



**Patnic Insurance Agency v National Health Insurance Fund Management & 4 others
(Constitutional Petition E015 of 2022) [2024] KEHC 8429 (KLR) (10 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 8429 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CONSTITUTIONAL PETITION E015 OF 2022
DO CHEPKWONY, J
JULY 10, 2024**

BETWEEN

PATNIC INSURANCE AGENCY PETITIONER

AND

**THE NATIONAL HEALTH INSURANCE FUND MANAGEMENT 1ST
RESPONDENT**

CABINET SECRETARY MINISTRY OF HEALTH 2ND RESPONDENT

ATTORNEY GENERAL 3RD RESPONDENT

NATIONAL ASSEMBLY 4TH RESPONDENT

SENATE 5TH RESPONDENT

RULING

1. This the matter came up for Mention on 26th June, 2024 and there was no representation on the part of the Petitioner, Mr. Mbogo Counsel for the 1st Respondent then stated that it would be difficult to proceed with the Petition for the reason that it has been overtaken by events since the NHIF Board is no longer in existence and the law upon which the Petition is based has since been repealed.
2. According to the 1st Respondent, the Petitioners were challenging the amendments that were done to the National Hospital Insurance Fund Act No. 9 of 1998 more specifically the amendment of Sections 15,22 and 23 of the Act. He submitted that by dint of Section 24 of the Social Health Insurance Fund Act the NHIF Act was repealed in its entirety and as such, it is no longer in existence. He argues that since Social Health Insurance Fund Act came into operation under Gazette Notice No. 194 of 20th November 2023, the substance of the petition is no longer in existence and thus he same should be struck out.
3. Ms Akona who was holding brief for Mr. Mwendwa, counsel for the 4th Respondent’s reiterated the sentiments of the 1st Respondent’s counsel and argued that since the NHIF Act was repealed by the



Social Health Insurance Fund Act, the Petition had been rendered moot. She further argued that the Petitioner's Counsel has not been present in court for the past two mentions hence they must be aware of the status of the Petition and is therefore no longer interested in having the Petition prosecuted. She has urged that the Petition be dismissed for being moot.

4. Ms Mukele, Counsel for the 5th Respondent concurred with the sentiments of his colleagues and sought for the Petition to be dismissed since it had been overtaken by events.

Analysis and Determination

5. On the face of the Petition, the Petitioner is questioning the Constitutional validity of Sections 15, 22 and 23 of the National Health Insurance Fund (Amendment) Act No. 9 of 1998.
6. However, the court confirms the claim by counsel for 1st Respondent under Section 24 of the Social Health Insurance Act of 2023, the *National Hospital Insurance Act* was repealed in its entirety, and the said *Social Health Insurance Fund* came into operation vide gazette Notice No.194 of 2023. Given that the law is no longer in existence, under which the Petition is premised, the Petition cannot survive and the same is therefore struck out for being moot.

It is so ordered.

**RULING DATED, SIGNED AND DELIVERED AT KIAMBU VIA
ELECTRONIC MAIL THIS ...10TH ...DAY OF ...JULY..., 2024.**

**D. O. CHEPKWONY
JUDGE**

