Republic v Kenya School of Law; Ng'ang'a (Exparte Applicant) (Judicial Review E022 of 2025) [2025] KEHC 4965 (KLR) (Judicial Review) (25 April 2025) (Judgment)

Neutral citation: [2025] KEHC 4965 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

JUDICIAL REVIEW

JUDICIAL REVIEW E022 OF 2025

JM CHIGITI, J

APRIL 25, 2025

BETWEEN

REPUBLIC ..... APPLICANT

AND

KENYA SCHOOL OF LAW ..... RESPONDENT

AND

PRUDENCE KABURA NG'ANG'A ..... EXPARTE APPLICANT

JUDGMENT

1. The Application that is before this court for determination is the one dated 7th February 2025.

Brief background;

2. The Exparte Applicant sat for her Kenya Certificate of Secondary Education (Hereinafter "K.C.S.E") examinations in the year 2014 and passed with a mean grade of "C plain" and "B plain" in English language.

3. Thereafter in the year 2015, she joined the Kenya School of Law for her Diploma in Law (Para-legal Studies) where she passed with a distinction in April 2017.

4. She then joined the University of Nairobi, Parklands where she was conferred an LL.B Degree on 17th December 2021.

5. In the month of October 2024, the Respondent placed an advertisement on both its social media pages and website, calling upon the general public to apply for admission into the Advocates Training Programme for the 20252026 Academic year.

6. The contents of the said advertisement were divided into two parts; "eligibility criteria" christened as "Part A" while the "application mode" was christened as "Part B." "Part A" divided into two Categories; Applicants admitted into LL.B before and after 8th December 2014.

7. It is her case that based on the contents of Paragraph 1.5 herein above and exhibit number "PKN 4", the Exparte Applicant automatically fell into Category A1 by virtue of having been admitted to do LL.B after 8th December 2014.

8. The Exparte Applicant is aggrieved by the fact the Respondent rejected her application on the sole basis of having not met the "mean grade of C plus in KCSE," on 30th October 2024.

9. Her appeal to the Respondent's Board maintained the same position as set out in the letters dated 30th October 2024, 13th December 2024 and 15th January 2025.

10. This has precipitated the filing of this suit wherein the applicant seeks the following orders:

    1. That this Honourable Court be pleased to issue Orders of Prohibition, permanently prohibiting the Respondent from enforcing, implementing andor in any other manner whatsoever from effecting the decisions of her Board, contained in the letters dated 30th October 2024, 13th December 2024 and 15th January 2025 respectively, declining to admit the Exparte Applicant into the Advocates Training Programme at the Kenya School of Law.

    2. That this Honourable Court be pleased to issue Orders of Prohibition, prohibiting the Respondent from further relying on the academic eligibility criteria number (A) as stipulated in its advertisement contained both on her website and social media pages.

    3. That this Honourable Court be pleased to issue Orders of Certiorari quashing the Kenya School of Law Board decisions contained in letters dated 30th October 2024, 13th December 2024 and 15th January 2025 respectively, declining to admit the Exparte Applicant into the Advocates Training Programme at the Kenya School of Law.

    4. That this Honourable Court be pleased to issue Orders of Certiorari against the Respondent quashing its usage of academic eligibility criteria number (A) as stipulated in its advertisement in assessing the Exparte Applicant's suitability in joining the Advocates Training Programme and instead assess the Applicant's qualifications in accordance with the law.

    5. That this Honourable Court be pleased to issue Orders of Mandamus compelling the Respondent to admit the Exparte applicant forthwith, to the Advocates Training Programme for the 20252026 academic cycle andor any other relevant academic cycle, at the Kenya School of Law and in accordance with the law.

    6. That this Honourable Court be pleased to give further Orders and directions as it may deem and just to grant.

11. The applicant submitted that the Respondent contends in its replying affidavit under paragraphs *7*,*8*,*9*,*10* and *12* that it is strictly bound by the provisions of the *Kenya School of Law Act*.

12. The applicant agrees with this assertions partly and to the extent that it is a creature of the *Kenya School of Law Act*.It is her submission however, that it is imperative to note that the Respondent does not operate in a "vacuum" andor isolation for the following reasons:

13. Under the *Legal Education Act*, Chapter 16B Laws of Kenya, there is established a Council of Legal Education under Section 4 while its functions are provided for by Section 8 of the said Act.

14. Reliance is placed in the case of Nairobi Court of Appeal Civil Appeal of Number E472 of 2021 – Kenya School of Law v Otene Richard Akomo & 41 Others, by Justices Asike-Makhandia, Mohamed and Kantai JJA at page 21 as follows;

> " The Council had a duty to regulate how the universities admitted students to pursue various cadres of legal education; that was at the certificate, diploma and degree levels. That duty had to be discharged at the point of entry of the student at the institution offering such courses. A legal education provider, had to, at the direction and supervision of the Council, be able to determine whether a student was qualified to pursue studies in law at the time the student applied to join the institution, be it a college or a university.
>
> It should be noted that whereas the Council had powers to make regulations in respect of requirements for the admission of persons seeking to enroll in legal education programmes, it also had the duty to ensure compliance of such regulations at the very point of admission of such persons, at whatever level. It was upon the Council to ensure that all those enrolled to pursue legal education programmes were duly qualified in law to undertake such studies"

15. Section 8(3)(c) of *Legal Education Act* provides for academic progression by requiring the Council of Legal Education to formulate a system for recognizing prior learning and experience in law to facilitate progression in legal education from lower levels of learning to higher levels.

16. She further relies on Kenya School of Law v Otene Richard Akomo & 41 Others (Supra) where it was further observed that, at page 28;

> " The wording in Part C above is clear as it is, that prior learning and experience in law is what ought to be considered in formulating a system that would see the progression in legal education. We do not think a degree in aeronautics or a diploma in interior design for instance, can be termed as progression towards studying law. Indeed, the only closer aspect contemplated is experience and learning in law culminating in a diploma in law or related course in law. We therefore hold that such degree and diploma are not to be categorized as a progression in law of whatsoever kind and even if they were, the appellant had to consider the primary requirements in the Act first before reverting to the regulations and which is the requirement of grades in KCSE. We refuse to be swayed by the respondents' argument that even having obtained a mean grade D Plain, one can still proceed and pursue law and only wave the diploma in other disciplines as a condition for admission to the ATP."

17. She submits that it is clear that the Respondent's impugned decision has violated the Applicant's right to education and does not meet the analysis contemplated under Article 24 of *the Constitution*.

18. Further, it is crystal clear how the Exparte Applicant has upgraded her legal qualifications from the lower cadres of the profession towards the higher cadres.

19. She submits that the narrow position taken by the Respondent concerning interpretation of the law is an affront to the national values and principles of governance of the rule of law, human dignity and social justice because the regulatory authority, which is the Council of Legal Education, has provided an alternative criteria of admission to the Advocates Training Programme.

20. She invokes Article 47(1) of *the Constitution* provides;

> " Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair."

21. She submits that Section 2 of the *Fair Administrative Action Act*, which stipulates:

> "Administrative Action" includes– (a) the powers, functions and duties exercised by authorities or quasi-judicial tribunals; or
>
> (b) any act, omission or decision of any person, body or authority that affects the legal rights or interests of any person to whom such action relates;
>
> Section 7 (2)(d), (f), (m),(n) and (o) of the *Fair Administrative Action Act* stipulates;
>
> (d) the action or decision was materially influenced by an error of law;
>
> (e) the administrative action or decision in issue was taken with an ulterior motive or purpose calculated to prejudice the legal rights of the applicant;
>
> (f) the administrator failed to take into account relevant considerations;
>
> (m) the administrative action or decision violates the legitimate expectations of the person to whom it relates;
>
> (n) the administrative action or decision is unfair; or
>
> (o) the administrative action or decision is taken or made in abuse of power.

22. In expounding her arguments around illegality, reliance is placed in the case of John Wachiuri TA Githakwa Graceland & Wandumbi Bar & 50 Others vs The County Government of Nyeri & Another to include situations where decisions makers do not understand the laws that regulate them.

23. She submits that the Respondent failed to take into consideration Section 8(3)(c) of *Legal Education Act* which provides for academic progression when considering the Exparte Applicant's application and in particular the fact that she undertook her Diploma studies at the institution and passed very well with a distinction.

24. In advancing the argument that the Respondent violated her legitimate expectation, reliance is placed in Supreme court case of Communications Commission of Kenya & 5 Others v Royal Media Services & 5 Others where the court pronounced itself as follows:

> "Legitimate expectation would arise when a body, by representation or by past practice, has aroused an expectation that is within its power to fulfil. Therefore, for an expectation to be legitimate, it must be founded upon a promise or practice by public authority that is expected to fulfil the expectation."

25. She also relies on the case of Republic v Kenya School of Law Exparte Victor Mbeve Musinga, High Court Judicial Review Number 32 of 2019.

26. Further, R. Wade & C. F. Forsyth in their book Administrative Law,2000 edition, at pages 449 to 450, they reiterate;

> "It is not enough that an expectation should exist; it must in addition be legitimate....First of all, for an expectation to be legitimate it must be founded upon a promise or practice by the public authority that is said to be bound to fulfil the expectation..... Second, clear statutory words, of course, override an expectation howsoever founded.....Third, the notification of a relevant change of policy destroys any expectation founded upon the earlier policy...."

> "An expectation whose fulfillment requires that a decision-maker should make an unlawful decision, cannot be a legitimate expectation. It is inherent in many of the decisions, and express in several, that the expectation must be within the powers of the decision-maker before any question of protection arises. There are good reasons why this should be so: an official cannot be allowed in effect to rewrite Acts of Parliament by making promises of unlawful conduct or adopting an unlawful practice."

The Respondent's case.

27. In opposing the case it is its case that it published an advertisement inviting Applicants to apply for admission to the Advocates Training Program setting out the eligibility criteria for admission to the said Programme as provided for in the Second Schedule of the *Kenya School of Law Act*, Cap 16C.

28. The requirement for admission to Advocates Training Programme under section 16 of the *Kenya School of Law Act* 2012, as read with Paragraph 1 of the Second Schedule, is a mean grade of C+(plus) in KCSE with B(plain) in English or Kiswahili languages.

29. The Exparte Applicant did not meet this eligibility criteria and the Respondent cannot admit a student based on any other criteria.

30. The Respondent notified the Exparte Applicant that her application for admission to the Advocates Training Programme was not successful and the Respondent has not infringed on the Exparte Applicant's rights and freedoms in anyway.

31. It is its case that The Court of Appeal has in Kenya School of Law v. Richard Otene Okomo and 42 others determined the admission criteria and the Respondent's interpretation and application of the law regarding the admission criteria was guided on the said decision.

32. It submits that prior to January 2013, the law governing admissions to the Advocates Training Programme (ATP) was the Council of *Legal Education Act* Cap 16A, Laws of Kenya with its attendant Regulations vide the Council of Legal Education (Accreditation) Regulations, 2009 and Council of Legal Education (Kenya School of Law) Regulations, 2009.

33. In September 2012, Parliament enacted the *Kenya School of Law Act*, (Cap 16C). (hereinafter referred to as "the Act") which provided for the establishment, powers and functions of the Respondent and which Act came into force on 15th January 2013.

34. That Act however did not provide for a transition period though by the time of its coming into force there were students in various universities undertaking their degree courses including some of the Petitioner.

35. The applicability and transition of the two laws was considered in the case of Kevin Mwiti & Others v Kenya School of Law & Others [20151 eKLR where it was held that those who had been admitted to study an LL.B after the *Kenya School of Law Act* 2012 came into force were required to comply with the provisions of the Act. Additionally, the court ruled that all persons who had commenced their LL. B studies before enactment of the *Kenya School of Law Act*, 2012, could join the ATP on the basis of the admission criteria in force before the Act was passed. The court emphasized that all persons who commenced their LL.B studies after enactment of the Act would have to abide by the admission requirements stipulated therein.

36. It is it's submission that the Applicants case must be considered under the qualifications set out in the *Kenya School of Law Act* (Cap 16C).

37. Reliance is placed in the Court of Appeal in NRB Civil Appeal No.E472 of 2021 where it was stated that

> " In interpreting Statutes, it is also a requirement that the court looks at both the text and context in order to ascertain the true legislative intent. In Reserve Bank of India vs. Peerless General Finance and Investment Co. Ltd., 1987 SCR (2) 1 the Supreme Court of India stated thus: "Interpretation must depend on the text and the context. They are the basis of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place."

38. The contention between the two parties is the interpretation of the above provisions as to whether given the two scenarios of joining KSL, whether the first one (1)(a) does not require one to have the KCSE mandatory requirements of a mean grade C + (plus) and a grade B (plain) in English or Kiswahili. That the said KCSE requirements only applies to those making applications under 1(b) of the said section.

39. To the Respondent, the interpretation that discern from the above section is that the section should be read as a whole.

40. The text is that paragraph *1*(a) and (b) is separated by a semicolon, then there are the key elements mentioned after the colon on 1 (b) which means that both I(a)(b) must meet the conditions precedent in roman i and ii.

41. It is it's submission that the essence, is whether you obtained a degree in a Kenyan or out of a Kenyan University, the basic requirement is the score in one's KCSE results which should correspond to those cited in the Act.

42. It is submitted that in construing a statutory provision, the first and foremost rule is that of literal construction. If the interpretation is unambiguous and the legislative intent is clear then the meaning is applied without resort to other rules of statutory interpretation.

43. In the instant case, the Second Schedule of the *Kenya School of Law Act* is divided into I (a) and (b) as below: -

    a. Having passed the relevant examination of any recognized university in Kenya, or of any university, university college or any other institution prescribed by the Council, holds or becomes eligible for the conferment of the Bachelor of Laws (LLB) degree of that university, university college or institution; or

    b. Having passed the relevant examinations of a university, university college or other institutions prescribed by the Council of Legal Education, holds or has become eligible for the conferment of the Bachelor of Laws Degree (LLB) in the grant of that university, university college or other institution—

i. attained a minimum entry requirement for admission to a university in Kenya; and ii. obtained a minimum grade B (plain) in English Language or Kiswahili and a mean grade of C (plus) in the Kenya Certificate of Secondary Education or its equivalent; and

ii. has sat and passed the pre-bar examination set by the school.

44. It submits that there is no discretion in this provision to allow the Respondent to waive or amend the requirements of the above cited provisions.

45. The Respondent submits that it considered the Ex-parte Applicant's application based on the court of appeal judgement COA E472 of 2021.

46. Article 47(1) of *the Constitution* provides that every person has the right to the administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

47. It submits that its decision was made within the law as enunciated in HCCA 062 of 2021 Kenya School of Law V. Charity Wamuyu and HCCA E166 of 2022 Kenya School vs James Muchiri Gachoki and Duncan Kyalo Muusya and 1 Others.

Analysis and Determination.

48. From the pleadings, the rival submissions and the authorities that the parties relied upon, the following are the issues for determination:

1. Whether the application has merit.

2. Who shall bear the costs.

Whether the application has merit.

49. In order for the Applicant to succeed, she must prove that her case falls within the ambit of the principles as settled in the case of Council of Civil Service Union v Minister for the Civil Service [1985] AC 2; and also, Francis Bahikirwe Muntu and others v Kyambogo University, High Court, Kampala, Miscellaneous Application Number 643 of 2005 (UR) where the court held as follows;

> "Illegality is when the decision-making authority commits an error of law in the process of taking the decision or making the act, the subject of the complaint. Acting without Jurisdiction or ultra vires, or contrary to the provisions of a law or its principles are instances of illegality....
>
> Irrationality is when there is such gross unreasonableness in the decision taken or act done, that no reasonable authority, addressing itself to the facts and the law before it, would have made such a decision. Such a decision is usually in defiance of logic and acceptable moral standards: Re An Application by Bukoba Gymkhana Club [1963] EA 478 at page 479 paragraph "E".
>
> Procedural impropriety is when there is failure to act fairly on the part of the decision-making authority in the process of taking a decision. The unfairness may be in non-observance of the Rules of Natural Justice or to act with procedural fairness towards one to be affected by the decision. It may also involve failure to adhere and observe procedural rules expressly laid down in a statute or legislative Instrument by which such authority exercises jurisdiction to make a decision. (Al-Mehdawi v Secretary of State for the Home Department [1990] AC 876)."

50. Judicial review is now entrenched as a constitutional principle pursuant to the provisions of Article 47 of *the Constitution*, which provides for the right to fair administrative action, and Section 7 of the *Fair Administrative Action Act* in this regard provides that any person who is aggrieved by an administrative action or decision may apply for review of the administrative action or decision.

51. In the case of Republic v Public Procurement Administrative Review Board; Exparte Madison General Insurance Kenya Ltd; Accounting Officer (KEBS) & another (Interested Parties) wherein the High Court cited with approval the case of Council of Civil Service Unions v Minister for the Civil Service (1985) A.C. 374,410 and held as follows at paragraph *43*: -

> "
>
> " 43. A person aggrieved by the decision of the Board has recourse before this court by dint of section 175 of the Act. The emphasis I would wish to lay here is that the recourse is one under the judicial review jurisdiction of this court and not an appellate one. The court, thus, would be exercising its supervisory powers over the board through sniffing for any whiff of illegality, irrationality or procedural impropriety. In Council of Civil Service Unions v Minister for the Civil Service (1985) A.C. 374,410 Lord Diplock stated as follows:
>
> "My Lords, I see no reason why simply because a decision-making power is derived from a common law and not a statutory source, it should for that reason only be immune from judicial review. Judicial review has I think developed to a stage today when without reiterating any analysis of the steps by which the development has come about, one can conveniently classify under three heads the grounds upon which administrative action is subject to control by judicial review. The first ground I would call "illegality," the second "irrationality" and the third "procedural impropriety." That is not to say that further development on a case-by-case basis may not in course of time add further grounds. I have in mind particularly the possible adoption in the future of the principle of "proportionality" which is recognized in the administrative law of several of our fellow members of the European Economic Community; but to dispose of the instant case the three already well-established heads that I have mentioned will suffice.
>
> By "illegality" as a ground for judicial review I mean that the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it. Whether he has or not is par excellence a justiciable question to be decided, in the event of dispute, by those persons, the judges, by whom the judicial power of the state is exercisable.
>
> By "irrationality" I mean what can by now be succinctly referred to as "Wednesbury unreasonableness" (Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation [1948] 1 K.B. 223). It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it..." (Emphasis Added).

52. Section 8(3)(a) of the *Legal Education Act* provides that;

> " In carrying out its functions under subsection (2), the Council shall— make Regulations in respect of requirements for the admission of persons seeking to enroll in legal education programmes;"

Section 8(2) provides that;

> " Without prejudice to the generality of subsection (1), the Council shall, with respect to legal education providers, be responsible for setting and enforcing standards relating to the— accreditation of legal education providers for the purposes of licensing;
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> curricula and mode of instruction;
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> mode and quality of examinations;
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> harmonization of legal education programmes; and
>
> monitoring and evaluation of legal education providers and programmes."

53. The Court of Appeal judgment in Stephen Nikita Otinga appellant and the Cabinet Secretary, Ministry of Education, The Hon. Attorney General, The Council of Legal Education, and The Kenya School of Law the court held, the preamble of the *Legal Education Act*, 2012 provides as follows;

> " An Act of Parliament to provide for the establishment of the Council of Legal Education; the establishment of the Legal Education Appeals Tribunal; the regulation and licensing of legal education providers and for connected purposes."
>
> On the other hand, the preamble for the *Kenya School of Law Act*, 2012 provides;
>
> "An Act of Parliament to provide for the establishment, powers and functions of the Kenya School of Law and for connected purposes."

54. It is evident that the *Legal Education Act* is the framework of legal education and training in Kenya, including training in ATP. Consequently, the provisions therein are the ones applicable to all legal training in Kenya including the ATP.

55. The court is in full agreement with the Applicant in her submission that it is imperative to note that the Respondent does not operate in a "vacuum" andor isolation.

56. Towards the realization and the actualisation of the foregoing, the ATP programme is administered by the Respondent who in the process of so doing placed the advertisement in the month of October 2024, on both her social media pages and website, calling upon the general public to apply for admission into the Advocates Training Programme for the 20252026 Academic year.

57. The Court of Appeal, Civil Appeal of Number E472 of 2021 – Kenya School of Law v Otene Richard Akomo & 41 Others, by Justices Asike-Makhandia, Mohamed and Kantai JJA at page 21 as follows;

> " The Council had a duty to regulate how the universities admitted students to pursue various cadres of legal education; that was at the certificate, diploma and degree levels. That duty had to be discharged at the point of entry of the student at the institution offering such courses. A legal education provider, had to, at the direction and supervision of the Council, be able to determine whether a student was qualified to pursue studies in law at the time the student applied to join the institution, be it a college or a university.
>
> It should be noted that whereas the Council had powers to make regulations in respect of requirements for the admission of persons seeking to enroll in legal education programmes, it also had the duty to ensure compliance of such regulations at the very point of admission of such persons, at whatever level. It was upon the Council to ensure that all those enrolled to pursue legal education programmes were duly qualified in law to undertake such studies"

58. The Exparte Applicant sat for her Kenya Certificate of Secondary Education (Hereinafter "K.C.S.E") examinations in the year 2014 and thereafter in the year 2015, she joined the Kenya School of Law for her Diploma in Law (Para-legal Studies) where she passed with a distinction in April 2017.

59. She then joined the University of Nairobi, Parklands where she was conferred an LL.B Degree on 17th December 2021.

60. In the month of October 2024, Respondent's advertisement for admission into the Advocates Training Programme for the 20252026 Academic year was divided into two parts; "eligibility criteria" christened as "Part A" while the "application mode" was christened as "Part B." "Part A" divided into two Categories; Applicants admitted into LL.B before and after 8 th December 2014.

61. The Second Schedule of the *Kenya School of Law Act* is divided into: -

    a. Having passed the relevant examination of any recognized university in Kenya, or of any university, university college or any other institution prescribed by the Council, holds or becomes eligible for the conferment of the Bachelor of Laws (LLB) degree of that university, university college or institution; or

    b. Having passed the relevant examinations of a university, university college or other institutions prescribed by the Council of Legal Education, holds or has become eligible for the conferment of the Bachelor of Laws Degree (LLB) in the grant of that university, university college or other institution—

        i. attained a minimum entry requirement for admission to a university in Kenya; and ii. obtained a minimum grade B (plain) in English Language or Kiswahili and a mean grade of C (plus) in the Kenya Certificate of Secondary Education or its equivalent; and

        ii. has sat and passed the pre-bar examination set by the school.

62. Having placed the advertisement it goes without saying that The Respondent being the legal education provider, had the discretionary powers within the aforementioned legislative framework to determine whether the Applicant was qualified to pursue studies or not.

63. The court is satisfied that the Respondent exercised its discretion within the law in arriving at the impugned decisions.

64. The Applicant has also advanced an argument that her legitimate expectation in her career progression journey was violated.

65. In order to deal with this issue, this court is guided by the legitimate expectation principles as enunciated in Supreme court case of Communications Commission of Kenya & 5 Others v Royal Media Services & 5 Others where the court pronounced itself as follows:

> " Legitimate expectation would arise when a body, by representation or by past practice, has aroused an expectation that is within its power to fulfil. Therefore, for an expectation to be legitimate, it must be founded upon a promise or practice by public authority that is expected to fulfil the expectation." Samuel Kamau Macharia& Another v. Kenya commercial Bank & 2 Others, Application No. 2 of 2011 [2012] eKLR, where The Supreme Court pronounced itself on jurisdiction thus:
>
> "(68)A Court's jurisdiction flows from either *the Constitution* or legislation or both. Thus, a Court of law can only exercise jurisdiction as conferred by *the Constitution* or other written law. It cannot arrogate to itself jurisdiction exceeding that which Is conferred upon it by law.

> We agree with counsel for the first and second Jurisdiction to entertain a matter before it, is not one of mere procedural Court cannot entertain any proceedings. This Court dealt with the question of jurisdiction extensively in, Commission (Applicant), Constitutional Application Number 2 of 2011. Where they cannot expand its jurisdiction must operate within the constitutional limits. It confers power upon Parliament to set the jurisdiction of a Court of law or tribunal, court or tribunal by statute law." (Emphasis provided).

66. According to De Smith, Woolf & Jowell, "Judicial Review of Administrative Action" 6thEdn. Sweet & Maxwell page 609:

> " A legitimate expectation arises where a person responsible for taking a decision has induced in someone a reasonable expectation that he will receive or retain a benefit of advantage. It is a basic principle of fairness that legitimate expectations ought not to be thwarted. The protection of legitimate expectations is at the root of the constitutional principle of the rule of law, which requires predictability and certainty in government's dealings with the public."

67. Republic v Principal Secretary Ministry of Mining Ex-parte Airbus Helicopters Southern Africa (PTY) Ltd [2017] eKLR paragraph *55*, it is a requirement that for the doctrine of legitimate expectation to be successfully invoked, the expectation must in the first place be legitimate "in the sense of an expectation which will be protected by law". This was the view adopted in Royal Media Services Limited & 2 Others vs. Attorney General & 8 Others [2014] eKLR where it was held that:

> " ...legitimate expectation, however strong it may be, cannot prevail against express provisions of *the Constitution*. If a person or a statutory body promises a certain relief or benefit to a claimant or undertakes to do something in favour of a claimant but in a way that offends *the Constitution*, the claimant cannot purport to rely on the doctrine of legitimate expectation to pursue the claim or the promise."

68. The Applicant's legitimate expectation claim that she would secure a slot at the Respondents Advocates Training Programme cannot be realized given that she did not fulfil the legal requirements as aforementioned. To act or allow that would be tantamount to the creation of an illegality which this court cannot countenance and I so hold.

Disposition.

69. The applicant has not made out a case that the Respondent acted illegally when it arrived at the impugned decisions of 30th October 2024,13th December 2024 and 15th January 2025, the subject of the complaint.

Orders.

1. The Application is dismissed.
2. Costs to the Respondent.

DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 25RD DAY OF APRIL, 2025.

J. CHIGITI (SC)

JUDGE