



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 24<sup>th</sup> August 2011*

a) *The Transport Licensing Board wrote to the transporter indicating the exparte 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) *Exparte application wrote letter of explanation on 5<sup>th</sup> 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e) *Ex-parte applicant wrote letter seeking to have letter withdrawn*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 6<sup>th</sup> 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..... 1<sup>ST</sup>  
RESPONDENT**

**NAIROBI AREA MILIMANI TRAFFIC HQ POLICE STATION.....2<sup>ND</sup>  
RESPONDENT**

**COMMISSIONER OF POLICE.....3<sup>RD</sup>  
RESPONDENT**

**THE HON. ATTORNEY GENERAL.....4<sup>TH</sup>  
RESPONDENT**

**DIRECTOR OF MOTOR VEHICLE INSPECTION.....5<sup>TH</sup>  
RESPONDENT**

**CITY COUNCIL OF NAIROBI.....6<sup>TH</sup>  
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 28<sup>th</sup> 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 5<sup>th</sup> 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 25<sup>th</sup> 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 22<sup>nd</sup> August 2011 (W Karanja J).
  
8. A Notice of Motion dated 24<sup>th</sup> August 201 was filed. The respondent failed to attend court but were served.
  
9. The letter of 28<sup>th</sup> 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 8<sup>TH</sup> 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 6<sup>th</sup> Respondent*

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