



**Republic v Cabinet Secretary, Ministry of Agriculture Livestock Fisheries  
And Co-Operatives & 2 others; Murigi (Ex parte Applicant) (Judicial  
Review E002 of 2021) [2025] KEHC 10968 (KLR) (24 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 10968 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERUGOYA  
JUDICIAL REVIEW E002 OF 2021  
EM MURIITHI, J  
JULY 24, 2025**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**THE CABINET SECRETARY, MINISTRY OF AGRICULTURE LIVESTOCK  
FISHERIES AND CO-OPERATIVES ..... 1<sup>ST</sup> RESPONDENT**

**THE CHIEF EXECUTIVE OFFICER KENYA VETERINARY  
BOARD ..... 2<sup>ND</sup> RESPONDENT**

**THE HON ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT**

**AND**

**FRANCIS MUTURI MURIGI ..... EX PARTE APPLICANT**

**RULING**

1. The Supreme Court has addressed the doctrine of mootness in the case of Institute for Social Accountability & Another vs. National Assembly & 3 Others (Petition 1 of 2018) [2022] KESC 39 (KLR) as follows:

“A matter is moot when it has no practical significance or when the decision will not have the effect of resolving the controversy affecting the rights of the parties before it. If a decision of a court will have no such practical effect on the rights of the parties, a court will decline to decide on the case. Accordingly, there has to be a live controversy between the parties at all stages of the case when a court is rendering its decision. If after the commencement of



the proceedings, events occur changing the facts or the law which deprive the parties of the pursued outcome or relief then, the matter becomes moot.”

2. This matter appears moot because the judicial review application challenging the degazettement in 2021 was alleged to have targeted an event of election to the 2nd respondent Board which has a life-span of three years and it is already 4 years past.
3. The Record of the court file does not indicate any reason as to why the application was not heard promptly and indeed, as set out in full below, the Record of the Court 5/3/2021 commences on 23/3/2023, a whole two years after the filing of the application shown on the date stamp and registration folder as 5/3/2021:

“ 23.3.23

In the registry

Matter fixed for hearing up on 12.6.2023.

9.4.2024

In the registry

Matter fixed for mention on 29.5.2024

29.5.2024

Before: Hon. Wanyama – Deputy Registrar

Court Assistant: Job

No appearance – Parties

Court: Notice to Show Cause to issue for hearing before Judge on 13.11.2024.

Wanyama – Deputy Registrar

13.11.2024

Before: Hon. R. Mwangi – Judge

Court Assistant: Murage

Mwangi M. – for Ex Parte Applicant

No representation – AG for Respondent

Mwangi: We had filed submissions before Mulwa J. and matter rescheduled for judgment on 12.10.2022.

Court:

1. There are no proceedings indicating the above nor are there any submissions by any party on the file.
2. Parties do re-file submissions.
3. Mention 26.2.2025.  
Notice to Show Cause by Applicants  
R. Mwangi – Judge  
13.11.2024



26.2.2025

Before: Hon. E. M. Muriithi – Judge

Court Assistant: Muchuku

Mr. Mwangi Maina for Ex –Parte

Court:

1. Mention on 8.5.2025.
2. Submissions to be uploaded on the CTS.
3. Notice to issue.

E. M. Muriithi – Judge

26.2.2025

8.5.2025

Before: Hon. E. M. Muriithi – Judge

Court Assistants: Florence/ Muchuku

Mr. Mwangi Maina for Ex – Parte Applicant

Affidavit of service 5.5.25

Submissions dated 10.3.2021

Court: Ruling on 3.7.2025.

E. M. Muriithi – Judge

8.5.2025.”

4. There is no affidavit indicating the updated position on the ground since the conservatory orders, said in the Submissions of 10/3/2021, to have been obtained by consent of the parties on 22/2/2021 (whose record is not on file). There is no response or submissions by the Respondents on the file. Indeed, the matter appear to have been revived by a Notice to Show Cause for want of prosecution served by the Court and fixed for hearing on 13/11/2024.
5. The application dated 22/2/2021 seeks specific order as follows:
  - “1. That there be an enlargement of time within which to file the Substantive motion.
  2. That the Honorable Court be Pleased to issue an Order of Certiorari and Mandamus to remove into this Honorable Court by way of Varying, Quashing and/or vacating the Decision of the Respondents Gazette Notice No. 14 dated 6th January, 2021 and published on 8th January 2021 by the 1st Respondent purporting to revoke the appointment of Dr Christopher H. Wanga (Chairman), Dr Jafred M.A. Kitaa (Vice Chairman), Mr Paul Kariuki Ndungu, Mr Benson Oduor Ameda, Mr Queereenuse Pacho Oluoch.
  3. That a Prohibitory Order be and is hereby issued, prohibiting the 1st Respondent from interfering with the elections of the Kenya Veterinary Board.



4. That the costs of this application be provided for.”
6. The passage of time in an application challenging a certain election cycle must mean that the litigation is affected when the particular cycle lapses.
7. In the Submissions dated 10/3/2021, the applicant sets out the facts as follows:
 

“Background

  1. The Ex-Parte Applicant is a veterinary paraprofessional registered and regulated by the Kenya Veterinary Board (herein after referred to as the Board). That pursuant to the Veterinary Surgeons and Veterinary Para-professionals Act 2011 And Regulations, 2013 the 2nd Respondent conducted elections and the Ex Parte Applicant elected Paul Kariuki Ndungu, Benson Oduor Omeda and Queerrenuse Pacho Oluoch as his representatives to the Board.
  2. After the elections, the Cabinet Secretary for Agriculture and Irrigation ceremoniously appointed and gazetted them for the term of 3 years as members of the Board. They served the interests of the members and the general public meticulously until 6th January, 2021 (about 3 months to the end of their term) when the Cabinet Secretary for Agriculture, Livestock, Fisheries and Co- Operatives illegally and un procedurally purported to revoke their appointment invoking power that the law does not accord him.”
8. The relief sought is also particular to the election cycle of 2021 as shown in the said Submission that:
 

“9. The 1st Respondent had power to revoke the appointment of Mr.Paul Kariuki Ndungu. Mr. Benson Oduor Omeda. Dr.Christopher H. Wanga. Dr. Jafred M. A Kitaa and Mr. Queerrenuse Pacho Oluoch. The 1st Respondent in his Replying affidavit stated that he revoked the appointment policy direction on appointment on the ground that there is a of public servants to the boards of state corporations as independent members despite the fact that the independent members are appointed under the Act Section 4(1) (k) and not 4(1)(f)&(g) who are elected to represent their peers' and therefore not independent.

10. My lady it is worth noting that the policy documents referred to by the I" Respondent attached are dated 30<sup>th</sup> July, 2015 and 5<sup>th</sup> January, 2016. My lady the members whose appointments were revoked were appointed on 20<sup>th</sup> March, 2018. The Ministry headed by the 1st Respondent through the Principal Secretary which information must be available to him requested an advisory from the office of the Attorney General on whether public servants elected could serve as members of the Board under the Act. Vide the Advisory dated 11<sup>th</sup> November, 201 annexed by the, 2nd Respondent to his Replying Affidavit. the Attorney General stated that the board was properly constituted.”
9. Four years later, the application is moot because the grant of the relief sought will have no practical significance as the tenure of the relevant Board of the 2<sup>nd</sup> Respondent is long expired.



## **Orders**

10. Accordingly, for the reasons set out above, the application by Notice of motion dated 21/2/2021 is declined.
11. The Court is not possessed of information as to the failure to bring the application to hearing and determination and, therefore, shall make no order as to costs.
12. File closed.

Order accordingly.

**DATED AND DELIVERED THIS 24<sup>TH</sup> DAY OF JULY 2025.**

**EDWARD M. MURIITHI**

**JUDGE**

Appearances

Mr. Mwangi Kennedy for the Applicant.

