Amugune v Advocates Disciplinary Tribunal & another; Law Society of Kenya & 2 others (Interested Parties) (Judicial Review Application E024 of 2025) [2025] KEHC 4305 (KLR) (Judicial Review) (2 April 2025) (Ruling)

Neutral citation: [2025] KEHC 4305 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

JUDICIAL REVIEW

JUDICIAL REVIEW APPLICATION E024 OF 2025

RE ABURILI, J

APRIL 2, 2025

BETWEEN

BILLY AMENDI AMUGUNE ..... APPLICANT

AND

THE ADVOCATES DISCIPLINARY TRIBUNAL ..... 1ST RESPONDENT

THE CHIEF REGISTRAR OF THE JUDICIARY ..... 2ND RESPONDENT

AND

THE LAW SOCIETY OF KENYA ..... INTERESTED PARTY

JOSEPH NJERU ..... INTERESTED PARTY

ADVOCATES COMPLAINTS COMMISSION ..... INTERESTED PARTY

RULING

1. The Notice of Motion dated 27/2/2025 and amended on 14/3/2025 with leave of this court granted on 13/3/2025 seeks orders for enlargement of time within which to file the Originating Motion pursuant to the provisions of Rule 4 of the Fair Administrative Action Rules. The Originating Motion seeks to quash the decision of the Advocates Disciplinary Tribunal striking off a practicing advocate from the Roll of Advocates, made on 1/9/2024 which striking off had since been gazetted by the Chief Registrar of the Judiciary.

2. The applicant had initially obtained leave of court to file the Judicial Review Application under Order 53 of the Civil Procedure Rules and under the *Law Reform Act* on 4/10/2024 in JR 220/2024. However, he filed the substantive notice of motion outside the period granted by the Court. He

withdrew that application which was filed out of time and he returned to court under the new 2024 Fair Administrative Action Rules.

3. Regrettably, he was already out of time as Rule 6 provides that the judicial review application must be filed within six weeks from the date when the impugned decision was made. The applicant therefore sought for enlargement of time for filing of the application, as stipulated in Rule 6(2) and (3) of the Fair Administrative Action Rules. 2024.

4. In support of the application, the applicant swore an affidavit deposing inter alia, that he had approached the Court under Rule 4 of the Fair Administrative Action Rules which provides for General power of the Court to exercise any power or issue any orders or directions which may be just and fit in the circumstances, as well as Rule 6(2) & (3) of the Fair Administrative Action Rules.

5. Ms Khamala counsel for the applicant submitted reiterating the prayers and the depositions by the applicant and invited the Court to exercise unfettered discretion and enlarge the time noting that they filed Notice of Motion dated 11/10/2024 after the decision of the 1st Respondent of 1/9/2024 under Order 53 Rule 1 of the Civil Procedure Rules. That interim orders were granted on 4/10/2024 in JR 220/2024 and that when the matter came up for directions on 3/2/2025, the application was withdrawn given the disparity in the timelines given by Ngaah J and immediately, the applicant filed the application dated 27/2/2025 and amended on 14/3/2025, as directed on 13/3/2025.

6. It was asserted that the reason for not bringing the application under the new Rules is because the new Rules came into effect on 25/10/2024 when they were published in the Gazettee Notice. That there was already an application pending hence we could not file another suit as it would violate Section 6 of the *Civil Procedure Act* and render the suit subjudice. That upon withdrawal of the other Judicial Review matter; they expeditiously filed this matter as later amended.

7. Counsel for the applicant maintained that this court has discretion to enlarge the time to have the application filed within time and in the interest of justice. She also maintained that the application was not opposed, as the court gave timelines on 13/3/2025. Further, that the applicant will suffer great injustice if the orders sought are not granted as he stands to be shut out of legal practice which is his career and source of livelihood. She also sought the interim relief, staying implementation of the decision of 1/9/2024 and to allow the applicant to take out the Practicing Certificate for 2025. She asserted that no prejudice will be occasioned to the Respondents if the orders sought are granted.

8. Opposing the application, the 1st respondent and 1st interested party filed a Response deposing that when the previous application was withdrawn, the applicant filed another application on 2/3/2025 which was one month later. That no sufficient reason was given for the delay and that they filed amended Notice of Motion dated 14/3/2025 and that no leave was sought and obtained for filing of amended Originating Motion.

9. The1st respondent and 1st interested party vehemently opposed the application mainly on the grounds that the application was filed late, that the decision sought to be quashed has already been implemented vide a gazette notice gazetting the striking off the applicant from the roll of Advocates and that therefore the decision sought to be stayed had already taken effect. Additionally, it was contended that the applicant had come under the *Fair Administrative Action Act*, yet Section 62 of the *Advocates Act* provides for appeal process where an advocate is dissatisfied with the Tribunal's decision. Further, that Section 9(2) of the *Fair Administrative Action Act* bars this court from reviewing a decision before exhausting the internal appeal mechanism.

10. The 1st respondent and 1st interested party urged this court to dismiss the application, arguing that the applicant knew the magnitude of the decision of the Tribunal yet he slept on his rights, citing the maxim that equity aids the vigilant and not the indolent.

11. The applicant in a rejoinder submitted that this matter is one of the exceptional ones that this court can exempt the applicant from Appeal. She relied on Rule 4 of Fair Administrative Action Rules and maintained that this court has unfettered discretion. She urged this court to look at the supplementary affidavit and that the 1st Respondent had now asked the applicant to go for mitigation and sentence, after realizing that it made a grave mistake in the matter.

Analysis and determination

12. I have considered the application, the response thereto and the oral arguments for and against the application. One issue stands out for this court's determination and that is, exhaustion of remedies.

13. Before I determine that issue, I observe that the applicant has not mitigated and that he has been called upon to go and mitigate before sentencing whereas a gazette notice has already been issued effectively striking him off the roll of Advocates. The 1st respondent and the 1st interested party argue that the matter has been overtaken by events. I disagree. The court can still set aside the decision to strike off the applicant and the gazette notice can either be quashed or on appeal, the court can order for degazettement of the applicant, if it finds that the applicant's appeal to be meritorious.

14. Having said that, the respondent and 1st interested party raised a very crucial point, that the applicant did not exhaust the appeal mechanism provided for under section 62 of the *Advocates Act* and that therefore, this application for judicial review offends the provisions of section 9(2) of the *Fair Administrative Action Act* on exhaustion of internal dispute resolution mechanisms provided for in law.

15. Although Mr. Olembo did not pursue this as a preliminary objection to jurisdiction of this court, I find this to be the most important issue for determination which is, does this court, in view of section 62 of the *Advocates Act* as read with section 9(2),(3) and (4) of the *Fair Administrative Action Act*?

16. The applicant's counsel appears to have been caught off guard with that submission by Mr. Olembo. She submitted that this matter is one of those that the court can exempt resort to internal appeal mechanisms because ethe applicant has come under the Fair Administrative Action Rules, 2024 ad that the applicant could not have filed another suit elsewhere because that would offend the sub judice rule. Further, that the 1st respondent having realized its mistake, had called on the applicant to go for mitigation and sentencing.

17. Before resolving the question of jurisdiction, it is important to note that disciplinary proceedings against advocates are akin to criminal proceedings and that is the reason the Tribunal can find one guilty of an offence and call upon the advocate to mitigate before sentencing them in accordance with the law. Until there is sentencing after mitigation, what is on record would just be a judgment and therefore the convict can elect to appeal against the judgment or wait until mitigation and sentence before appealing. If there is an irregularity in the final decision making process or an illegality, the applicant can on appeal raise that as a ground of appeal, besides the merits of the case before the Disciplinary Tribunal. It is for that reason that the Act at section 62(3) provides that even on appeal, there is no guaranteed stay of the decision until the appeal is heard and determined. The section stipulates:

> 62(3) An appeal under this section shall not suspend the effect or stay the execution of the order appealed against notwithstanding that the order is not a final order.

18. Thus, the applicant still retains the right of appeal against the decision of the Tribunal, whether that order is final or not. Furthermore, the High Court exercising appellate jurisdiction can still set aside an illegal decision and in appropriate circumstances, order for a retrial or rehearing of the case.

19. Section 62 of the *Advocates Act*, Cap 16 Laws of Kenya provides that:

> " 62. Appeal against order of Tribunal
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> (1) Any advocate aggrieved by order of the Tribunal made under section 60 may, within fourteen days after the receipt by him of the notice to be given to him pursuant to section 61(2), appeal against such order to the Court by giving notice of appeal to the Registrar, and shall file with the Registrar a memorandum setting out his grounds of appeal within thirty days after giving by him of such notice of appeal.
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> (2) The Court shall set down for hearing any appeal filed under subsection (1) and shall give to the Council of the Society and to the advocate not less than twenty-one days notice of the date of hearing.
>
> (3) An appeal under this section shall not suspend the effect or stay the execution of the order appealed against notwithstanding that the order is not a final order

20. A similar scenario arose in the case of Republic v Disciplinary Committee & another Ex Parte John Katiku [2019] eKLR wherein the Applicant cited Section 62 (1) 0f the *Advocates Act* and submitted that the wording of the section only applied to advocates against whom complaints had been lodged pursuant to Section 60 of the Act, thereby locking out any complainant aggrieved by a decision of the Disciplinary Tribunal and desirous of challenging it by way of appeal. That, in the absence of any appeal mechanisms within the context of advocates disciplinary actions, the judicial review proceedings had been properly instituted.

21. The 2nd Respondent in the above said case, when addressing the question on whether the judicial review application was bad in law under the doctrine of exhaustion, cited the case of Geoffrey Muthinja Kabiru & 2 Others v Samuel Munga Henry & 1756 Others [2015] e KLR and submitted that the judicial review application was bad in law under the doctrine of exhaustion as the Applicant had violated the laid down procedure in instituting the suit. Further, that Disciplinary Cause No.26 of 2015 was rightly placed before the 1st Respondent and cited section 62 (1) of the *Advocates Act* and section 9(2) of the *Fair Administrative Action Act* which prohibits review unless the internal mechanisms for appeal or review and all remedies available under any written law are first exhausted. He also cited the judicial decisions in Speaker of National Assembly v Karume (1992) KLR 21 for the policy and rationale justification of the aforesaid doctrine,

22. Relying of the provisions of section Section 9(2) (3) and (4) of the *Fair Administrative Action Act* on the issue of exhaustion of alternative remedies, Nayamweya P J (as she then was in the High Court) stated as follows:

> " Exhaustion of alternative remedies is also now a constitutional imperative under Article 159 (2)(c) of *the Constitution*, and is exemplified by emerging jurisdiction on the subject,

which was initially stated in Speaker of National Assembly vs Karume (1992) KLR 21 in the following words:

"Where there is a clear procedure for redress of any particular grievance prescribed by *the Constitution* or an Act of Parliament, that procedure should be strictly followed. Accordingly, the special procedure provided by any law must be strictly adhered to since there are good reasons for such special procedures."

The doctrine of exhaustion of alternative remedies was further explained by the Court of Appeal in Geoffrey Muthinja Kabiru & 2 Others vs Samuel Munga Henry & 1756 Others (2015) eKLR as follows:

"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."

The contestation as regards the application of this doctrine of exhaustion in the present application is on the meaning and applicability of section 62 of the *Advocates Act*, which provides as follows:

"(1) Any advocate aggrieved by order of the Tribunal made under section 60 may, within fourteen days after the receipt by him of the notice to be given to him pursuant to section 61(2), appeal against such order to the Court by giving notice of appeal to the Registrar, and shall file with the Registrar a memorandum setting out his grounds of appeal within thirty days after giving by him of such notice of appeal.

(2) The Court shall set down for hearing any appeal filed under subsection (1) and shall give to the Council of the Society and to the advocate not less than twenty-one days' notice of the date of hearing.

(3) An appeal under this section shall not suspend the effect or stay the execution of the order appealed against notwithstanding that the order is not a final order."

Section 60 of the Act provides for complaints against Advocates that are made to the 1st Respondent and the orders the 1st Respondent can make thereon, while the *Advocates Act* defines "Registrar" to mean the Registrar of the High Court, and "Court" to mean the High Court. The Applicant is an advocate who lodged a complaint with the Tribunal in Disciplinary Cause No.26 of 2015, in which the impugned was given. Clearly therefore, being an advocate, he is aggrieved person within the context of section 62 of the *Advocates Act*, irrespective of whether he was the complainant, and his first port of call if so aggrieved would be an appeal under section 62 of the *Advocates Act*.

In particular, given that the Applicant is aggrieved by a ruling delivered by the 1st Respondent that affects his practice as an advocate, then in my view section 62 also becomes applicable. An ordinary and contextual interpretation of section 62 leads to the inevitable conclusion that the Applicant ought to have filed an appeal against the impugned decision

of 8th October 2018, and to this extent his application is incompetently brought before this Court.

In any event, this Court also finds that the Applicant is questioning the merits of the 1st Respondent's decision in light of its previous decisions, which is an issue that ought to be canvassed in an ordinary appeal and is not suitable for judicial review, as the Court will have to embark on an examination of evidence of previous decisions made by the 1st Respondent and their import and effect. It is notable in this respect that both the Applicant and Respondents sought to rely on various decisions which have been previously decided by the 1st Respondent on the same issue that is the subject matter of this application, and any inconsistencies and/or contradictions in the said decisions can only resolved by way of review by the 1st Respondent of its own decisions, or on appeal.

In the premises, I find that the Applicant's Notice of Motion dated 22nd November 2018 is incompetently filed before this Court, as the Applicant has not exhausted the remedies of appeal available to him. The other issues raised by the application are therefore moot. The said Notice of Motion is accordingly struck out with costs to the Respondents."

23. The above case is on all fours with this case. The applicant is aggrieved by the decision of the 1st respondent striking him off the roll of advocates and even the Chief Registrar gazetting the said decision. He now laments that he was struck off the roll and gazette before he was called upon to mitigate. He has now been called upon to mitigate. Given that the applicant does not complain that he was not heard in the case before the decision to strike him off the roll was reached, the applicant can still challenge the decision and sentence imposed on him without first considering his mitigation.

24. A similar decision was made in Republic v Disciplinary Tribunal of the Law Society of Kenya; Patrick Mweu Musimba (Interested Party) Ex parte John Wacira Wambugu [2021] eKLR where the Court declined to grant the applicant leave to apply for judicial review orders challenging the decision of the 1st respondent on account of non-exhaustion of appeal mechanisms provided for under section 62 of the *Advocates Act*.

25. Furthermore, Article 47 of *the Constitution* stipulates that:

    1. every person has the right to administrative action which is expeditious, efficient, lawful, reasonable and procedurally fair;

    2. if a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.

    3. ...

26. The above constitutional provision is implemented by the Fair Administrative Action, 2015 and Rules made thereunder. Section 9 (2) of the *Fair Administrative Action Act*, 2015 stipulates that the High Court shall not consider judicial review application unless the parties to the judicial review have exhausted the internal review or appeal mechanisms where provided by law. Further, that in exceptional circumstances, the court can, on application, may exempt the applicant from exhausting alternative remedies or internal review mechanisms.

27. In this case, the applicant has not applied to be exempted from appealing to the High Court, challenging the decision of theTribunal.

28. In Samson Chembe Vuko V Nelson Kilumo& 2 others& 2others [2016] e KLR the Court of Appeal, cited other decisions with approval, among them: Speaker of the National Assembly v Karume [2008] 1 KLR 425 where the Court of Appeal held, inter alia:

> " ....where there is a clear procedure for the redress of any particular grievances prescribed by *the Constitution* or the Act of Parliament, that procedure should be strictly followed."

29. In Mutanga Tea& Coffee Company Ltd vs Shikara Limited &Another [2015] e KLR the Court of Appeal reiterated the foregoing as follows:

> " ...where there is a clear procedure for the redress of any particular grievances prescribed by *the Constitution* or the Act of Parliament, that procedure should be followed.... And further held as follows...
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> "...this court has in the past emphasized the need for aggrieved parties to strictly follow any procedures that are specifically prescribed for resolution of particular disputes (Speaker of the National Assembly V Karume (supra) was a 5(2) (b) applicant for stay of execution of an order of the High Court issued in Judicial Review proceedings rather than in a petition as required by *the Constitution*."

30. In making the order, the court made the often quoted statement :

> " where there is a clear procedure for the redress of any particular grievances prescribed by *the Constitution* or an Act of Parliament that procedure should be strictly followed.(See also Kones v Republic &Another exparte Kimani Wanyoike& 4 Others[2008] e KLR (ER) 296."
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> It is apparent that in the above cited cases , the court was speaking on issues of the correct procedure rather than of the correct forum for resolution of a dispute. However, we entertain no doubt in our minds that the reasoning of the court must apply with equal force to require an aggrieved party, where a specific dispute resolution mechanism is prescribed by *the Constitution* or a statute, to resort to that mechanism first before purporting to invoke the inherent jurisdiction of the High Court.
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> The basis for that view is first, that Article 159 (2) (c) of *the Constitution* has expressly recognized alternative forms of alternatives forms of dispute resolution, including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms. The use of the word "including" leaves no doubt that Article 159(2)(c) is not a closed catalogue. To the extent that *the Constitution* requires these forms of dispute resolution mechanisms to be promoted, usurpation of their jurisdiction by the High Court would not be promoting, but rather, undermining a clear constitutional objective. A holistic and purposive reaching of *the Constitution* would therefore entail construing the unlimited original jurisdiction conferred on the High Court by Article 165(3) (a) of *the Constitution* in a way that will accommodate the alternative dispute resolution mechanisms. Secondly, such alternative dispute resolution mechanisms normally have an advantage of ensuring that the issues in dispute are heard and determined by experts in the area; and that the dispute is resolved much more expeditiously and in a more cost effective manner...
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> ...We are therefore satisfied that the learned judge did not err by striking out the appellant's suit and application which sought to invoke the original jurisdiction of the High Court in circumstances whereas the relevant statutes prescribed alternative dispute resolution mechanisms and afforded the appellant the right to access the High Court by way of an

appeal, which mechanisms he had refused to invoke. To hold otherwise would, in the circumstances of this appeal, be to defeat the constitutional objective behind Article 159(2)(c) and the very raison d'etre of the mechanisms provided under the two Acts....."

31. In Revital Healthcare (EPZ) Ltd & Another vs Ministry of Health & 5 Others [2015] Emukule J, citing with approval the case of Damian Belforite V the Attorney General of Trinidad & Tobago *CA 84/2004* held:

> "where there is a parallel remedy, constitutional relief should not be made unless the circumstances of which the complaint is made include some feature which made it appropriate to take that course. As a general rule there must be some feature, which, at least arguably indicates that the means of least redress otherwise available would not be adequate to seek constitutional relief in the absence of such feature would be misuse, abuse of the court process."

32. The applicant is challenging a decision made by the 1st respondent administrative body. The court acknowledges that indeed, a party seeking to invoke judicial review jurisdiction of this court must first and foremost resort to and exhaust all the available remedies as stipulated in section 9(2) of the *Fair Administrative Action Act*, 2015, and even where the matter is exceptional and requires exemption from the obligation to exhaust the alternative dispute resolution mechanism, there must be an application or a prayer in the application for consideration on its merit.

33. In Ndiara Enterprises Ltd v Nairobi City County Government [2018] eKLR, the Court of Appeal had this to say, concerning exhaustion of internal dispute resolution mechanisms:

> "Cognizant of the clear procedure for redress provided under the Act, the learned Judge refused to admit jurisdiction in determining the application on the basis that where a clear and specific procedure for redress of a grievance is provided, then that procedure should be strictly followed. The Judge cited the cases of The speaker of The National Assembly v Njenga Karume (2008) 1 KLR 425, Mutanga Tea & Coffee Company Ltd v Shikara Ltd & Anor (2015) eKLR for that proposition.
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> The appellant also alleged that the respondent's refusal or failure to demolish the illegal structures or to approve its plan for a perimeter wall infringed on its constitutional right to fair administrative action. It invoked sections 4, 7, 8, 9 and 11 of the FAA as the basis for which it sought the order of mandamus. However, the Judge noted that the High Court was expressly prohibited by section 9 (2) of the Act from reviewing "an administrative action or decision under the Act unless the mechanisms for appeal or review and all remedies available under any other written law are first exhausted."The Act however gives the High Court power to exempt a person from the obligation to exhaust any remedy if the court considers such exception to be in the interest of justice. Faced with that scenario, the learned Judge delivered herself as follows;
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> "In addition under Section 9(2) of the *Fair Administrative Action Act* No. 4 of 2015, (1) the High Court or a subordinate court under Subsection (1) is expressly prohibited from and "shall not" review an administrative action or decision under this Act unless the mechanisms including internal mechanisms for appeal or review and all remedies available under any other written law are first exhausted.
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> (3) The High Court or a subordinate court shall, if it is not satisfied that the remedies referred to in subsection (2) have been exhausted, direct that

applicant shall first exhaust such remedy before instituting proceedings under suction (1)

(4) Notwithstanding Subsection (3) the High Court or subordinate court may, in exceptional circumstances and on application by the applicant, exempt such person from the obligation to exhaust any remedy if the court considers such exception to be in the interest of justice ...

From the above provisions of the law and decided cases, it is clear that even the *Fair Administrative Action Act* which the exparte applicant in this case claims has been violated mandates an applicant to show that they have exhausted the alternative remedies available under any other written law or avenue before resorting to court by way of judicial review. However, the onus is on the applicant to demonstrate to the court that there exist exceptional circumstances to warrant his or her exemption from resorting to the available remedies; and on application for such exemption.

In this case, no doubt, the applicant had an avenue for ventilating its grievances where the respondent refuses to approve the building plans. There is no evidence that the applicant lodged any such complaint or appeal to the Liaison Committee, the National Liaison Committee and or to the High Court. The Physical Planning Act provides elaborate mechanisms for resolution of disputes relating to approval of development plans and therefore no party is permitted to bypass those mechanisms and jump into a judicial review Court to obtain orders which are discretionary."

We see no reason to warrant interference with those findings as in our view they are based on sound law and evidence. The record does not reflect any attempt by the appellant to first resolve its grievances against the respondent under the procedure provided for redress under PPA or FAA. There is no evidence that the appellant made any complaints in the nature of the respondent's refusal to approve its plans for construction of a perimeter wall to the liaison committee under section 13 of the PPA. It's clear that the appellant could only approach the High Court on appeal against the decision of the National Liaison Committee. Though the High Court can exempt a party from following such clear laid procedures for redress of grievances before approaching it in the noble interests of justice, the learned Judge rightly found that the appellant had failed to prove there were exceptional circumstances in its case to warrant such exemption. Indeed, there are no apparent exceptional circumstances to justify such exception and which exception was also not sought. The High Court's power to exercise its jurisdiction under Article 165 of *the Constitution* was therefore limited or restricted by statute in this instance as found by the Judge. The appellant had complained before this Court that the learned Judge erred in failing to appreciate that though there exists an alternative procedure for redress, the same was less convenient, beneficial and effective in its circumstances. However, that argument must be taken as an afterthought. The same was never raised or pursued before the High Court thus denying the respondent the opportunity for rebuttal and denying this Court the benefit of the reasoning of the High Court on the same issue."

34. The applicant submitted that there were exceptional circumstances. However, there was no application for exemption from the obligations under section 9(2) of the *Fair Administrative Action Act*.

35. Finally, while this ruling was pending, the High Court vide Constitutional Petition No. E168 of 2025 stayed the implementation of Rules 5, 6, 7, 11(4), 27(3) and 33 of the Fair Administrative Action Rules, 2024. That being the case, and pending the merit determination of that Constitutional Petition, the

applicant herein can benefit from appeal process, instead of waiting until the proceedings herein are heard on merit outside the limitation period provided for under section 8 of the *Fair Administrative Action Act* which provides that:

> An application for the review of an administrative action or an appeal under this Act shall be determined within ninety days of filing the application.

36. Accordingly, invoking the provisions of section 9(3) of the *Fair Administrative Action Act*, and in view of the prohibition under section 9(2) of the *Fair Administrative Action Act*, I hereby direct that the applicant shall first exhaust such remedy before instituting any proceedings under subsection (1) of the Act.

37. In the end, I decline jurisdiction and merit determination of the application for enlargement of time, noting as stated above, that Rule 6 of the Fair Administrative Action Rules, 2024 has been stayed by the High Court hence the Rule remains in limbo as far as the period for instituting proceedings under the Fair Administration Act and Rules is concerned.

38. The application as a whole is struck out with no orders as to costs.

39. This file is closed.

DATED, SIGNED AND DELIVERED AT NAIROBI, VIRTUALLY THIS 2ND DAY OF APRIL, 2025

R.E. ABURILI

JUDGE