



**Auto Terminal Japan Limited v Nzai & 2 others (Judicial Review Application E054 of 2025) [2025] KEHC 3304 (KLR) (Judicial Review) (20 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3304 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
JUDICIAL REVIEW  
JUDICIAL REVIEW APPLICATION E054 OF 2025  
RE ABURILI, J  
MARCH 20, 2025**

**BETWEEN**

**AUTO TERMINAL JAPAN LIMITED ..... APPLICANT**

**AND**

**CHARLES NZAI ..... 1<sup>ST</sup> RESPONDENT**

**PUBLIC PROCUREMENT REGULATORY BOARD ..... 2<sup>ND</sup> RESPONDENT**

**THE ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. On 4/3/2025 when this matter was first handled by this court, the court granted leave to the applicant to apply for judicial review orders of certiorari and prohibition.
2. However, the court declined to grant an ex parte interim order for the leave granted to operate as stay. The reasons for the refusal to grant stay of implementation of the debarment decision is because the applicant had not filed the Judicial Review application as soon as the debarment decision was made, although the judicial review application was made within 14 days as stipulated in Section 42 of the [Public Procurement and Asset Disposal Act](#).
3. This court also applied the provisions of Rule 14(2) of the Fair Administrative Action Rules, 2024 which provides for the filing of the application for stay as soon as the event giving rise to the application arises.
4. Upon filing of the substantive Notice of Motion which is dated 7/3/2025, the applicant included in the said application a prayer seeking to prohibit the 2<sup>nd</sup> Respondent from implementing the decision delivered in debarment Application No. 10/2024 dated 17/2/2025 and rendered on 18/2/2025.



5. The matter has now been heard fully and what remains is the judgment writing and delivery. The applicant has sought for interim orders of stay of implementation of the debarment decision. The 1<sup>st</sup> Respondent has opposed the same on the ground that there is no review of the orders of 4/3/2025 declining to grant an interlocutory order staying implementation of the debarment decision which is impugned.
6. I have considered the prayer for stay or prohibition of implementation of the impugned debarment decision and the objection thereto.
7. In my view, the refusal to grant a stay order *ex parte* in the first instance for the reasons given does not preclude this court from entertaining a subsequent plea for an interim relief or under Rule 13(1) of the Fair Administrative Action Rules 2024, which Rule 13 must be read with Rule 14.
8. Those Rules are meant to aid the court at every stage in making a decision whether to grant interim reliefs or interlocutory orders in Judicial Review proceedings.
9. Where the court, in the course of proceedings, is persuaded that the substratum of the Judicial Review proceedings will be dissipated if an interim relief is not granted, it has unfettered discretion to grant such orders.
10. In this case, I am satisfied that the Respondents shall suffer no prejudice if an interim relief is granted. Conversely, the Judicial Review proceedings are likely to be rendered nugatory if successful and the debarment decision has already been implemented.
11. Accordingly, I allow the prayer for interim relief and order that the debarment decision which was rendered on 18/2/2025 dated 17/2/2025 in Debarment Application No.10/2024 shall not be implemented and the 2<sup>nd</sup> Respondent or any other person or body is hereby prohibited from implementing the said decision until this matter is fully determined.
12. I so order.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 20<sup>TH</sup> DAY OF MARCH, 2025**

**R.E. ABURILI**

**JUDGE**

