



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Namonyo v County Director Ministry of Education & 3 others (Petition
E009 of 2025) [2025] KEHC 10020 (KLR) (14 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10020 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
PETITION E009 OF 2025**

**RK LIMO, J
JULY 14, 2025**

BETWEEN

ROBERT MAYEKU NAMONYO PETITIONER

AND

COUNTY DIRECTOR MINISTRY OF EDUCATION 1ST RESPONDENT

KENYA SEC.SCHOOLS SPORTS ASSOCIATION 2ND RESPONDENT

MORRIS AKALA –TRANS-NZOIA 3RD RESPONDENT

**COUNY QUALITY ASSURANCE AND STANDARDS OFFICER 4TH
RESPONDENT**

RULING

1. The petitioner herein Robert Mayeku Namonyo has moved this court through a Notice of Motion dated 6/7/2025 asking for the following reliefs namely;
 - i. Spent.
 - ii. That pending the hearing and determination of the petition herein, this honourable court do issue a conservatory order barring Bwake Boys Secondary School from participating in the Regional Games to be held between 8th to 12th July 2025 at Eldoret.
 - iii. That pending the hearing and determination of the petition herein, the Kenya Secondary Schools Sports Association be restrained by a conservatory order from including the name of Bwake Boys Secondary School in the list of teams participating in Rift Valley Rugby Regional Games.



- iv. That this court orders that the finals of the Trans-Nzoia County Rugby Games be held afresh in a decent field which meets the standard of Kenya Rugby Union Regulations with St. Antony's Boys High School participating as the finalists.
 - v. Any other order deemed fit by this court to grant.
 - vi. Costs of this application.
2. The applicant has listed the following grounds namely;
- a. That the respondent failed to grant a fair hearing excluding the students from St Antony Boys from competition thereby infringing upon the students constitutional right to due process stipulated under Articles 27 and 47 of *the Constitution*.
 - b. That the respondents' decision to bar children from participating in the rugby games constitutes a direct violation of the right to leisure and play as enshrined under Section 14 of the Children's Act 2022.
 - c. That the respondents acted in a biased manner by favoring Bwake Boys High School.
 - d. That the respondents violated Statutory duty bestowed on them under Section 55(2) of the *Basic Education Act*.
 - e. That St Antony Boys High School and its students stand to suffer irreparably unless this court intervenes. That their exclusion from the County and Regional Games is a grave injustice that will cause significant mental stress and emotional harm to students.
 - f. That failure to grant the students their right to participate will damage their growth opportunities in academic and personal fields.
 - g. That the harm to the students is likely to be undone by any award of damages or other remedies. Therefore immediate remedy is required.
3. The applicant vide a supporting affidavit sworn on 6/7/25 and a supplementary one sworn on 9/7/25 has reiterated the above grounds. The applicant avers that the playing surface at St Patrick Makunga was not good and that the match officials were conflicted because they were affiliated to Bwake Boys.
4. He avers that the school wrote a protest as required by the rules on 20/6/25 but no response was forthcoming forcing St Antony Boys to abandon the game which led the Referee to declare Bwake Boys as the winner.
5. The applicant through learned counsel submitted when the school raised protest on the appointed referee, there were 2 changes but one of the referees, the Match Coomisar was retained.
6. He submits that St Antony was advised to play under protest but the boys declined due to unfairness because their protest was supposed to be dealt with in 30 minutes which was not. He submits that there was a belated response vide a letter dated 1/7/25 by the respondents which by then was too late because Bwake Boys had been declared winner.
7. He submits that although they filed an appeal to the Supreme Jury from the respondents their concerns were not addressed.
8. The application contends that the respondents' failure to address their complaint amounted to unfair administrative action and unfair hearing. They point out that their constitutional rights under Article 53 have been violated, pointing out that their right to engage in extracurricular activities were infringed



leading to lost opportunities and hence the reasons why they are seeking the cited reliefs in this application.

9. The respondents have opposed this application through a replying affidavit sworn on 9/7/25 by Leonard Oyoya Timothy. He depones that he is a teacher at Friends School Namanjalala and Match Commisar for Rugby 7s 2025.
10. The respondents aver that both St Antony and Bwake Boys played their semis at 11am on 21/6/25 at St Patricks Makunga with the finals slated for 2pm.
11. The respondents further aver that before the finals St Antony demanded to see the Register to vet the boys from Bwake Boys and that after vetting they refused to play citing that the referee appointed was conflicted.
12. They aver that a new referee was then appointed but players from St Antony still persisted in their refusal to play and as a Match Commisar after consultations the match was awarded to Bwake Boys.
13. They claim that at about 4pm the same day St Antony Boys presented 2 letters. A protest and a petition which were received.
14. Through State Counsel M/s Chilaka the respondents fault the St Antony Boys for failing to heed to the advise to play under protest.
15. They further fault them for failure to pay Kshs.5000/- protesting fees for their complaint. According to them, there was no competent protest to be acted upon. The respondents however could not explain why they eventually acted on the protest almost 7 days later when it was too late.
16. They however insist that the 1st interested party was treated fairly and deny any infringements of rights.
17. This court has considered this application, the grounds raised and the response. From the start, this court inquired from the applicant's counsel at the hearing of this application on 10/7/25 whether the reliefs sought were still viable given the lapse of time. This application was filed on the CTS on 6/7/25 which was a Sunday. This court dealt with the certificate on 7/7/25 and directed the respondents to be served at least for them to be given a chance to be heard. The matter was listed for hearing on 9/7/25 when the respondents asked for 24 hours to file a response. The applicant asked for interim orders but there were crucial documents coming from their applications which documents were later filed vide supplementary affidavit the same day.
18. The application therefore was canvassed on 10/7/25 by which time the Regional Games were well underway having began on 8/7/25 as deponed by the applicant. The applicant's counsel conceded that the matches may have already taken place but sought orders to stop the participation of Bwake Boys.
19. This court considered the implications of the orders sought and found that the orders could have far reaching ramifications as it could potentially affect other parties or schools that were taking part in the Regional Games and are not parties to this suit. It would be unfair and travesty of justice for this court to issue orders that have potential of affecting parties who are not named in this suit and have not had a chance to be heard.

In the premises, this court finds that it is belated to delve on the merits of the reliefs sought at this stage as prayers certainly have been overtaken by events. This court cannot issue orders in vain. The application dated 6/7/25 is therefore declined. Costs shall be in the main petition. The applicants only viable option is to seek for damages or other reliefs in the main petition with a view to correcting any ills or wrongs that may have been committed against the students or participants from St Antony Boys School.



DELIVERED, DATED AND SIGNED AT KITALE THIS 14TH DAY OF JULY, 2025.

HON JUSTICE R.K. LIMO

KITALE HIGH COURT

Ruling delivered open court

In the absence of both counsels

