



1. *Judicial Review & Constitutional Division*

2. *Subject of Main Application:-*

Judicial Review Proceedings

2.1 *Leave granted for Judicial Review Proceedings on 22 August 2011 W. Karanja J.*

2.2 *Leave operates as stay.*

2.3 *Notice of Motion 24th August 2011*

a) *The Transport Licensing Board wrote to the transporter indicating the ex parte application that unless they rectify conduct of their staff and have clean buses, it was contemplating to remove their license.*

b) *Notice to Show Cause of 7 days issued on the grounds why their license should be revoked.*

c) *Ex parte application wrote letter of explanation on 5th July 2011*

d) *No response made*

e) *Ex-parte applicant wrote letter seeking to have letter withdrawn*

f) *No response given*

3. *Application for judicial review proceedings filed.*

i) *Prohibiting the applicant buses from operating in the city centre.*

ii) *Certiorari to quash first respondent's threatened action of removing from operating within the Nairobi Central Business district.*

4. *Advocates :*

i) *J H Kinyanjui instructed by M/s J Harrison Kinyanjui & Co Advocates for the ex-parte applicant*

ii) *B N Asitivah instructed by 6th Respondent*

iii) *K.O. Onyusio instructed by the Attorney General*

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
JUDICIAL REVIEW MISC CIVIL CASE NO. 193 OF 2011

**IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW
ORDERS OF CERTIORARI & PROHIBITION**

AND

IN THE MATTER OF THE TRAFFIC ACT, CAP 403

AND

IN THE MATTER OF THE TRANSPORT LICENSING ACT, CAP 404

AND

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW ORDERS

BETWEEN
KENYA BUS SERVICE
MANAGEMENT LIMITED APPLICANT
VERSUS

TRANSPORT LICENSING BOARD 1ST RESPONDENT
NAIROBI AREA MILIMANI
TRAFFIC HQ POLICE STATION 2ND RESPONDENT
COMMISSIONER OF POLICE 3RD RESPONDENT
THE HON. ATTORNEY GENERAL 4TH RESPONDENT
DIRECTOR OF MOTOR VEHICLE INSPECTION 5TH RESPONDENT
CITY COUNCIL OF NAIROBI 6TH RESPONDENT

AND

THE PERMANENT SECRETARY
MINISTRY OF TRANSPORT INTERESTED PARTY

RULING

I. BACKGROUND

1. The Judicial Review application before this court was brought before this court as a result of a letter dated 28th June 2011 written by the Transport Licensing Board.
2. The letter addressed to three transport companies including the applicant Kenya Bus Service, that as a result of the board meeting in May 2011, there was indeed disorderly on the road, dirty and unroadworthy vehicles, the drivers, staff held fake licenses. That this must desist and if it is not so done within 7 days, all three companies would be stopped from operating in the Central Business District.
3. It was a letter to show cause why they should not be stopped and the same be given an answer within 7 days.
4. The applicant made reply on 5th July 2011 and explained that they had tried to rectify any anomaly. There was no reply from the board.
5. Their lawyer then wrote a letter of demand dated 25th July 2011 that they withdraw the letter failure to, Judicial Review proceedings would be filed.
6. No reply was forthcoming and Judicial Review proceedings was filed.

II. LEAVE

7. Leave to file the Judicial Review proceedings was granted on 22nd August 2011 (W Karanja J).
8. A Notice of Motion dated 24th August 201 was filed. The respondent failed to attend court but were served.
9. The letter of 28th June 2011 stated that the board was “*contemplating revoking its licenses issued to operate in the Central Business District*”.
10. No action has been taken further by them on receiving the letter of explanation within seven (7) days.
11. I would hereby agree that there be granted orders of certiorari and prohibition to quash the contemplated decision of the board that applies to the ex-parte applicant only.
12. There will be costs in the case.

DATED THIS 8TH DAY OF SEPTEMBER 2011 AT NAIROBI

M.A. ANG'AWA
JUDGE

Advocates :

- i) *M/s J Harrison Kinyanjui & Co Advocates for the ex-parte applicant*
- ii) *B N Asitivah instructed by 6th Respondent*
- iii) *K.O. Onyusio instructed by the Attorney General*