



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**JUDICIAL REVIEW DIVISION**

**JR CASE NO. 420 OF 2014**

**REPUBLIC.....APPLICANT**

**VERSUS**

**REGISTRAR OF SOCIETIES.....RESPONDENT**

**EX-PARTE**

**HARDFORCE MWAVALI (suing as an official of the  
Kenya Association of Livestock Technicians)**

**JUDGEMENT**

1. Through the notice of motion application dated 16<sup>th</sup> June, 2015, Hardforce Mwavali suing as an official of the Kenya Association of Livestock Technicians prays for orders to issue against the Respondent, the Registrar of Societies as follows:

**“1. AN ORDER OF CERTIORARI to remove into this Honourable Court and quash the decision to nullify the notice calling for an Annual General Meeting of 6<sup>th</sup> November, 2014 issued on 29<sup>th</sup> October, 2014 by the Deputy Registrar of Societies.**

**2. Costs be granted to the applicant.”**

2. The Applicant’s case is very brief. He avers that acting in his capacity as the National Secretary of the Kenya Association of Livestock Technicians (KALT) he issued a notice for an annual general meeting to be held on 6<sup>th</sup> November, 2014. The Applicant avers that the Respondent nullified the notice without giving him a hearing.

3. It is the Applicant’s case that the purported nullification does not have any basis in law. According to the Applicant, the Respondent was conniving with some members of KALT to undermine its activities.

4. The Respondent opposed the application through the replying affidavit of Joseph Onyango, a Deputy Registrar General. From the affidavit, it emerges that the Respondent received a letter dated 3<sup>rd</sup> October, 2014 from KALT’s National Chairman, Vice-Chairman and a committee member alleging that the Applicant who was the national secretary had called an annual general meeting unprocedurally without approval by Executive Committee.

5. On 14<sup>th</sup> October, 2014 the Respondent received a further complaint from the Chairman and Vice-Chairman of the Society alleging that the Applicant had acted in disregard of the Society's Constitution and declared all deputy positions vacant. The Applicant was also accused of insubordination and issuing cheques of the Society to his friends.

6. The Respondent was also informed that the Applicant had been suspended by the Society's National Executive Committee. Acting on the information, the Respondent wrote to the Applicant the letter dated 29<sup>th</sup> October, 2014 asking him to respond to the allegations but he failed to do so. The Respondent therefore prays for the dismissal of the Applicant's case.

7. The essence of judicial review is to ensure fidelity to the law, rationality and compliance with procedural requirements by public bodies in execution of their mandates. Where a decision or act complained of is tainted with illegality, irrationality and procedural impropriety, orders may issue – see **Pastoli v Kabale District Local government Council and others [2008] 2 EA 300**.

8. In the case at hand, the Applicant alleges illegality on the part of the Respondent. The presumption is that the Applicant filed this matter for the benefit of and on behalf of the Society. He has not annexed the minutes of the meeting authorising him to commence the proceedings. It is said that at the time of commencing these proceedings, the Applicant was on suspension. Had the Applicant moved the court in his individual capacity as a member of the Society the court may have granted the orders sought but in this case, the Society has not authorised the filing of this application. As of now it is easy to conclude that the application is grounded on the false fact that the Applicant is an official of the Society.

9. The other ground upon which the Applicant seeks relief is that he was not given an opportunity to be heard. In the letter dated 29<sup>th</sup> October, 2014 the Applicant was told **“we are enclosing a copy of that letter with the directive that you respond within the next 14 days before we take any further step.”** An opportunity to be heard was thus given to him and if he did not take advantage of that opportunity then he cannot be heard to complain.

10. In light of what I have stated above, the Applicant's case fails and the same is dismissed with no orders as to costs.

Dated, signed and delivered at Nairobi this 24<sup>th</sup> day of May, 2016

**W. KORIR,**

**JUDGE OF THE HIGH COURT**