



**Jemmah v Ngetich & 6 others; Ethics and Anti-Corruption Commission
(Interested Party) (Petition E205 of 2024) [2025] KEHC 3444 (KLR)
(Constitutional and Human Rights) (20 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3444 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS
PETITION E205 OF 2024
LN MUGAMBI, J
MARCH 20, 2025**

BETWEEN

MUTHONI JEMMAH PETITIONER

AND

NANCY NGETICH 1ST RESPONDENT

CHAIRMAN KENYA REVENUE AUTHORITY 2ND RESPONDENT

**COMMISSIONER GENERAL, KENYA REVENUE AUTHORITY 3RD
RESPONDENT**

KENYA REVENUE AUTHORITY 4TH RESPONDENT

PRINCIPAL SECRETARY NATIONAL TREASURY 5TH RESPONDENT

HEAD OF PUBLIC SERVICE 6TH RESPONDENT

ATTORNEY GENERAL 7TH RESPONDENT

AND

ETHICS AND ANTI-CORRUPTION COMMISSION INTERESTED PARTY

RULING

Background

1. The petition 18th April 2024 challenges the 1st respondent’s conduct and ability to hold a public office as an employee of the 4th respondent.



2. The petitioner alleges that the 1st respondent's has an alcoholism problem which has compromised her judgment and continues to affect her competence, integrity and the protection of the 4th respondent's information.
3. The 1st respondent in rejoinder filed her replying affidavit sworn on 14th May 2024 in which she raises a Preliminary Objection from paragraphs 8 to 12.
4. The 1st respondent objects to the petition on the ground that this Court lacks jurisdiction to entertain the matter since the petitioner has not exhausted the 4th respondent's internal dispute mechanisms as set out in the Kenya Revenue Authority Code of Conduct and the Employment Act before filing this suit. Considering this, it is argued that the petitioner moved this Court prematurely.
5. The 1st respondent asserts that this Court should refrain from usurping the 4th respondent's mandate of conducting disciplinary processes. Moreover, the 1st respondent states that the petitioner ought to have reported her complaint with the 4th respondent so that a disciplinary action can be taken if need be.
6. The 3rd and 4th respondents' in their Replying Affidavit sworn on 16th May, 2024 in answer to the petition, also argued that the petitioner has failed to exhaust the internal mechanism provided under the Employment Act and the Kenya Revenue Authority Code of Conduct hence this petition is premature.
7. The 3rd respondent equally noted that the 4th respondent had not received any complaint from the petitioner concerning the 1st respondent's alleged conduct.
8. In their grounds of opposition dated 17th May 2024, the 2nd, 5th, 6th and 7th respondents' concerning this issue, contend that this Court lacks jurisdiction to entertain the petition as the mandate to enforce the Leadership and Integrity Act lies with the interested party. Likewise, that the issues raised therein can adequately be addressed using other mechanisms.
9. These respondents further state that the petition does not raise a constitutional issue for this Court to assume jurisdiction over the matter.
10. The interested party in its grounds of opposition dated 29th May 2024, states that the petitioner did not file nor demonstrate that any complaint was lodged with the interested party concerning the 1st respondent's conduct. The 5th respondent contended that it was premature to file this Petition without exhausting all other available lawful avenues.

1st Respondent's Submissions

11. The 1st respondent through her Counsel, Muhoro Kiriiri filed submissions dated 6th June 2024 in support of her preliminary objection.
12. The 1st Respondent relied on Owners of Motor Vessel 'Lillian S' v Caltex Oil (Kenya) Limited [1989] KLR 1 in urging this Court to down its tools.
13. It was submitted that the petitioner's failure to exhaust the available mechanism before filing this suit rendered the suit incompetent. Reliance was placed in Geoffrey Muthiga Kabiru & 2 others – vs- Samuel Munga Henry & 1756 others [2015] eKLR where it was held that:

“It is imperative that where a dispute resolution mechanism exists outside Courts, the same be exhausted before the jurisdiction of the Courts is invoked. Courts ought to be fora of last resort and not the first port of call the moment a storm brews...The exhaustion doctrine is a sound one and serves the purpose of ensuring that there is a postponement of judicial



consideration of matters to ensure that a party is first of all diligent in the protection of his own interest within the mechanisms in place for resolution outside the Courts. The Ex Parte Applicants argue that this accords with Article 159 of the Constitution which commands Courts to encourage alternative means of dispute resolution.”

14. Like dependence was placed in *Jeremiah Memba Ocharo v Evangeline Njoka & 3 others* [2022] eKLR and *William Odhiambo Ramogi & 3 others v Attorney General & 4 others; Muslims for Human Rights & 2 others (Interested Parties)* (2020) eKLR.
15. Counsel stressed that the petitioner’s grievance primarily revolves around an employee’s alleged misconduct in the work place. Counsel argued that the first port of call in such matters is the Employment Act, 2007 and the Kenya Revenue Authority Code of Conduct and commenced by lodging of a complaint with the 4th respondent who is the employer. Counsel emphasized that the petitioner had not utilized this mechanism hence the petition must fail.
16. Concerning the petitioner’s allegations about the 1st respondent’s utterances on her alleged ability to influence the procurement process as captured in the affidavit; it was argued that the same ought to have been raised with the Public Procurement Regulatory Authority (PPRA) and the Public Procurement Administrative Review Board (PPARB) in line with the Public Procurement and Assets Disposal Act.
17. It was further submitted on behalf of the 1st Respondent that the Court lacks jurisdiction to entertain the dispute in the light of Section 12(1) Employment and Labour Relations Court Act which grants the Employment and Labour Relations Court jurisdiction over employment and Labour Relations. Reliance was placed in *United States International University (USIU) vs. Attorney General Nairobi* [2012] eKLR where it was held that:

“Labour and employment rights are part of the Bill of Rights and are protected under Article 41 which is within the province of the Industrial Court. To exclude the jurisdiction of the Industrial Court from dealing with any other rights and fundamental freedoms howsoever arising from the relationships defined in section 12 of the Industrial Court Act, 2011 would lead to a situation where there is parallel jurisdiction between the High Court and the Industrial Court. This would give rise to forum shopping thereby undermining a stable and consistent application of employment and labour law. Such a situation would lead precisely to diminishing the status of the Industrial Court and recurrence of the situation obtaining before the establishment of the current court...”

2nd, 5th, 6th and 7th Respondents’ Submissions

18. Principal State Counsel, Thande Kuria in the submissions dated 21st June 2024, submitted that the petitioner’s claim is an ordinary human resource issue concerning breach of the 4th respondent’s Code of Conduct and not constitutional issue hence should be dismissed.
19. Reliance was placed in *Royal Media Services Limited vs The Attorney General Civil Appeal No. 45 of 2012* where it was held that:

“...In our view the judge cannot be faulted for holding that a constitutional petition procedure adopted by the appellant in ventilating its claim was ill suited for the kind of claim it had laid before the trial court namely debt collection. We had occasion in the past to bemoan the current trend of filing constitutional petitions and references on matters or claims that have no iota or scintilla of any constitutional bearing. This trend of



constitutionalizing virtually everything, which is actually, in our view an abuse of the court process, needs to be nibbled in the bud and frowned upon.”

20. Similarly, these sentiments were echoed in *Gabriel Mutava & 2 Others v Managing Director Kenya Ports Authority & Another* [2016] eKLR which Counsel cited in support.
21. Counsel further submitted that other than the human resource issue, this Court also lacks jurisdiction to entertain violations under Chapter six of *the Constitution* and the *Leadership and Integrity Act* as is vested in the interested party under Article 79 of *the Constitution*. Reliance was placed in *John Harun Mwau vs Peter Gastrow & 3 Others* [2014] eKLR where it was held that:

“It is an established practice that where a matter can be disposed of without recourse to *the Constitution, the Constitution* should not be involved at all. The court will pronounce on the constitutionality of a statute only when it is necessary for the decision of the case to do so.”
22. Equal dependence was placed in *Speaker of the National Assembly v James Njenga Karume* [1992] eKLR.

Petitioner’s Submissions

23. The petitioner opposed the 1st respondent’s Objection vide submissions dated 21st November 2024.
24. Counsel in rebuttal argued that the 1st respondent’s objection was not merited as the provisions of the jurisdiction of the Employment and Labour Relations Court can only be invoked where there exists an employer – employee relationship as held in *Nick Githinji Ndichu vs. Clerk Kiambu County Assembly and Another* [2014] eKLR:

“For one to access the jurisdiction at E&LRC he must demonstrate that there exists an employer - employee relationship; that there is an oral or written contract of service or that the issue is a dispute falls (sic) within the provision of Section 12(1) of the E&LRC Act. Though Advertisement, Shortlisting, Interviewing are all steps towards recruitment and steps towards creating an employer - employee relationship /emphasis ours they are not in my view envisaged in Section 12 and which will place this petition under the jurisdiction of the Employment and Labour Relations Court.”
25. Like dependence was placed in *Civil Appeal 136 of 2022 (consolidated with Appeal 137 of 2022) Clerk, Nakuru County Assembly v Kenneth Odongo & others, National Social Security Fund Board of Trustees v Kenya Tea Growers Association & 14 others (2023) KECA 80 (KLR) and Public Service Commission & 4 others v Cheruiyot & 20 others (Civil Appeal 119 & 139 of 2017 (Consolidated)) [2022] KECA 15 (KLR).*
26. Counsel submitted that there exists no relationship between the petitioner and the 4th respondent hence the 1st respondent’s assertion cannot stand.
27. On the doctrine of exhaustion and avoidance, Counsel submitted that the 1st respondent had failed to specify the Code of Conduct under which the petitioner would have lodged her complaint. Nonetheless it was argued that these rules are primarily applied by the 4th respondent and its employees not the members of the public such as the petitioner. Accordingly, Counsel argued that the provisions on exhaustion under Section 9(2) and (3) of the Fair Administrative Actions Act do not apply.
28. Counsel further stressed that the petition raises constitutional issues and violations. It was submitted as such that the jurisdiction to hear such matters is vested in this Court.



Analysis and Determination

29. In view of the parties' respective position, it is my considered view that the issue that arises for determination is:

Whether the 1st respondent's Preliminary Objection is merited.

30. The threshold of a preliminary objection was summarized in *Parbat Siyani Construction Limited v Kenyatta International Convention Centre (Constitutional Petition E397 of 2021) [2023] KEHC 1603 (KLR) (Constitutional and Human Rights) (10 March 2023) (Ruling)* where the Court stated as follows:

“54. This Court would wish to remind the parties that it is dealing with a preliminary objection... (the) nature of preliminary objections was discussed in *Mukisa Biscuit Manufacturers Ltd -vs- Westend Distributors Ltd, (1969) EA 696* page 700 when the Court observed as follows: -

“So far as I am aware, a preliminary objection consists of a pure point of law which has been pleaded, or which arises by clear implication out of pleadings, and which if argued as a preliminary objection may dispose of the suit. Examples are an objection to the jurisdiction of the court, or a plea of limitation, or a submission that the parties are bound by the contract giving rise to the suit, to refer the dispute to arbitration.

A preliminary objection is in the nature of what used to be a demurrer. It raises a pure point of law which is argued on the assumption that all the facts pleaded by the other side are correct. It cannot be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion. The improper raising of preliminary objections does nothing but unnecessarily increase costs and, on occasion, confuse the issues, and this improper practice should stop.”

31. In *Dismas Wambola v Cabinet Secretary, Treasury & 5 others (2017) eKLR* observed as follows:

“...a preliminary objection may only be raised on a “pure question of law.” To discern such a point of law, the Court has to be satisfied that there is no proper contest as to the facts. The facts are deemed agreed, as they are prima facie presented in the pleadings on record.

In law, a question of law, also known as a point of law, is a question that must be answered by applying relevant legal principles to interpretation of the law. Such a question is distinct from a question of fact, which must be answered by reference to facts and evidence as well as inferences arising from those facts.”

32. Lack of jurisdiction is a pure point of law as a Court's jurisdiction is conferred by either *the Constitution* or by legislation. In *Yusuf Ali Mohamed [2018] eKLR* the Court of Appeal held:

“44] ... A party cannot through its pleadings confer jurisdiction to a Court when none exists... jurisdiction is conferred by law and not through pleading and legal craftsmanship. It is both



the substance of the claim and the relief sought that determine the jurisdictional competence of a court...”

33. Moving on to the doctrine of exhaustion of remedies, this also considered a jurisdictional issue in that it precludes the Court from determining a dispute where there exists a primary forum provided for in legislation for the dealing with the matter before assumption of jurisdiction by the Court. The Supreme Court in *Waity vs Independent Electoral & Boundaries Commission and Three Others* [2019] KESC 54 (KLR) explained the principle as follows:

(63) Where *the Constitution* or the law, consciously confers jurisdiction to resolve a dispute, on an organ other than a court of law, it is imperative that such dispute resolution mechanism, be exhausted before approaching the latter. Were it not so, parties would bide their time, overlooking the recognized forums, and later springing a complaint at the courts. Such a scenario would be a clear recipe for forum shopping, an undertaking that must never be allowed to fester in the administration of justice. We are fortified in this regard, by the persuasive authority by the Court of Appeal, in *Geoffrey Muthinja Kabiru & 2 Others*; [2015] eKLR; wherein the Appellate Court observed:

“It is imperative that where a dispute resolution mechanism exists outside the Courts, the same be exhausted before the jurisdiction of the Courts be invoked. Courts ought to be fora of last resort and not the first port of call the moment a storm brews...The exhaustion doctrine is a sound one and serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is first of all diligent in the protection of his own interest within the mechanisms in place for resolution outside the Courts.”

34. Equally, the Supreme Court in *Mumba & 7 others (Sued on their own behalf and on behalf of predecessors and or successors in title in their capacities as the Registered Trustees of Kenya Ports Authority Pensions Scheme) v Munyao & 148 others (Suing on their own behalf and on behalf of the Plaintiffs and other Members/Beneficiaries of the Kenya Ports Authority Pensions Scheme)* [2019] KESC 83 (KLR) stated as follows:

“...We hold that if indeed the appellant had any dispute with the RBA, he ought to have followed the route prescribed by the RBA, before proceeding to the High Court. We hold like the court below, and for the reasons we have given, that the appellant’s petition lacked merit and was for dismissal.”

(118) In the pursuit of such sound legal principles, it is our disposition that disputes disguised and pleaded with the erroneous intention of attracting the jurisdiction of superior courts is not a substitute for known legal procedures. Even where superior courts had jurisdiction to determine profound questions of law, first opportunity had to be given to relevant persons, bodies, tribunals or any other quasi-judicial authorities and organs to deal with the dispute as provided for in the relevant parent statute.

(119) Such a deferred jurisdiction and the postponement of judicial intervention and reliefs until the mandated statutory or constitutional bodies take action rests, not alone on the disinclination of the judiciary to interfere with the exercise of the statutory or any administrative powers, but on the fact of a legal presumption that no harm can result if the decision maker acts upon a claim or grievance. Such formulation underlies the analogous cases, frequently cited for



the exhaustion doctrine, in which the court refuses to enjoin an administrative official from performing his statutory duties on the ground that until he has acted the complainant can show no more than an apprehension that he will perform his duty wrongly, a fear that courts will not allay. Such cases may be expressed in the formula that judicial intervention is premature in the absence of administrative action.”

35. The preliminary objection against this Petition is two-pronged; firstly it is premised on the ground that the nature of the complaint is an issue that relates to the conduct of the 1st respondent as an employee of the 4th respondent hence is a matter can only be legally litigated before the Employment and Labour Relations Court and not the High Court.
36. The second limb is that grievance by the petitioner against the 1st Respondent dwells the conduct of the 1st Respondent as public officer who has contravened the provisions relating to leadership and integrity which is matter that is within the mandate of the interested party, the principle of judicial abstention in view of the provisions of the *Leadership and Integrity Act*.
37. It is without doubt that the gist of the petitioner’s complaint hinges around the 1st respondent’s conduct as an employee of the 4th respondent. The Petitioner complains about the 1st respondent’s alleged alcoholism which she claims has hindered the ability of the 1st Respondent to make good judgment in execution of her duties at as a public officer employed by the 4th Respondent.
38. The *Employment Act* under Section 12 (1) provides as follows:

Statement on disciplinary rules

1. A statement under Section 10 shall—
 - a. specify the disciplinary rules applicable to the employee or refer the employee to the provisions of a document which is reasonably accessible to the employee which specifies the rules;
 - b. specify the person to whom the employee may apply—
 - (i) if dissatisfied with any disciplinary decision relating to the employee; and
 - (ii) for the purpose of seeking redress of any grievance relating to his employment, and the manner in which an application shall be made; and
 - c. where there are further steps to be taken consequent to any such application, the steps or refer the employee to the provisions of a document which is accessible to the employee which explains the steps.
39. Section 10 of the Act refers to the Employment particulars that includes the terms of engagement between an employer and an employee once they enter into an employment relationship.
40. Section 86 of the Act defines the scope of disputes and the manner in which the same are to be determined. This Section provides as follows:

Complaint and jurisdiction in cases of dispute between employers and employees

1. Subject to the provisions of this Act whenever—
 - a. an employer or employee neglects or refuses to fulfill a contract of service; or
 - b. any question, difference or dispute arises as to the rights or liabilities of either party; or



- c. touching any misconduct, neglect or ill treatment of either party or any injury to the person or property of either party, under any contract of service, the aggrieved party may complain to the labour officer or lodge a complaint or suit in the Employment and Labour Relations Court.
- (2) No court other than the Employment and Labour Relations Court shall determine any complaint or suit referred to in subsection (1).
- (3) This section shall not apply in a suit where the dispute over a contract of service or any other matter referred to in subsection (1) is similar or secondary to the main issue in dispute.
41. In this petition, the petitioner contends that the 1st respondent's conduct as a public officer employed by the 4th respondent affects 1st respondent ability to make good judgments and work diligently. Clearly, the substratum of the Petition rests on the 1st Respondent employment with the 4th Respondent.
42. The Petitioner argued that there is no employer/employee relationship between the Petitioner and the 4th Respondent hence this should not be viewed as an employment dispute. However, misconduct of the 1st Respondent as an employee of the 4th Respondent is an employment related matter as the dispute cannot be determined without reference to the said employment.
43. The High Court has wide jurisdiction under Article 165 (3) (d) regarding the interpretation of *the Constitution* but this jurisdiction is not unqualified in the light of Article 165 (5) which provides as follows:
- The High Court shall not have jurisdiction in respect of matters-
- i. Reserved for the exclusive jurisdiction of the Supreme Court Under this Constitution; or
 - ii. Falling within the jurisdiction of the Courts contemplated in Article 162(2).
44. In the landmark decision of Republic vs Karisa Chengo & 2 others (Petition 5 of 2015) [2017]KESC15 (KLR0, the Supreme Court clarified the jurisdiction of Special Courts under Article 162 vis-à-vis the High Court held as follows:
- “(50) It is against the above background, that Article 162(1) categorises the ELC and ELRC among the superior Courts and it may be inferred, then, that the drafters of *the Constitution* intended to delineate the roles of ELC and ELRC, for the purpose of achieving specialization, and conferring equality of the status of the High Court and the new category of Courts. ... The intentions of the framers of *the Constitution* in that regard are obvious given the choice of... words they used; that the three Courts (High Court, ELRC and ELC) are of the same juridical hierarchy and therefore are of equal footing and standing. To us it simply means that the ELRC and ELC exercise the same powers as the High Court in performance of its judicial function, in its specialised jurisdiction but they are not the High Court.”
- (51) Flowing from the above, it is obvious to us that status and jurisdiction are different concepts. Status denotes hierarchy while jurisdiction covers the sphere of the Court's operation. Courts can therefore be of the same status, but exercise different jurisdictions...”



45. The Court went on to further state:

“...[52] ... As Article 165(5) precludes the High Court from entertaining matters reserved to the ELC and ELRC, it should, by the same token, be inferred that the ELC and ELRC too cannot hear matters reserved to the jurisdiction of the High Court.”

46. Considering that the gist of this Petition centers around the conduct of the 1st Respondent as an employee of the 4th Respondent, it follows that the Court with jurisdiction over this matter is the Employment and Labour Relations Court even assuming that the matter raises a constitutional question. Employment and Labour Relations Court has the jurisdiction to interpret *the Constitution* in matters falling within the scope of its jurisdiction. This was the holding of the Court of Appeal in Attorney General & 2 Others vs Okiya Omtata & 11 Others (2020) eKLR where the Court held thus:

“We have no doubt that the ELRC and ELC have jurisdiction to interpret and apply *the Constitution* as held by the High Court in United States International University v The Attorney General (2012) eKLR and this Court in Daniel Mugendi v Kenyatta University & 3 others (2013) eKLR. However, the jurisdiction of those specialized courts to interpret and apply *the Constitution* is not original or unlimited like that of the High Court. It is limited to constitutional issues that arise in the context of disputes on employment and labour relations on environment and land matters...”

47. This ground of the preliminary objection is therefore sustained. Ordinarily, I would have stopped here but it is also necessary that I consider the second ground too, which is whether the Petition is barred by the doctrine of exhaustion of remedies. However, looking at the objection; though the respondent cited the doctrine of exhaustion of remedies, the submissions were focusing on the doctrine of abstention.

48. This is a doctrine under justiciable principle that requires that in adjudication of constitutional disputes, the court exercises restraint by avoiding usurping the powers and responsibilities of other constitutional or public bodies if such matters properly fall within the scope or is a mandate of other constitutional or public bodies.

49. The doctrine was discussed by the Supreme Court in Benson Ambuti Ambega & 2 Others v Kibos Distillers Limited (2020) eKLR where the Court observed thus:

“(51) Judicial abstention, as with judicial restraint, is a doctrine not founded in constitutional or statutory provisions, but one that has been established through common law practice. It provides that a Court, though it may be vested with the requisite and sweeping jurisdiction to hear and determine certain issues as may be presented before it for adjudication, should nonetheless exercise restraint or refrain itself from making such determination, if there would be other appropriate legislatively mandated institutions and mechanism...”

50. Applying the same principle, the High Court in the case of Law Society of Kenya v Attorney General & Another; National Commission for Human Rights & Another (Interested Parties) (2020) eKLR held as follows:

“...Where *the Constitution* has reposed specific functions in an institution or organ of the State, the Court must give those organs sufficient time or leeway to discharge their



constitutional mandate and only accept an invitation to intervene when those organs or bodies have demonstrably been shown to have acted contrary to their constitutional mandate or in contravention of *the constitution...*”

51. In this Petition, it is contended that 1st Respondent is a public officer and that the nature of her misconduct contravenes the principles of leadership and integrity under Chapter Six of *the Constitution* as well as the *Leadership and Integrity Act*.
52. *The Constitution* under Article 79 provides for enactment of legislation for the establishment of the Ethics and Anti-Corruption Commission (the Interested Party herein) which shall have the powers and status of a Commission under Chapter 15 for purposes of ensuring compliance with, and enforcement of, provisions of Chapter Six of *the Constitution*. The preamble to the *Ethics and Anti-Corruption Commission Act* states that it is “An Act of Parliament to establish the Ethics and Anti-Corruption Commission pursuant to Article 79 of *the Constitution*, to provide for the functions and powers of the Commission, to provide for the qualifications and procedures for the appointment of the chairperson and members of the Commission, and for connected purposes.”
53. Under Article 80 of *the Constitution*, Parliament is required to, and has enacted, the *Leadership and Integrity Act*. Article 80 (b) provides that the legislation shall prescribe the penalties, in addition to penalties referred to in Article 75, that may be imposed for contravention of this Chapter. Article 80 (c) provides that the Act will also apply to public officers with necessary modification, hence it is not restricted to state officers as public officers such as the 1st Respondent are included. The preamble to the Leadership and Integrity Cap 185A provides that it is ‘An Act of Parliament to give effect to, and establish procedures and mechanisms for the effective administration of Chapter Six of *the Constitution* and for connected purposes.’

The “Commission” under Section 2 of the Act means the Ethics and Anti-Corruption Commission established under the *Ethics and Anti-Corruption Commission Act*.”
54. Under Section 4 (1) of the *Leadership and Integrity Act*, ‘Every person has the responsibility of implementing the provisions of this Act to the extent required by this Act’ but the Interested Party is given the specific role of overseeing the implementation of the Act pursuant to Section 4 (2). Indeed, in the exercise of that mandate, the Ethics and Anti-Corruption Commission may under Section 4 (3) and (4); require any public body to carry out such functions and exercise such powers as may be necessary under the Act and where the public entity fails to comply, then the Commission may make an application to the High Court Judge for appropriate orders requiring the public entity to comply.
55. It follows therefore that in respect of violation relating to leadership and integrity provisions; such as allegations that the 1st Respondent misconduct violates Chapter Six of *the Constitution* and the provisions of the *Leadership and Integrity Act*; the body that is charged with the responsibility of overseeing compliance with those provisions by public officer is in the first instance the Ethics and Anti-Corruption Commission in the light of the specific responsibility under Section 4 (2) & (3) of the *Leadership and Integrity Act*.
56. It was therefore premature for the Petitioner institute this Petition before giving the Ethics and Anti-Corruption Commission a chance to enquire into and ascertain the allegations against the 1st Respondent.
57. This Court will not be rushed to intrude into matters that generally fall within the area of responsibility of other institutions or agencies of Government. There was haste in invoking the jurisdiction of this Court prematurely. The petition thus offends the doctrine of abstention.



58. The upshot of the foregoing is that this Court lacks jurisdiction to hear and determine this Petition hence is struck out.

59. I make no orders as to costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 20TH DAY OF MARCH, 2025.

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L N MUGAMBI

JUDGE

