

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CONSTITUTIONAL AND JUDICIAL REVIEW PETITION NO. 40 OF 2015

1. DAVID MBURU MWANGI1ST PETITIONER
2. ANTHONY THUITA MWAI.....2ND PETITIONER

VERSUS

1. KENYA MEDICAL TRAINING COLLEGE.....1ST RESPONDENT
2. THE HON. ATTORNEY GENERAL2ND RESPONDENT

RULING

1. By a Constitutional Petition dated the 11th August 2015, the Applicants David Mburu Mwangi and Antony Thuita Mwai sought orders;

1. Spend

2. That pending hearing and determination of the application herein interpartes this Honourable Court be pleased to issue orders of injunction restraining the 1st Respondent by itself, agents, servants, employees and/or any person exercising authority from admitting the selected students as enlisted in the 1st Respondent website.

3. That pending hearing and determination of the petition herein this Honourable Court be pleased to issue orders of injunction restraining the 1st Respondent by itself, agents, servants, employees and/or any person acting under its authority from admitting the selected students as enlisted by the 1st respondent at its website.

4. That the court be pleased to issue directions on the hearing and disposal of the petition on priority basis.

5. That the costs of this application be provided for.

2. On the 2nd September 2015 this court, (Justice Maureen Odero, J) declined to grant the applicants interim orders of injunction *ex parte* and set the interpartes hearing on the 9th September 2015 before this court.

The application was duly argued interpartes and a ruling reserved for delivery on the 15th September 2015.

3. However before the ruling was delivered, on the 11th September 2015 attention was drawn to the court that in a matter similar to the present one being **High Court Judicial Review Misc. Application No. 291 of 2015 – Kenya University and Colleges Central Placement Service -vs- Kenya Medical Training College and the Honourable Attorney General** was filed and argued in the Constitutional and Judicial Review Division in the High Court of Kenya at Milimani, Nairobi, and interim orders similar to the orders sought in this matter granted by the court, and coming up for interpartes hearing on the 17th September 2015 in the said court at Milimani, Nairobi.

4. In view of the above, and the court at Milmani having granted the interim orders as sought in this matter, the application hereof has been overtaken by events. It would be prudent that the parties proceed with the matter as filed in Milmani Constitutional Court for final orders after the interpartes hearing scheduled for the 17th September 2015. This in my view would cushion the danger of having courts of parallel jurisdiction issuing different and/or conflicting orders in a similar matter. Having said so, this court shall give no orders on the application dated 11th August 2015. This is to await the final orders on the application as may be granted in the matter pending at the High Court at Milimani, Nairobi. Thereafter, parties shall be at liberty to move the court as they may deem fit.

It is so ordered.

Dated, signed and delivered in open court this 15th day of September 2015.

JANET MULWA

JUDGE