



**Republic v Kenya Hockey Union; Lakers Hockey Club (Kenya) & another (Exparte) (Application E004 of 2024) [2024] KEHC 5299 (KLR) (Judicial Review) (3 May 2024) (Judgment)**

Neutral citation: [2024] KEHC 5299 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
JUDICIAL REVIEW  
APPLICATION E004 OF 2024**

**J NGAAH, J**

**MAY 3, 2024**

**BETWEEN**

**REIPBLC ..... APPLICANT**

**AND**

**KENYA HOCKEY UNION ..... RESPONDENT**

**AND**

**LAKERS HOCKEY CLUB (KENYA) ..... EXPARTE**

**ROBERT AMOS OKETCH ..... EXPARTE**

**JUDGMENT**

1. The applicants’ application is a motion dated 12 January 2024 expressed to be brought under section 8(2) and 9 of the *Law Reform Act*, cap. 26 and Order 53 rule 1(1), (2), 3 and rule 4 of the Civil Procedure Rules. It seeks judicial review reliefs in the following terms:

“2. An order of prohibition restraining the 1<sup>st</sup> respondent from Implementing the decision of the African Hockey Federation dated 7th DECEMBER 2023 issuing sanctions and bans on the applicants, its official and players from participation in any Hockey tournament locally and pending the hearing and determination of the Appeal lodged at the African Hockey Federation on the 4th January 2024.

3. An order of certiorari to quash all the decisions of the 1st respondent implementing the decision on the African Hockey Federation issuing sanctions and bans on the Applicant from participating in any local tournament, and further paying hefty fines, pending the hearing and



determination of the appeal filed at the African Hockey Federation on the 4th January 2024.

4. An order of mandamus against the 1st respondent compelling them to act in accordance with the laws governing the union and *the Constitution* of Kenya and allow the applicants to continue participating in the local tournament until the appeal filed at the African Hockey Federation on the 4th January 2024 is heard and fully determined.
5. An order of prohibition directed to the 1st respondent to act in accordance with the laws governing the union and *the Constitution* of Kenya and allow the applicants to continue participating in the local tournament until the appeal filed at the African Hockey Federation on the 4th January 2024 is heard and fully determined.”

**The applicants have also asked for an order on costs.**

1. The motion is based on a statutory statement dated 5 January 2024 and an affidavit sworn on even date by Robert Amos Oketch verifying the facts relied upon. Mr. Oketch has sworn that he is a citizen of this country and that apart from being the 2<sup>nd</sup> applicant, he is also the patron of the 1<sup>st</sup> applicant hockey team.
2. I gather from his affidavit that on 7 December 2023, the 1<sup>st</sup> applicant was banned, apparently, from hockey activities by the African Hockey Federation which also imposed some sanctions upon the applicants. It is not quite clear from Mr. Oketch’s affidavit but he appears to say that the decision to ban and sanction his club was brought to his attention on 22 December 2023. He complains that the club was banned and sanctioned without any sort of hearing. An appeal has since been filed to the African Hockey Federation and served upon the respondent.
3. The respondent filed grounds of objection dated 22 January 2024 in which it pleaded that the applicant’s claim is untenable as the decision complained of was not made by the respondent and was made by the African Hockey Federation which is itself outside the jurisdiction of this Honourable Court. The respondent also objects to the application on the ground that the applicants have not exhausted the internal dispute resolution mechanisms before lodging this application. Finally, it is pleaded that the issues in question arise from sports and under the *Sports Act*, 2013 this matter should have been raised at the Sports Disputes Tribunal and not before this Honourable Court.
4. Besides the grounds of objection, the respondent also filed a replying affidavit. It is sworn by Nashon Randiak who swears that he is the President of the Kenya Hockey Union (KHU). According to Mr. Randiak, the applicant club was scheduled to take part in the Africa Cup for Club Championship, apparently in hockey, at Blantyre in Malawi. The tournament took place from 18 November 2023 to 26 November 2023. Kenya was represented in this tournament by the 1<sup>st</sup> applicant, Western Jaguars Hockey Club and Blazers Hockey Club. The tournament was organized by and held under the auspices of the African Hockey Federation (AfHF) which controls the sport of hockey in Africa and to which body all national hockey organizations in Africa are subordinate. At the apex is the Federale Internationale Hockey (FIH) also known as the International Hockey Federation (IHF).
5. According to *the Constitution* of KHU, all clubs in Kenya participate in hockey activities under the control of FIH and its regional subsidiaries. In Africa, the subsidiary is the AfHF. The regional subsidiaries are bound by the statutes of AfHF and FIH and the rules of these two sports bodies.



6. As far as the tournament in question is concerned, all the Kenyan clubs including the 1<sup>st</sup> applicant, presented their team lists to the executive committee for consideration to participate in the tournament on 18 October, 2023. The respondent forwarded the lists as received to AfHF on 21 October, 2023. The tournament kicked off on 20 November 2023. On the penultimate day of the tournament, a complaint was lodged to the tournament organizers by one of the participating teams regarding eligibility of some players that Lakers Hockey Club had presented to the tournament organizers.
7. After an investigation on the complaint, the tournament organizers from AfHF deliberated and made a decision to disqualify Lakers Hockey Club from further participation in the tournament. The decision was communicated to the team management of Lakers Hockey Club on the eve of the final. The following morning, Lakers Hockey Club players and officials, in defiance of the disqualification went to the pitch ostensibly to forcefully play in the final even though the final was to be played by Ghana Revenue Authority versus Blazers Hockey Club from Kenya. Despite numerous requests by the organisers to Lakers Hockey Club players and officials to leave the pitch to enable the final to be played, they adamantly refused to leave the pitch thereby causing chaos and interfering with the staging of the final. This was deemed a gross misconduct in addition to the previous incident where the applicants had been found guilty of fielding ineligible players.
8. Upon conclusion of the tournament, the respondent received an email from AfHF on 8 December 2023 stating the actions taken against Lakers Hockey Club for their misconduct and requested that the club be informed accordingly. The respondent's obligation as a national association, was to carry out the instructions and inform the applicant of the sanctions meted out in Malawi. To that end, the respondent summoned the applicant to a meeting on 22 December 2023 when the message from AfHF was relayed to the applicants. Contrary to the applicant's contentions, the respondent did not conduct any hearing on the applicant's activities in Blantyre, Malawi. In any case, the applicants have lodged an appeal against the decision of AfHF at its headquarters at Cairo, Egypt.
9. In considering the applicant's application, my attention has been drawn to paragraph 6 of the affidavit verifying the facts relied upon where Mr. Oketch has sworn as follows:
  - “6. That we have since filed our appeal to the African Hockey Federation and served the same to the Kenya Hockey Union on the 4<sup>th</sup> December 2023.”
10. The appeal which the applicants have filed is an appeal against the impugned decision by the African Hockey Federation. There is no evidence of any other decision that may have been made by the respondent apart from discharging its duty of communicating to the applicant the African Hockey Federation's decision.
11. Taking the applicants by their own word, it is apparent the dispute which they have attempted to escalate to this Honourable Court is subject to internal dispute resolution mechanisms including appeal. They have embraced those mechanisms and appealed. In these circumstances, there is no reason why they found it necessary to file these proceedings when their appeal is pending determination at the African Hockey Federation. Section 9(2) of the *Fair Administrative Action Act*, 2015 prohibits this Honourable Court from entertaining such proceedings. For better understanding, it is necessary that I reproduce the entire section 9 here; it reads as follows:

9. Procedure for judicial review.

- (1) Subject to subsection (2), a person who is aggrieved by an administrative



action may, without unreasonable delay, apply for judicial review of any administrative action to the High Court or to a subordinate court upon which original jurisdiction is conferred pursuant to Article 22(3) of *the Constitution*.

- (2) The High Court or a subordinate court under subsection (1) shall not review an administrative action or decision under this Act unless the mechanisms including internal mechanisms for appeal or review and all remedies available under any other written law are first exhausted.
- (3) The High Court or a subordinate Court shall, if it is not satisfied that the remedies referred to in subsection (2) have been exhausted, direct that applicant shall first exhaust such remedy before instituting proceedings under sub-section (1).
- (4) Notwithstanding subsection (3), the High Court or a subordinate Court may, in exceptional circumstances and on application by the applicant, exempt such person from the obligation to exhaust any remedy if the court considers such exemption to be in the interest of justice.
- (5) A person aggrieved by an order made in the exercise of the judicial review jurisdiction of the High Court may appeal to the Court of Appeal. (Emphasis added).

12. This provision of the law is largely self-explanatory and requires no further debate. All I can do now is to invoke section 9(3) of the Act and order that the applicants first exhaust internal mechanisms for appeal or review and all remedies available to them before moving this Honourable Court for judicial review reliefs.

In the meantime, their application is misconceived and an abuse of the process of court. It is hereby struck out with costs to the respondent. It is so ordered.

Signed, dated and delivered on 3 May 2024

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Ngaah Jairus

**JUDGE**

**2|JR. NO. E004 OF 2024: JUDGMENT**

