



GKJ & another v Registered Trustees of the Shree Cutch Satsang Swaminayaran Temple Trust & another (Petition E134 of 2023) [2025] KEHC 13142 (KLR) (Constitutional and Human Rights) (25 September 2025) (Judgment)

Neutral citation: [2025] KEHC 13142 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS
PETITION E134 OF 2023
LN MUGAMBI, J
SEPTEMBER 25, 2025**

BETWEEN

GKJ 1ST PETITIONER

MKK 2ND PETITIONER

AND

**REGISTERED TRUSTEES OF THE SHREE CUTCH SATSANG
SWAMMINAYARAN TEMPLE TRUST 1ST RESPONDENT**

SHREE CUTCH SATSANG SWAMINARAYAN ACADEMY .. 2ND RESPONDENT

JUDGMENT

Introduction

1. The Petition dated 26th April 2023 is supported by the 2nd Petitioner's affidavit in support of similar date and a further affidavit dated 28th August 2023.
2. The Petitioners grievance is that the Respondents have in violation of constitution and legitimate expectation refused and/or neglected to release the 1st Petitioner's BTEC Year 2 examination results.
3. The Petitioners thus pray for the following reliefs against the Respondents:
 - a. A declaration be issued that the Respondents conduct and action as complained of in the Petition against the Petitioners are unreasonable, irrational illegal and abuse of administrative power.



- b. A declaration that by the delay, failure and or refusal to release the BTEC year 2 examination results for the 1st Petitioner, the Respondents have violated the Petitioners' right under Article 19, 20, 28 43 and 47 of *the Constitution*.
- c. A declaration that by their actions and/or omissions the Respondents have violated the Petitioners right to fair administrative action guaranteed under Article 47 of *the Constitution* and the *Fair Administrative Action Act*.
- d. An order of judicial review of mandamus be issued compelling the Respondents to release the BTEC year 2 examination results for the 1st Petitioner.
- e. An order of mandatory injunction directing the Respondents to release the 1st Petitioner's BTEC year 2 examination results.
- f. An order that the Petitioners are entitled to compensation quantum of which shall be assessed by the Court for the continued violation of the Petitioner's constitutional and human rights.
- g. Costs and interests thereof of this Petition.
- h. Such further, other and consequential orders as this Court may deem fit to make.

Petitioners' Case

4. The 2nd Petitioner who is the 1st Petitioner's mother deponed that the 1st Petitioner was a student at the 2nd Respondent facility where he sat for the BTEC Year 2 examinations in June 2022.
5. She avers that the 1st Petitioner had formerly been enrolled for Year 1 at Braeburn International School for Level 3 Subsidiary Diploma in the Business Program. She avers that before the 1st Petitioner was enrolled at the 2nd Respondent, she offered all the necessary support to the 2nd Respondent in terms of transfer of the results for Year 1 from Braeburn International School.
6. She depones that she even engaged the Head of the School who informed her that they had tried to reach the 2nd Respondent to transfer the 1st Petitioner's results.
7. The Head of the School however told that they neither received a response nor did the 2nd Respondent make any effort to facilitate the said transfer. She adds that having facilitated the transfer of the 1st Petitioner's results to the 2nd Respondent, it was the 2nd Respondent's obligation to ensure verification and certification of Unit 2, which is one of the mandatory units undertaken at Braeburn.
8. She asserts that the 1st Petitioner having done the examinations at the Respondents center, she expected that they would follow up on the issuance of his results and certificate. She notes that the examination results were expected to be released in August 2022. Equally, she avers that the 1st Petitioner shared his project work for the optional units taken at the 2nd Respondent with the Unit Co-ordinator within the set timelines.
9. The 2nd Petitioner depones that alongside her husband, they have been following up on the 1st Petitioner's results through various emails, phone calls and even Whatsapp messages, to no avail. In addition, she states that they have offered all the necessary support to the Respondents to facilitate the release of the results which has also been futile.
10. Despite their efforts, it is alleged that the Respondents have continued to delay, fail and refuse to provide any sufficient reason why the 1st Petitioner's results have not been released to date necessitating filing of this Petition.



11. She states that the 1st Petitioner disclosed that his classmates had also not received their results. Further that they were requested by the 2nd Respondent to resubmit their BTEC work on 30th November 2022. She depones that she also confirmed this from one of the students' mothers.
12. She avers that the Respondents allege that they forwarded the results to an External Standard Verifier (ESV). She stresses that despite stating so, the Respondents have failed to inform them when the same was done and when the completion will be. She depones that as per the last update communicated to their Counsel on 28th January 2023, the Respondents asserted that they were awaiting the external verification by the ESV. She is aggrieved that there is no progress being made no reasons or justification has been offered by the Respondents.
13. The 2nd Petitioner is concerned that the delay in release of these results will affect the 1st Petitioner's future due to the uncertainty whether he will pursue his university education and if so, when? The Petitioners thus aver that the delay by the Respondents is unreasonable, irrational and unfair as is denying the 1st Petitioner an opportunity to advance his education.
14. The 2nd Petitioner argues that having complied with all the requirements specified by the Respondents, they had a legitimate expectation that they will receive the 1st Petitioner's examination results in a timely manner. As such, she argues that failure by the Respondents to fulfill their obligation has inevitably violated the 1st Petitioner's constitutional rights under Articles 19, 20, 43(1)(f) and 47 of [*the Constitution*](#).

Respondents' Case

15. In response, the Respondents through the 2nd Respondent's Director, Hawa Mjidu, filed a replying affidavit sworn on 12th June 2023. They filed a further affidavit sworn by Ahmed Ibrahim on 12th June 2024.
16. She confirms that the 1st Petitioner was initially enrolled at Braeburn Imani International School where he undertook two units being exploring business and research and plan a marketing campaign. She avers that the 1st Petitioner was successfully assessed and verified by the International Standards Verifier (ISV) for Unit 1.
17. Unit 2 was however pending owing to the 1st Petitioner's failure to complete his project in the Unit. He was nevertheless awarded a 'Pass' grade in the Unit.
18. She depones that the 1st Petitioner enrolled in the 2nd Respondent for Year 2 of the BTEC International Level 3 Subsidiary Diploma for the remaining optional units namely, Unit 3 (Business finance) and Unit 4 (Managing an event). The 1st Petitioner and other students sat for their examination in these Units in June 2022. She informs that they were subsequently assessed and verified for certification after completion of their projects and confirmation of mandatory units by the ESV on 26th June 2022.
19. She depones that as at this date, the 1st Petitioner could not be confirmed for the pending Mandatory Unit by the ESV as he had not completed and handed over his project which he had undertaken at Braeburn. For this reason, he was not assessed and verified for certification. She adds that the 1st Petitioner was also yet to submit his last project for the optional units. He eventually did so on 25th July 2022. By then it is said that the assessments and verifications by the ESV for the academic year 2021 – 2022 had already been completed.
20. In light of this, she asserts that the alleged delay was in fact caused by the 1st Petitioner's failure to submit his projects and the mandatory unit undertaken at Braeburn. As such, she states that this automatically



pushed the 1st Respondent's confirmation, assessment and verification for certification to Term II of the following year. She confirms that the 1st Petitioner's examination results were released and it is the assessment and verification for certification for the mandatory Unit and optional units that was pending.

21. She contends that the 2nd Respondent has all along provided support in the 1st Petitioner's academic journey including initiating transfer of the BTEC Year 1 grades from Braeburn to itself. Moreover, the 2nd Respondent reached out to Pearson U.K. to facilitate allocation of the 1st Petitioner to an ESV. One Jean Button was allocated via an email dated 17th January 2023 which was communicated to the Petitioners through their Counsel on 1st March 2023.
22. She depones that upon the 1st Petitioner's assessment and verification for Unit 2 and the optional units, the 2nd Respondent will thereafter follow up on issuance of the 1st Petitioner's certificate.
23. Consequently, she states that it is evident that the 2nd Respondent complied with its obligations and further offered reasonable, consistent support and guidance to the 1st Petitioner. Considering this, she avers that the Respondents did not violate the 1st Petitioner's constitutional rights as alleged.
24. In the further affidavit, the Respondents depone that the ESV assessed, verified and approved the 1st Petitioner's on Units 1, 2, 3 and 4 of the BTEC International Level 3 Diploma Program. Accordingly, the 1st Subsidiary Diploma Certificate has since been issued to the Petitioners. The Respondents maintain that throughout the 2nd Respondent did not subject the 1st Petitioner to any delay as alleged and thus pray that the Petition be dismissed.

Petitioners' Submissions

25. In the submissions dated 29th November 2024, Senteu & Ndung'u Advocates for the Petitioners, underscored the issues for discussion as: whether the Petition has merit, whether the Respondents violated the 1st Petitioner's rights under Article 19, 20, 28, 43 and 47 of *the Constitution* and whether the Petitioners are entitled to compensation.
26. On the first issue, Counsel submitted that the crux of the Petition is the Respondents failure release the BTEC Year 2 examination results for the 1st Petitioner. Counsel submitted that despite the numerous engagements and follow ups in the process, the Respondents continually failed to release the results without any justification. Counsel argued that due to the Respondents inaction the 1st Petitioner suffered emotional distress and violation of his dignity as he was left behind while his peers moved on to join University.
27. Counsel further submitted that the Respondents actions were unlawful as they are required to issue the examination results within a reasonable time in line with Article 47 of *the Constitution*. Counsel noted that the 1st Petitioner received his final certificate in 2024, being two years from the time he sat for his examinations. In light of this, Counsel submitted that it was evident from the facts of the case that the Respondents had violated the Petitioners constitutional rights.
28. Counsel stated that a merited constitutional petition is one that meets the threshold set out in *Anarita Karimi Njeru v Republic (1979)eKLR* and *Mumo Matemu v Trusted Society of Huma Rights, Alliance & 5 others (2013)eKLR*, which this Petition has satisfied.
29. On the second issue, Counsel submitted that it was not in dispute that the 1st Petitioner was the 2nd Respondent's student and sat for his examinations in July 2022 where the results were set to be issued in August 2022. It was however argued that the 2nd Respondent failed to release the results and eventually



did so after this suit was filed. Counsel emphasized that the 1st Petitioner had a legitimate expectation that the results would be released as scheduled however this expectation was breached.

30. Reliance was placed in *Republic v Kenya Revenue Authority Ex-parte KSC International Limited (In Receivership)* [2016] eKLR where it was held that:

“My view on this issue is informed by the need to achieve certainty in economic sphere. As was appreciated by Nyamu, J in *Keroche Industries Limited vs. Kenya Revenue Authority & 5 Others HCMA No. 743 of 2006* [2007] KLR 240 at 295:

“...legitimate expectation is based not only on ensuring that legitimate expectations by the parties are not thwarted, but on a higher public interest beneficial to all including the respondents, which is, the value or the need of holding authorities to promises and practices they have made and acted on and by so doing upholding responsible public administration. This in turn enables people affected to plan their lives with a sense of certainty, trust, reasonableness and reasonable expectation. An abrupt change as was intended in this case, targeted at a particular company or industry is certainly abuse of power. Certainty of law is a major requirement to business and investment...certainty of law is an important pillar in the concept of the rule of law.”

31. Like dependence was placed in *Communication Commission of Kenya and 5 others v Royal Media Services LTD & 5 others* (2014) eKLR.

32. The Respondents actions are also argued to be offensive to the principle of a fair administrative action as envisaged under Article 47 of *the Constitution*. To buttress this point reliance was placed in *President of the Republic of South Africa and Others vs. South African Rugby Football Union and Others* (CCT16/98) 2000 (1) SA 1 as follows:

“Although the right to just administrative action was entrenched in our Constitution in recognition of the importance of the common law governing administrative review, it is not correct to see Section 33 as a mere codification of common law principles. The right to just administrative action is now entrenched as a constitutional control over the exercise of power. Principles previously established by the common law will be important though not necessarily decisive, in determining not only the scope of Section 33, but also its content. The principal function of Section 33 is to regulate conduct of the public administration, and, in particular, to ensure that where action taken by the administration affects or threatens individuals, the procedures followed comply with the constitutional standards of administrative justice. These standards will, of course, be informed by the common law principles developed over decades...”

33. Equally Counsel submitted that the Respondents actions had violated the 1st Petitioner’s right to human dignity. To buttress this point, Counsel cited the case of *MWK & another v Attorney General & 4 others*; [2017] KEHC 1496 (KLR) where it was observed that:

“Dignity is a founding value of our Constitution. It informs most if not all of the rights in the Bill of Rights and for that reason is of central significance in the limitations analysis. The value of dignity in our constitutional framework cannot therefore be doubted. *the Constitution* asserts dignity to contradict our past in which human dignity was routinely



and cruelly denied. It asserts it too to inform the future, to invest in our democracy respect for the intrinsic worth of all human beings.”

34. To this end, Counsel submitted that the Petitioners are entitled to the relief sought and compensation for violation of their constitutional and human rights. Reliance was placed in *Gitobu Imanyara & 2 others v Attorney General* [2016] eKLR where it was held that:

“the South African Case of *Dendy v University of Witwatersrand, Johannesburg & Others* - [2006] 1 LRC 291 where the Constitutional Court of South Africa held that:

“...The primary purpose of a constitutional remedy was to vindicate guaranteed rights and prevent or deter future infringements. In this context an award of damages was a secondary remedy to be made in only the most appropriate cases.

“...The primary object of constitutional relief was not compensatory but to vindicate the fundamental rights infringement and to deter their future infringement. The test was not what would alleviate the hurt which plaintiff contended for but what was appropriate relief required to protect the rights that had been infringed. Public policy considerations also played a significant role. It was not only the plaintiff’s interest, but the interests of society as a whole that ought as far as possible to be served when considering an appropriate remedy.”

35. Like dependence was also placed in *Peter Mauki Kaijenja & 9 others vs Chief of the Defence Forces & another* [2019] eKLR, *Zipporah Seroney & 5 others v Attorney General* [2020]eKLR, *Jesse Waweru Wahome & 2 others vs Kenya Engineers Registration Board & 8 others* [2012]eKLR, *Lungwe v Maseno Univeristy & another* [2023]KEHC 17752 (KLR) and *Dak v Eldoret College of Professional Studies & another* [2022]KEHC 16750 (KLR).

Respondents’ Submissions

36. The Respondents through Kale Maina and Bundotich Advocates LLP filed submissions dated 12th June 2024 and highlighted the issues for discussion as follows: whether the Petition has merit, whether the Respondents violated the 1st Petitioner’s rights under Article 19, 20, 28, 43 and 47 of *the Constitution*, whether the Respondents issued the final certification to the 1st Petitioner and whether the Petitioners are entitled to compensation.
37. Counsel relying in the Respondents averments in the Replying Affidavit submitted that as per the chronology of events it was clear that the Petitioners had proper knowledge of the delay that the 1st Petitioner had caused by failing to avail his projects in the three units. This inadvertently caused his assessment and verification to be pushed to Term II in the 2022/2023 academic year. On this premise Counsel argued that the Petition lacks merits as it was lodged with a clear non-disclosure of material facts and hence filed prematurely.
38. On the second issue, Counsel submitted that Section 107 of the *Evidence Act* guides that he who alleges must prove. Counsel submitted that in this matter the Petitioners had failed to prove violation of the 1st Petitioner’s constitutional rights and thus not entitled to the reliefs sought. To buttress this point



reliance was placed in *Evans Otieno Nyakwana v. Cleophas Bwana Ongaro*, (2015) eKLR where it was held that:

“As a general proposition the legal burden of proof lies upon the party who invokes the aid of the law and substantially asserts the affirmative of the issue. That is the purport of section 107 (1) of the *Evidence Act* (Chapter 80 of the Law of Kenya), which provides:

"107

(1) Whoever desires any court to give judgment ns to any legal right or liability dependent on the existence of facts to which he asserts must prove that those facts exists... "

39. Comparable dependence was placed in *John Cheruiyot Rono v Attorney General*, Petition No. 536 of 2015.
40. On the next issue Counsel submitted that the Respondents in their further affidavit informed that they had issued the 1st Petitioner his certificate on 12th June 2024. As such, Counsel submitted that Prayers (iv) and (v) had since been overtaken by events. In closing, Counsel submitted that the Petitioners were not entitled to the reliefs sought and thus the Petition ought to be dismissed.

Analysis and Determination

41. It is my considered view that the issues that arise for determination in this matter are:
- i. Whether the Respondents' violated the Petitioner's rights under Article 19, 20, 28, 43 and 47 of *the Constitution*.
 - ii. Whether the Respondents' violated the Petitioners' right to a legitimate expectation.
 - iii. Whether the Petitioners are entitled to the reliefs sought.

Whether the Respondents' violated the Petitioner's rights under Article 19, 20, 28, 43 and 47 of *the Constitution*.

42. This petition is founded on the alleged delay in releasing the examination results of the 1st Petitioner by the 2nd Respondent which the Petitioners complain unreasonable and without justification. Although the results were later released as confirmed in the further Replying affidavit of Ahmed Ibrahim sworn on 12th June, 2024; the Petitioners contend that the respondents acted 2 years behind schedule and only after this suit filed. It was thus submitted that the Respondents actions were unlawful as they were required to release the results by August 2022 yet they released the final certification in 2024 (two years behind schedule) thereby violating Article 47 on reasonable time and legitimate expectation of the Petitioners.
43. The Petitioners Advocate argued that the Respondents failure release the BTEC Year 2 examination results for the 1st Petitioner on schedule despite the numerous follow ups was unfair and it caused the 1st Petitioner emotional distress and violation of his dignity considering that he was left behind by his peers who had moved on to join University.
44. The respondents vehemently denied the accusation that they delayed the release of the 1st Petitioners examination results. They explained that contrary to the allegation that that they had not been following up on transfer of the 1st Petitioner's results from Breaburn Imani International School where he had initially been enrolled for the BTEC International Level 3 Diploma In Business Program, they



had in fact done what all what was necessary from them and established that he had undertaken two units in the immediate former institution, being Unit 1- Exploring Business Unit and Unit 2- Research and Plan a Marketing Campaign. They found out that in Unit 1; the 1st Petitioner was assessed and verified by the International Standards Verifier (ISV) before he had transferred to the 2nd Respondent to continue with the same program.

45. However, the 1st Petitioner had not been assessed and verified by the International Standards Verifier (ISV) for the 2nd Unit because he had not completed his project even though it was indicated he had a ‘PASS’
46. Even though he was registered at the 2nd Respondent for year-2 BTEC International Level 3 Subsidiary Diploma for the optional Unit 3 – Business Finance and Unit 4 – Managing an Event and sat his examination on 26/6/2023; he could not be confirmed because of the uncompleted mandatory unit 2- Research and Plan a Marketing Campaign which the External Standards Verifier had not verified owing to 1st Petitioner failure to submit his project for the said unit while at Breaburn Imani International School.
47. That while at the 2nd Respondent, the 1st Petitioner had also not submitted his last projects for the optional units taken at the 2nd Respondent and only did so on 22/7/2022 which period was already past the confirmation, assessment and verification by the External Standards Verifier for the year 2021-2022. The date of submission can be proved through the email from the 1st Petitioner to BTEC Business Coordinator annexed to the 2nd Respondent replying affidavit.
48. The 2nd Respondent, per the affidavit of Hawa Mjidu, the Director of Academy, at paragraph 11 thus explained:

“That in the circumstances and according to the 2nd Respondents school policy, the 1st Petitioner’s delay in submitting his projects for the optional units enrolled for at the 2nd Respondent and mandatory unit taken at Breaburn Imani International School automatically pushed the 1st Petitioner’s confirmation, assessment and confirmation to term II of the following academic year. This is also confirmed in the correspondence by the External Standards Verifier upon conclusion of the assessment and verification of the class 2021-2022 (Annexed herewith and marked ‘HW-5’ is the copy of the student’s handbook indicating the said position).

49. Indeed, Article 47 (1) provides for fair administrative action by stating thus:

“Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair”

50. In this case, the obligation to demonstrate that the action of the Respondent was unreasonable, unfair and thus unlawful was upon the Petitioners. The *Evidence Act* in this regard provides as follows:

107. Burden of proof

- a. Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.
- b. When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.

108. Incidence of burden



The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

109. Proof of particular fact

The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

51. The Supreme Court in *Odinga & another v Independent Electoral and Boundaries Commission & 2 others; Aukot & another* [2017] KESC 42 (KLR) guided as follows:

“(132) Though the legal and evidential burden of establishing the facts and contentions which will support a party’s case is static and “remains constant through a trial with the plaintiff, however, “depending on the effectiveness with which he or she discharges this, the evidential burden keeps shifting and its position at any time is determined by answering the question as to who would lose if no further evidence were introduced...”

52. In like manner, the Court in *Edward Akong'o Oyugi & 2 others v Attorney General* [2019] KEHC 10211 (KLR) held that:

“73. Whether one likes it or not, the legal burden of proof is consciously or unconsciously the acid test applied when coming to a decision in any particular case. This fact was succinctly put forth by Rajah JA in *Britestone Pte Ltd vs Smith & Associates Far East Ltd*[38] :-

“The court’s decision in every case will depend on whether the party concerned has satisfied the particular burden and standard of proof imposed on him”

74. It is a fundamental principle of law that a litigant bears the burden (or onus) of proof in respect of the propositions he asserts to prove his claim. Court decisions cannot be made in a factual vacuum. To attempt to do so would trivialize *the Constitution* and inevitably result in improper use of judicial authority and discretion. It will be a recipe for ill-considered opinions. The presentation of clear evidence in support of such prejudice is a prerequisite to a favourable determination on the issue under consideration. Court decisions cannot be based upon the unsupported hypotheses.”

53. In the instant case, although the Petitioner complained of delayed release of his BTEC Year-2 Examination results, he has not been able to effectively rebut the 2nd Respondent’s assertion that he submitted his projects on 22/7/22 which was past the deadline date as per the Student Handbook regulations and there had been no evidence that he had sought the extension and his late submission authorized. The delay is thus clearly rooted on the 1st Petitioner’s failure to comply with the stated timelines to complete the academic projects within the scheduled deadline dates as required to enable timeous release of his results, that is, the project relating to the optional units taken at the 2nd Respondent and the project for the mandatory Unit 2 taken previously at Braeburn Imani International School which was the reason why his assessment and verification was pushed to term II, having submitted them past the deadline date in accordance with the school policy as contained in the Student Handbook.



54. The following were the timelines as indicated in Shree Cutch Satsang Swaminarayan Academy BTEC Student Handbook.

“TIMELINES

It is important that the following deadlines are met to ensure the timely release of results and certification.

15 May First sample to the SV

31 May First sample report to have been submitted by the SV 15 June Second sample to the SV (if required)

30 June Second sample report to have been submitted by the SV Deadline for claims for certification

5 July Deadline for claims for certification

Please note, these are the deadline dates the activities should be completed rather than target dates for completion.

To ensure the timely certification and enable the centre to receive support with the accuracy of assessment decisions, Pearson strongly advises that sampling is undertaken at the earliest opportunity.

DEADLINES: You must meet the deadline stated on your assignment brief; failing to meet the stated deadline will mean you are NOT entitled to a re-submission date and the Lead Internal Verifier will be permitted to authorize a submission date.

PROCEDURES FOR AUTHORIZING DEADLINE EXTENSIONS

If a learner has a legitimate reason for not being able to meet a deadline, then they can apply for a deadline extension. This must be in the form of a written request (Assessment Extension Form) which clearly states the reasons with any relevant evidences (e.g.; MC). This request is given to the Lead Internal Verifier who will decide whether the extension should be authorized. Evidence of the request and decision must be saved.”

55. There was no counter evidence offered to challenge the assertion that the submission of the project was done past stated timelines or that any extension had been sought and granted. Consequently, the 2nd Respondent’s action cannot be termed arbitrary or unreasonable given that the 1st Petitioner was the author of his own misfortune by not completing and submitting his academic projects within the timelines given to enable processing of his results on schedule.
56. As for the breach of legitimate expectation, the Court of Appeal in Kenya Revenue Authority v Universal Corporation Ltd [2020] KECA 395 (KLR) explained thus:

“a legitimate expectation arises where there is demonstration that: a decision maker led a party affected by the decision to believe that he would receive or retain a benefit or advantage including a benefit that he/ she/ it would be accorded a hearing before the decision was taken; a promise was made to a party by a public body that it would act or not act in a certain manner and which promise was made within the confines of the law; the public authority whether by practice or promise committed itself to the legitimate expectation; the representation was clear and unambiguous; the claimant fell within the class of person(s) who were entitled to rely upon the representation(s) made by the public authority; the representation was reasonable and that the claimant relied upon it to its detriment; there



was no overriding interest arising from the decision maker's action and representation; the representation was fair in the circumstances of the particular case and that the same arose from actual or ostensible authority of the affected public authority to make the same; the promise related either to a past or future benefit; its main purpose is to challenge the decision maker to demonstrate regularity, predictability and certainty in their dealings with persons likely to be affected by their action in the discharge of their public mandate.”

57. In the instant case, there was no evidence that the 2nd Respondent ever represented to the Petitioners that the 1st Petitioner it would be in a position get his year 2 BTEC examination results against the policy in place nor was there any evidence that it had been departing from that policy.
58. Consequently, it is the finding of this Court that the Petition is founded on quick sand. The Petitioners were unable substantiate the fact of arbitrariness on the part of the Respondents as it is apparent that delay in releasing the examination results is traceable to the 1st Petitioner's failure to meet the deadlines for delivery of the academic projects and not the inaction of the 2nd Respondent. The instant Petition cannot therefore stand and must inevitably collapse.
59. It is hereby dismissed. Each Party shall bear its own costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 25TH DAY OF SEPTEMBER, 2025.

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L N MUGAMBI

JUDGE

