



**Metho v Governor Nyandarua & 4 others; Ethics & Anti-Corruption Commission & 3 others (Interested Parties) (Constitutional Petition E012 of 2024) [2025] KEHC 4361 (KLR) (Civ) (7 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4361 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NYANDARUA  
CIVIL  
CONSTITUTIONAL PETITION E012 OF 2024**

**KW KIARIE, J**

**APRIL 7, 2025**

**BETWEEN**

**SENATOR JOHN MUHIA METHO ..... PETITIONER**

**AND**

**THE GOVERNOR NYANDARUA ..... 1<sup>ST</sup> RESPONDENT**

**COUNTY EXECUTIVE COMMITTEE MEMBER FOR FINANCE &  
ECONOMIC DEVELOPMENT ..... 2<sup>ND</sup> RESPONDENT**

**COUNTY ATTORNEY NYANDARUA COUNTY ..... 3<sup>RD</sup> RESPONDENT**

**COUNTY GOVERNMENT OF NYANDARUA ..... 4<sup>TH</sup> RESPONDENT**

**KENYA ALLIANCE INSURANCE LTD ..... 5<sup>TH</sup> RESPONDENT**

**AND**

**ETHICS & ANTI-CORRUPTION COMMISSION ..... INTERESTED PARTY**

**PUBLIC PROCUREMENT & REGULATORY AUTHORITY .... INTERESTED PARTY**

**THE CONTROLLER OF BUDGET ..... INTERESTED PARTY**

**DIRECTOR OF CRIMINAL INVESTIGATIONS ..... INTERESTED PARTY**

**RULING**

1. The petitioner/applicant herein moved the court through a Notice of Motion dated the 24<sup>th</sup> day of October 2024. It was brought under Articles 1, 10, 19, 20, 21, 22, 23, 27, 41, 43, 47, 48, 73, 75, 159,



165, 174, 175, 176, 179, 183, 189, 190, 201, 207, 226, 227, 228, and 232 of *the Constitution* of Kenya, sections 109 (4), (6), (a) and (7), 117, 129, 130 and 131 of the Public finance Act 2012, and section 2 (2) of the Nyandarua County Appropriation Act, 2021. The petitioner is seeking the following orders:

- a. This application must be certified as urgent and heard ex-parte in the first instance. [Spent]
- b. That pending the inter partes hearing and determination of this application, the High Court sitting at Nyahururu in Miscellaneous Application No. 023 of 2024, do reserve and or preserve the adoption of the Mediation agreement dated 20/6/2024 as sought in the application dated 28/6/2024.
- c. That pending the inter-partes hearing and determination of this petition, the High Court sitting at Nyahururu in Miscellaneous Application No. 023 of 2024, do reserve and/or preserve the adoption of the Mediation Agreement dated 20/6/2024 as sought in the application dated 28/6/2024.
- d. That pending the inter-partes hearing and determination of this application, this Court be pleased to issue a temporary order suspending and/or staying the operation and/or the implementation of the Mediation Agreement dated 20/6/2024 facilitated by Mr. Francis Karoki or the order thereof as may be issued or having been issued by the High Court sitting at Nyahururu in Miscellaneous Application No. 023 of 2024.
- e. That pending the inter-partes hearing and determination of this petition, this court be pleased to issue a temporary order suspending and/or staying the operation and/or the implementation of the Mediation Agreement dated 20/6/2024 facilitated by Mr. Frances Karoki or the order thereof as may be issued or having been issued by the High Court sitting at Nyahururu in Miscellaneous Application No.023 of 2024.
- f. That pending the inter-partes hearing and determination of this application, a Conservatory Order do issue restraining the 1-4<sup>th</sup> respondents from authorizing, making any requisitions and/or payments to the 5<sup>th</sup> respondent on any public funds arising from the mediation agreement dated 20/6/2024 or virtue of any orders issued pursuant thereto until its legality and legitimacy are verified.
- g. That pending the inter-partes hearing and determination of this petition, a Conservatory Order do issue restraining the 1-4<sup>th</sup> respondents from authorizing, making any requisitions and/or payments to the 5<sup>th</sup> respondent on any public funds arising from the mediation agreement dated 20/6/2024 or by virtue of any orders issued pursuant thereto until its legality and legitimacy are verified.
- h. That pending the inter-partes hearing and determination of this application, this honourable court be pleased to issue an order of temporary injunction restraining the respondents from in any way dealing with any part of the mediation agreement dated 20/6/2024 for having been contracted fraudulently and in contravention of the law.
- i. That pending the inter-partes hearing and determination of this petition, this honourable court be pleased to issue and order of temporary injunction restraining the respondents from in any way dealing with any part of the mediation agreement dated 20/6/2024 for having been contracted fraudulently and in contravention of the law.
- j. That pending the inter-partes hearing and determination of this application, this honourable court be pleased to issue an order to a temporary injunction restraining the 3<sup>rd</sup> interested party from in any way uploading, operationalizing and/or approving any payment to the



5<sup>th</sup> respondent in regards to any part of the mediation agreement dated 20/6/2024 and any ensuing order thereof and if so done, an order suspending any operationalisation and/or payment thereof.

- k. That pending the inter-partes hearing and determination of this petition, this honourable court be pleased to issue an order of temporary injunction restraining the 3<sup>rd</sup> interested party from in any law uploading, operationalizing and/or approving any payment to the 5<sup>th</sup> respondent in regards to any part of the mediation agreement dated 20/6/2024 and any ensuing orders thereof and if so, do issue an order suspending any operationalisation and/ or payment thereof.
- l. That the cost of this application be provided for.

2. The application is based on the following grounds:

- a. That on 23/10/2024, the High Court sitting at Nanyuki in Nyahururu in miscellaneous Application No. 023 of 2024 declared a lack of jurisdiction and therefore directed that the application dated 28/6/2024 for adoption of a purported mediation agreement dated 20/6/2024 be recorded on 28/10/2024.
- b. If the mediation agreement is adopted, it will incur substantial additional costs for the people of Nyandarua. 39,649,124 in an otherwise illegal and criminal contract where Kshs. 11,558,695/ = has already been paid without any involvement of the people of Nyandarua or the County Assembly thereof.
- c. That the Miscellaneous Application No.023 of 2024 was only filed in the Nyahururu High Court for lack of a mediation registry within the Nyandarua High Court Judicial infrastructure.
- d. That the purported mediation agreement dated 20/6/2024, which is sought to be adopted, is illegal, null and void ab initio as the same is founded on fraud and plain criminal objectives and fits within the definition of corruption and economic crimes under the [Ethics and Anti-Corruption Commission Act](#) No. 22 of 2011.
- e. That the purported mediation agreement founded on clear breach of Articles 201 (1) (a), 207 (2) (a) and (b), 226 (2) and (5) and 227 (2) (b), (c) and (d) of [the Constitution](#) of Kenya 2010.
- f. That the mediation agreement which is sought to the adopted was also founded in clear and plain breach of section 53 (8) and (9) of the [Public Procurement and Asset Disposal Act](#), 2015 and Section 125 to 137 of the [Public Finance Management Act](#) 2012.
- g. That the Petitioner brings this matter for the intervention of this court not as a person with interest on the prima facie illegal and fraudulent procurement and private mediation Agreement thereof, but for the interest of the people of Nyandarua as the duly elected Senator thereof and on the foundation of Article 96 of [the Constitution](#).
- h. That it is therefore of paramount importance to Nyandarua and its people that the adoption of the private mediation Agreement, which is in breach of [the Constitution](#) and the laws of the land, be reserved, preserved, suspended and/or stayed pending the hearing of the application herein and petition thereof.
- i. That it is in the larger interest of justice that the orders sought herein be granted as the same will promote respect for [the Constitution](#) and the Rule of law and barricade any profiteering from criminal and fraudulent activities.



- j. That the Mediation Agreement dated 20 June 2024 is set to be adopted as an order of the court on 28 October 2024, vide Nyahururu in Miscellaneous Application No. 023 of 2024, thus underscoring the great urgency of this matter.
- k. That the Senate of the Republic of Kenya where the Applicant (hereinafter "the Senator) sits has the following mandate under Article 96 of *the Constitution*; -
  - ii. Art: 96 (1) the Senate represents counties and serves to protect the interests of the counties and their governments
  - iii. Article 96(3) states that the Senate determines the allocation of national revenue among counties, as provided in Article 217, and exercises oversight over the national revenue allocated to county governments.
- l. That the purported procurements of the insurance cover the subject of the mediation agreement herein was in breach of Article 201, 206, 207, 226 227 and 228 of *the Constitution* and Sections 53 (8) & (9) of the Public Procurement and Disposal Act and Sections 125-137 of the *Public Finance Management Act*.
- m. That by a letter dated 16/11/2023, M/s Ndegwa Wahome & Co Advocates wrote to the 1<sup>st</sup> interested party with a copy to the 2<sup>nd</sup> interested party on the irregular procurements and possible loss of public resources within Nyandarua County Government (hereinafter 'the county').
- n. That by the letter dated 11/10/2023 and 9/1/2024, it is clear and obvious that the matters herein are under active investigation by the 2<sup>nd</sup> interested party (hereinafter "the PPRA")
- o. That the 1<sup>st</sup> interested party (hereinafter the EACC"), having been served by the said latter dated 16/11/2023, must be actively investigating the matter, having not reported back on the status of the complaint lodged to it under Sections (11) and (13) of the EACC *Act No 22 of 2011*.
- p. That this particular procurement was effected without adherence to the law and purportedly on the direction of the County Executive Committee an obvious nullity in law ab initio and gave rise to criminal culpability.
- q. That the contract was driven by a criminal agenda, was moved with a historical speed from the time of commencement of the contracting process to the signing of the purported contract.
- r. That the County Supply Chain Management officers, led by their Director, alarmed by the now rejected, illegal and irregular procurement of the subject service among others, wrote the letters dated 30/10/2023 and 31/10/2023. Some of them have since been intimidated, harassed, and relocated to other offices that do not deal with procurement.
- s. That by the letters dated 2/11/2023 and 3/11/2023, the Director of Supply Chain Management was deployed to the sub-department of Cooperative Development as a Director. This was an apparent warning for the pain of his letter dated 31/10/2023.
- t. That to intimidate other officers in the supply chain management, an internal advertisement was procured pronouncing two (2) vacancies in the Supply Chain Department which was actually over-staffed as the current administration had centralized procurement to obviously ensure easy control of the same.



- u. That to defeat the rejection of the purported contract herein, the 4<sup>th</sup> Respondent and the 5<sup>th</sup> Respondent on the 30/11/2023 entered into a clandestine and illegal contract at Kshs. 69,190,549 to offer medical insurance cover to cater for 80 officers only. The initial Kshs. 236,727,984 was to cover 1,801 officers, which was also a truly bad bargain and caused massive losses for the people of Nyandarua.
- v. That the court should make judicial notice that the medical insurance premiums paid for the 80 officers at Kshs 69,190,549.00 speaks to each officer having an annual medical cover of Kshs.864,882.00. This is not only immoral but also criminal when looked at against the economy of the population of Nyandarua.
- w. That the mediation process was never sanctioned by the people of Nyandarua, either directly or through their representatives through public participation, and, therefore, was in breach of fundamental principles as set out in Article 201 (a) of *the Constitution* and, therefore, a nullity in law ab initio.
- x. The contract between the parties, having been founded on fraud, was not qualified for mediation, and the same was true for the perpetration of further fraud on the people of Nyandarua.
- y. That despite not offering any known services to the 1,801 officers in the forcefully entered-into a contract, the 5th respondent, in an obvious criminal conspiracy, was paid Kshs.11 558 695.00 and wants to be paid a further Kshs. 39, 649, 124 to make a total of Kshs 51,207,819.00.
- z. That further, the petitioner/applicant herein being charged with the oversight role of the 4<sup>th</sup> Respondent by the law has tried to reach out to 1-4<sup>th</sup> respondents and warned them about the dangers of the illegalities that they were perpetrating, but the same has been ignored, and Nyandarua and its people are at risk of massive financial losses and therefore unable to get the requisite services that they by law deserve.
- aa.
  - a) That despite the mediation agreement being illegal, for having been founded on fraud and corrupt dealings, the respondents intend to continue and to further the illegalities by making the payments on the same, leading to loss of public funds.
  - ab. That if the prayers sought in this application are not granted, the mediation agreement may be adopted on 28/10/2024 and implemented, resulting in loss of public funds subsequently occasioning inefficiency, lack of service delivery to the members of the public, exasperation, as well as lead to serious breach of the express provisions of *the Constitution* of Kenya 2010 and other enabling Acts of parliament.
  - ac. That the Application herein, as well the Petition, will be rendered nugatory if the application is not heard at the first instance and on a priority basis and the orders sought for granted.
  - ad. That it is in the larger interest of justice and the public that this application is allowed
- 3. There is a preliminary objection dated 5 November 2024.
- 4. I do not appreciate the rationale for filing this matter in this court, while the case that gave rise to the petition and the preliminary objection is in Nyahururu High Court. As this is the situation, it ought to be addressed by the same judge. I will proceed to strike out both the petition and the



preliminary objection to allow the parties to make the necessary applications in Nyahururu High Court Miscellaneous Application No. 023 of 2024. Each party is to bear its costs.

**DELIVERED AND SIGNED AT NYANDARUA THIS 7<sup>TH</sup> DAY OF APRIL 2025**

**KIARIE WAWERU KIARIE**

**JUDGE.**

High Court at Nyandarua Constitutional Petition No.E012 of 2024 Page 3

