications were obtained during a legal regime which deemed them suitable for admission to the programme, breached Article 47(1) of the Constitution for being unreasonable.

42. The constitution does not define the word ‘unreasonable’. The word would simply mean a decision or action that on the face of it seems unfair and difficult to justify. In the case of **Associated Provincial Picture Houses v Wednesbury Corporation [1948]1 KB 223**, the court held;

*“...the discretion must be exercised reasonably...what does that mean? Lawyers familiar with the phraseology commonly used in relation to exercise of statutory discretions often use the word ‘unreasonable’ in a rather comprehensive sense. It has frequently been used as a general description of the things that must not be done. For instance, a person entrusted with discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey these rules, he may truly be said and often is said to be acting ‘unreasonably’. Similarly, there may be something so absurd that no sensible person could ever dream that it lay within the powers of the authority...”* (emphasis)

43. It follows, therefore, that the decision of the respondent to apply the law retrospectively to exclude qualifications that had been obtained within the existing law then, was to say the least, difficult to justify, and was therefore unreasonable.

44. The respondent relied on the decision in the case of **Council of Legal Education Exparte James Njuguna & 14 others** Misc app no. 137 of 2004 to argue that courts should have no reason to intervene where the respondent had followed the applicable law and regulations, and that the respondent had power and duty to insist on the highest professional standards for those who wished to qualify as advocates. That can only be correct where the respondent applied the law properly.

45. In the present case, the question is not that the respondent did not apply the law, but that it applied the law retrospectively to affect the petitioner’s right to seek admission to ATP, having obtained qualifications before enactment of the new law. The respondent’s action cannot be justified. As stated in **Associated Provincial Picture Houses v Wednesbury Corporation**, the decision by the respondent was absurd to the extent that no sensible person could ever dream that it lay within its powers to decide to apply the law retrospectively.

46. I agree with the decision in **Kelvin K. Mwiti & Others Kenya school of Law & Others** (supra) where after finding that the respondent could not apply the new law to affect those who joined LL.B. classes prior to its enactment, the Court held that;

*“the petitioners who were already in the LL.B class prior to the enactment of the Kenya School of Law Act are to be treated in the manner contemplated by the guidelines issued by the school prior to the enactment of the Amendment Act. For avoidance of doubt those who had not been admitted in the LL.B class prior to the enactment of the Kenya School of Law Act are to comply*

***with the provisions of the said Act.”***

47. That decision aptly applies to the present case. The petitioner having enrolled in LL.B. class, and in fact obtained her degree qualifications prior to the enactment of the new law, cannot and must not be subjected to it. Doing so would amount to condemning the petitioner for having gone to school early, and that is the unreasonableness that Article 47 seeks to prevent. She must be treated in accordance with the law that existed when she obtained her qualifications. In short, the petitioner qualifies to apply for admission to ATP at the school.

48. The petitioner submitted that having previously sat and passed proficiency test in English, she should not be subjected to the test again. It is not the business of this court to direct the respondent how perform its work. The Court's duty is to determine whether actions of the respondent were lawful or violated the law. The respondent is required to apply the law reasonably whenever considering an application for admission to the ATP.

49. The petitioner sought to have the respondent prohibited from denying that Kshs.50,000 had been paid by the petitioner as School fees. I have perused the record and, in particular, the response to the petition and the submissions. The respondent has admitted that the amount was paid. The respondent has not said that the money was not paid. I therefore do not think this issue arises for determination here. The petitioner can raise the issue of money directly with the respondent.

50. From what I have stated herein above, I find that the petitioner was qualified to apply for admission to ATP at the respondent School, and the respondent was wrong in applying the law retrospectively to cover her degree obtained prior to the enactment of the new law. Consequently, the petition is hereby allowed and I make the following orders which the Court considers appropriate in the circumstances of this petition;

***a. A declaration is hereby issued that the respondent violated the constitutional rights of the petitioner and in particular Articles 27, 43, 47 and 48 of the constitution of Kenya.***

***b. An order is hereby issued setting aside and or quashing the respondent's decision contained in the respondent's letter to the petitioner dated 1<sup>st</sup> December 2014 declining to admit the petitioner to the Kenya School of Law- 2015/2016 Academic Year***

***c. An order is hereby issued to compelling the respondent to consider the petitioner for admission to its Advocates Training Programme (ATP) when the course is offered next.***

***d. An order of prohibition to prohibit the respondent from denying Kes 50,000 paid by the petitioner has (sic) part of tuition fees for the ATP.***

***e. Costs to the petitioner.***

**Dated signed and delivered at Nairobi this 2<sup>nd</sup> day of August 2017**

**E C MWITA**

**JUDGE**