

The Registrar of Societies in her letter dated 9th November 2005 wrote the Applicants informing them of the action she had taken. The letter read as follows:

The Secretary

Kenya National Association of

Primary School Head Teachers

P.O. Box 660

BUNGOMA

Dear Sir,

RE: SOCIETIES ACT CAP 108

The above matter refers. Following the High Court Orders dated 29th September 2005. We hereby reinstate the registration of your Society. We shall proceed to de-gazette the same.

Yours faithfully

Helen Koki

Assistant Registrar of Societies

Following this order the Applicants brought this suit seeking orders that the defendants be permanently stopped from holding themselves out as Chairman and Secretary or Officials of the Kenya National Association of Primary School Head Teachers whose registration was quashed.

The plaint was accompanied with a Chamber Summons dated 9th November 2005 in which the Applicants sought Orders that pending the hearing and determination of the suit, the defendants and/or anybody acting on their behalf be restrained by an order of injunction from calling any meeting of the Kenya Primary School Headteachers Association in whichever name but particularly under the auspices of the Kenya National Association of Primary School Headteachers which Association is disbanded and quashed by order of the court.

The application was supported by an affidavit of sworn by Smith Khisa Waswa in which he has deponed that the Defendants' Association being the Kenya National Association of Primary School Headteachers was quashed by this Honourable Court in HC MISC. APPLICATION NO.769 OF 2004 on 4th March 2005.

The Respondents on being served with summons and in opposition to this application filed a replying affidavit sworn by Titus Waithaka National Chairman of the Respondent Association in which he deponed that the Applicants application is incurably defective, bad in law, vexatious and unsustainable on the ground that the Respondents Association is duly registered in the name of Kenya Primary School Head Teachers Association and that in its ruling dated 4th March 2005 the High Court in HC MISC. NO.769 OF 2004 did not cancel the registration of the Respondent Association but only quashed the Registrar's decision to deregister the applicants Association and ordered its reinstatement that is as far as the application is urged on the false resumption that the respondents Association was deregistered the application cannot stand.

Counsel for the Respondent submitted that the two Associations are different and distinct. The Applicants Association is called Kenya National Association of Primary School Headteachers whereas the Respondents Association is called Kenya Primary School Headteachers Association and each is

registered and issued with the Registration Certificate and has its own members contained in its register so that both of them are in existence. Having perused the record and the annexures. I agree with the Respondent that that is the position.

The High Court did not order the Registrar of Societies to deregister the Respondent Association but simply quashed the decision of the Registrar to deregister the Applicant Association and issued an Order of Mandamus compelling the Registrar to restore to the Applicants the Certificate of Registration .

The Applicants application is therefore dismissed with costs.

DATED and delivered at Nairobi this 4th day of May 2006.

J.L.A. OSIEMO

JUDGE