Kariithi v Kenyatta University Senate & 2 others (Constitutional Petition E270 of 2021) [2023] KEHC 22346 (KLR) (Constitutional and Human Rights) (21 September 2023) (Judgment)

Neutral citation: [2023] KEHC 22346 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

CONSTITUTIONAL AND HUMAN RIGHTS

CONSTITUTIONAL PETITION E270 OF 2021

AC MRIMA, J

SEPTEMBER 21, 2023

BETWEEN

KEVIN KIMONDO KARIITHI ..... PETITIONER

AND

THE KENYATTA UNIVERSITY SENATE ..... 1ST RESPONDENT

THE VICE CHANCELLOR KENYATTA UNIVERSITY ..... 2ND RESPONDENT

KENYATTA UNIVERSITY ..... 3RD RESPONDENT

JUDGMENT

Background:

1. Upon fulfilling the academic requirements for the award of Bachelor's Degree in Law, Kevin Kimondo Kariithi, the Petitioner herein, applied for graduation at Kenyatta University, the 3rd Respondent herein.

2. On 10th May 2021, the 3rd Respondent enlisted the Petitioner in its online provisional graduation list.

3. However, on 23rd June 2021, The Kenyatta University Senate, 1st Respondent herein, called the Petitioner requesting him to attend a disciplinary hearing the next day, the 24th June 2021.

4. Upon honouring the summons, the Petitioner was given two letters. One was for suspension. It was dated 10th June 2021. The second one was invitation for disciplinary committee hearing scheduled for that same day, 24th June 2021. It was dated 15th June 2021.

5. The Petitioner attended the disciplinary committee hearing where he was implicated for exam irregularity that happened in December 2019 in respect of the examination paper for Public International Law.

6. The Petitioner denied and dissociated himself with the irregularity but nonetheless, he was suspended and consequently excluded from the graduation that was set to take place on 23rd July 2021.

7. On 28th July 2021, the Petitioner received a letter signed by the Acting Registrar Academics, discontinuing him from studying at the 3rd Respondent with immediate effect.

8. The Petitioner was aggrieved by the process leading to his discontinuation, hence, the instant Petition.

9. The Respondents vehemently challenged the Petition.

The Petition:

10. Through the Amended Petition dated 10th September 2021 supported by the Supplementary Affidavit of Kevin Kimondo Kariithi deposed to on a similar date, the Petitioner sought to vindicate violation of his constitutional rights.

11. Based on the same set of facts, the Petitioner also filed an application by way of a Notice of Motion dated 13th July 2021 and supported by his Affidavit deposed to on a similar date seeking various interlocutory reliefs.

12. In the main, the Petitioner pleaded that the Students Disciplinary Committee failed to consider his written and oral testimony where he denied involvement in the exam irregularity but instead, relied entirely on unproven, inconsistent and uncorroborated oral statement of Brian Rono, a fellow student.

13. To demonstrate the foregoing, the Petitioner pleaded that Committee that investigated the exam irregularity interviewed 24 students and 4 staff members.

14. The Petitioner posited that he was linked to the irregularity by Brian Rono who as per the report dated 21st January 2021 indicated that he (Brian Rono) received the leaked revision paper via telegram from Kent Walunya, the night before the exam who at the time was with the Petitioner.

15. The Petitioner pleaded further that in the Report, Brian Rono stated that he was informed by the Petitioner that he had sourced the leaked paper from Main Campus.

16. The Petitioner faulted the Report by stating that it would be expected that before passing a conviction, the Respondents ought to have a basis that the testimony of Brian Rono was corroborated by that of Kent Wafula and or at least a member of staff from whom the examination paper was sourced from.

17. The Petitioner pleaded that contrary to the foregoing, Kent Wafula did not confirm being with him the night before the exam and when it was being sent to Brian Rono via telegram.

18. He posited that it was Kent Wafula's statement that he met him the morning before the examination, revised together and denied revising the leaked examination paper.

19. It was the Petitioner's further position that not a single member of the staff at the Main Campus confirmed or adduced evidence directly or remotely linking the Petitioner as having sourced the examination paper.

20. Based on the foregoing, the Petitioner pleaded that his discontinuation from the university hinged solely on the allegations by Brian Rono was devoid of principles of natural justice.

21. It was his case that the disciplinary process lacked an appeal mechanism since upon receiving the discontinuation letter, he appealed to the Chairman of the University Senate but never received a response despite a follow up letter.

22. In a distinct line of argument, the Petitioner pleaded that the alleged examination irregularity happened one and a half years ago and the examination was re-administered and he passed it.

23. It was his case, therefore, that to revisit the irregularity one and a half years later and within one month to graduation was a demonstration of mala fides on the part of the Respondents.

24. He pleaded further that he had been subjected to double jeopardy by being punished twice (re-sitting the paper and being discontinued from study) for the same offence.

25. In demonstrating unconstitutionality of the Respondents' conduct, the Petitioner pleaded that despite the entire class being attributable to the examination irregularity, he was unfairly target in violation of Article 27 of *the Constitution* that forbids discrimination.

26. The Petitioner pleaded that his discontinuation and barring him from graduating was in violation of his right to education provided for under Article 43 of *the Constitution*.

27. The Petitioner averred further that his legitimate expectation of graduating after four years of study, having cleared fees, attended lectures, passed all examinations and received a graduating pass was violated.

28. Further, it was his case that subjecting him to a long and drawn-out disciplinary process without evidence breached the rules of natural justice in violation of Article 47 of *the Constitution* which guarantees fair administrative action.

29. The Petitioner also asserted that the conduct of the hearing was devoid of the principles of fair hearing as required under Article 50 of *the Constitution* since the Students Disciplinary Committee was not impartial and that it ignored his testimony and purported to accept the of Brian Rono and Kent Walunya which were contradictory.

30. On the foregoing legal and factual backdrop, the Petitioner prayed for the following reliefs in the application: -

    1. Spent

    2. Pending the inter partes hearing of this application, an interim order be and is hereby issued directing the Respondents to include the Petitioner's name in the graduation list of 23rd July 2021.

    3. Pending inter partes hearing and determination of the Petition, the 3rd Respondent be and is hereby ordered to include the Petitioner in the graduation list of 23rd July 2021.

    4. Pending hearing of the Petition, the Respondents herein be and is hereby ordered to avail reasons for the indefinite suspension and non-inclusion of the Petitioner in the provisional list to the 3rd Respondent's 49th graduation ceremony scheduled for 23rd July 2021.

    5. Without prejudice to prayers No. 2 and 3 hereinabove and in the alternative, pending the inter partes hearing and determination of the Petition, a conservatory Order be and is hereby issued staying the upcoming graduation ceremony of the 3rd Respondent University scheduled for 23rd July 2021.

31. In the main Petition, he sought the following prayers: -

    1. A declaration do issue that the Respondents' actions of discontinuing the Petitioner from the University violated the Petitioner's rights to non-discrimination, human dignity, freedom from

psychological torture and access to education and fair administrative action contrary to Articles 27, 28, 29, 43 dan 47 of *the Constitution*.

2. An order be and is hereby issued to bring into this Court and quash the decision made by the Respondents discontinuing the Petitioner from the University.

3. An order be and is hereby issued compelling the Respondents to reinstate the Petitioner to the university and in particular to include the Petitioner int eh next graduation list subject to payment of the requisite fees.

4. Costs of the Petition be borne by the Respondents.

5. Or that such other Order(s) as this Honourable Court shall deem fit.

The Oral Evidence:

32. During examination-in-chief, the Petitioner adopted his case as in the Amended Petition and Affidavit and produced exhibits.

33. During cross-examination, Mr. Thuo, Learned Counsel for the Respondents, referred the Petitioner to Exhibit No. 3 and Exhibit No. 4, the application for graduation and the provisional list of graduands respectively, and made the argument that the enlisting the Petitioner in the online platform and in the provisional list of was not final.

34. The Petitioner testified that the University, through the Students' Disciplinary Committee, has the power to discipline students through suspension on the grounds of examination irregularity as provided for in the University Handbook.

35. While speaking to the conduct of the hearing of 24th June 2021, the Petitioner testified that upon invitation, he did not respond to the text and during the hearing he admitted not requesting for an adjournment.

36. He admitted that he defended himself during the hearing both orally and in writing but conceded that he did not avail to the Court a copy of the written defence and neither had he written to the University to be furnished with that document.

37. The Petitioner conceded further that there was a response by the Respondents addressed to his Advocates in respect to his appeal against the decision of the Students Disciplinary Committee and was scheduled to appear before the Appeals Board.

38. During re-examination, the Petitioner testified that he decided to proceed with the hearing on 24th June 2021 because it had taken very long for the disciplinary committee to convene.

The Submissions:

39. The Petitioner embellished his case through written submissions and further submissions dated 26th May 2021 and 13th June 2022 respectively.

40. On the issue of violation of the right to fair administrative action, the Petitioner submitted that the failure to give to adequate notice of the nature of the reasons was contrary to section 4(3)(a) of the Fair Administrative Actions Act.

41. The decision in Republic -vs- Kenya School of Law & Anther; Attorney General Ex Parte Jacob Omondi Obillo was referred to where it was observed thus: -

> In all cases where a person's right or fundamental freedom is likely to be affected by an administrative decision, the administrator must give the person affected by the decision prior and adequate notice of the nature and reasons for the proposed administrative action.

42. The Petitioner decried short notice that deprived him of the time to respond to the administrative action.

43. To further demonstrate violation of his right to fair administrative action, he submitted that the fact that he was denied the right to cross-examine witnesses, the process could not stand the test of Article 47 of *the Constitution*.

44. The Petitioner drew the Court's attention to the decision in Republic -vs- Kenyatta University Ex-Parte Njoroge Humphrey Mbuthi (2015) eKLR where it was stated that a person is to be afforded an opportunity to cross examine a witness giving adverse evidence.

45. On a different facet of fair administrative action, the Petitioner submitted that he was not accorded an expeditious administrative action since the alleged irregularity happened in the year 2019 and the investigation committee completed and submitted its report in December 2020.

46. It was submitted that instead of the Respondents moving swiftly to implement the recommendations of the Committee, they took disciplinary action after the Petitioner had sat and passed the re-administered examination.

47. On the claim of violation of his right to legitimate expectation, the Petitioner submitted that the Respondents through their conduct created a legitimate expectation after he passed the exam that was re-administered and that the issue of exam irregularity would not be revisited.

48. In making that case that the Respondent's actions to discontinue the Petitioner from the university was unreasonable, it was argued that the investigation report contained a report by the Director Security Services on the findings of the investigation.

49. It was the Petitioner's case that the crucial findings of the investigation in the Memo of 2nd November 2020 and that of 5th November 2020 prepared by one Philip Ndwiga were not signed and could not be owned by the purported author and as such could not form evidence before the Court.

50. In urging the Court to grant the orders prayed for, the Petitioner submitted that the decision of the Respondent was tainted with illegality, irrationality and procedural impropriety. To that end, the decision in Republic -vs- University of Nairobi & 3 Others Exparte Patrick Best Oyeso 2018 (eKLR) was relied upon.

The Respondents' case:

51. The Respondents opposed the application and the Petition through the Replying Affidavit and Further Affidavit of Prof. Paul Okemo, the Deputy Vice Chancellor (Academic) of the 3rd Respondent both deposed to on 19th July 2021 and the 2nd Further Affidavit of Dr. Bernard Kivunge, the Acting Registrar Academic, deposed to on 17th November 2021.

52. He deposed that the Petitioner was suspected to have participated in examination irregularities and after due consideration, the results of all students were cancelled and it was agreed that the students would re-sit the examination which did not mean that the culprits would go scot-free.

53. It was his deposition that while investigation was ongoing, Covid-19 pandemic struck leading to abrupt closure of the University on 17th March 2020 leading to suspension of many activities in the school including students' disciplinary hearings.

54. It was his deposition that having been satisfied that there was prima facie evidence that the Petitioner was involved in the examination irregularities, on 10th June 2021, the 3rd Respondent issued a letter of suspension pending his appearance before the Students Disciplinary Committee.

55. He deposed that on 15th June 2021 the Petitioner was issued with a letter inviting him to appear before the Students Disciplinary Committee scheduled for 24th June 2021.

56. It was his further case that the Petitioner did not complain about the conduct of the hearing which usually includes two students' representatives for objectivity and fairness.

57. He deposed that due to the many cases, it takes long to determine and communicate decision to affected students. He maintained that the 3rd Respondent does not delay such decisions unreasonably.

58. In the further Affidavit, it was his case that the Committee that was appointed to investigate the matter acted swiftly. He reiterated the impact of the Covid-19 Pandemic on the delay.

59. It further was his case that this Court is not well equipped to delve into matters of students' discipline of the 3rd Respondent.

60. He deposed further that the fact that the Petitioner was suspended on 10th June 2021 and on 15th June 2021 he was invited to attend disciplinary hearing on 24th June 2021, then the Respondent could not be faulted for unreasonable delay.

61. In the 2nd Further Affidavit, Dr. Kivunge largely reiterated the depositions of Prof. Okemo in rejecting the claim of unreasonable delay.

62. It was his case that he sat in the disciplinary committee and the Petitioner did not complain about the alleged insufficiency of notice but instead told his side of the story.

63. He deposed that prior to the disciplinary hearing, the Petitioner appeared before an investigating committee and was thus aware of the issues that confronted him before he was invited to attend the disciplinary hearing.

64. It was his case that upon hearing the Petitioner, the Committee decided to discontinue him from his studies and communicated to him through the 3rd Respondent's letter dated 28th July 2021.

65. In view of the pendency of the Petitioner's appeal to the Student's Appeal Board, Dr. Kivunge deposed that the Petition is premature the internal dispute resolution mechanisms.

The Oral Evidence:

66. In his evidence-in-chief, Dr. Kivunge adopted the Affidavit of Prof. Okemo and produced the Memo dated 21st December 2020, Report on irregularities dated 22nd December 2020, Memo dated 3rd May 2021, Memo dated 27th May 2021, Students handbook, Email dated 6th October 2021 and letter dated 5th October 2021.

67. In cross-examination, Dr. Kivunge acknowledged that the internal memo dated 2nd November 2020 done by Philip Ndwiga, the Director of Security Services was not signed.

68. It was his evidence further that he was not in any way involved in the investigations since he wasn't the Registrar at that point in time but, sat in the disciplinary committee.

69. He testified further that the discovery of the evidence was in January 2020 and investigations were started and a preliminary report generated by February 2020.

70. It was his evidence that the request by the Investigation Committee for additional time was made but conceded that the evidence to that effect was not in Court.

71. Speaking to the delay in processing the disciplinary cases, it was his evidence that the Committee had other duties and that it happened during Covid-19 Pandemic.

72. However, he admitted that re-administration of the examination was in January 2021 during Covid-19 period.

73. He testified further that the University did not allow the Committee to conduct online disciplinary proceedings.

74. As to culpability of the Petitioner, it was his evidence that page 4 of the report has category of students and their involvement. He stated that category A has one Esther Watende and Brian Rono who mentioned the Petitioner.

75. It was his evidence that a composite reading of what the students stated put the Petitioner in the picture.

76. The witness however admitted that apart from what Brian Rono said about examinations from main campus given to the Petitioner, there was not any other evidence to corroborate the same since the staff disciplinary report was not in Court.

77. As to the short notice the Petitioner was given in respect to the hearing, Dr. Kivunge admitted that whereas they called the Petitioner a week before he was to attend the disciplinary committee, that call log was not available in evidence and there was no affidavit by the person who made the call.

78. As to the conduct of the disciplinary hearing, it was his evidence that Petitioner did not ask for time to prepare, otherwise, the Committee would have given him time.

79. He testified further that the Chair of the Committee always asks if one is ready to proceed with the case.

80. It was his evidence that the hearing had minutes taken but not provided as evidence in this Court.

81. As regards the Petitioner's appeal, it was his testimony that it had been started but stopped due to the Court process.

82. It was his evidence that the 3rd Respondent has not been able to proceed with the appeal as the Petitioner's file is always out for the Court process.

The Submissions:

83. In its written submissions dated 10th June 2022, the Respondent identified the issues for determination as; whether the 3rd Respondent has a right to discontinue the Petitioner; whether the 3rd Respondent's disciplinary process was fair; the limited role of the Court in matters involving internal dispute resolution mechanisms and whether the Petitioner's legitimate expectation were violated.

84. On the first issue, the Respondents submitted that the 3rd Respondent has an obligation to ensure that individuals who graduate from its institution are of the standard expected from them. The decision

in Daniel Ingida Aluvaala & Another -vs- Council of Legal Education & Another (2017) eKLR was referred to where it was observed;

> Power to maintain standards in the course of studies confers authority not merely to prescribe minimum qualification for admission, courses of study, and minimum attendance at an institution... but also authority to refuse to grant a degree, diploma, certificate to the academic distinction to students who fail to satisfy the examiner's assessment at the final examination.

85. It was the Respondents submission, therefore, that the Petitioner's right to education was not infringed upon since the 3rd Respondent found him to have gone against the rules contained in its Student Information Handbook.

86. In submitting on fairness of the hearing process, the Respondents argued that they could not be blamed for the Petitioner's choice to go for his suspension letter and the letter inviting him to the disciplinary hearing on the same date of the hearing.

87. It was further their case that the 3rd Respondent ensured that the Petitioner was informed of his suspension.

88. The Respondents relied on Waweru Edwin Thini -vs- University of Nairobi (2020) eKLR to justify fairness in the process despite the failure of the Petitioner too cross-examine. In the case it was observed as follows: -

> It is averred that the Petitioner did not seek adjournment, but opted to proceed with the case without raising any issues. From the above, I find the Petitioner on his own volition proceeded within the hearing and he had a fair trial.

89. It was further submitted that under Section 63(2) of the *Universities Act*, the Respondent is not bound by the rules of evidence as set out in the *Evidence Act*.

90. On the issue regarding the limited role of this Court, the Respondent submitted that it is only the Students Disciplinary Committee that is well positioned to deal with matters concerning student discipline at the university.

91. Support to the foregoing was sourced from the decision in Nkatha Joy Faridah -vs- Kenyatta University (2016) eKLR where it was observed that: -

> The Court must be loath to interfere with any decision of such institution unless it is evident that it was undertaken outside of the legal provisions and contrary to constitutional provisions.

92. Based on the foregoing, the Respondents submitted that this Court cannot be asked to make a finding as to whether the Petitioner was involved in the irregularity since such role is reserved for the 3rd Respondent's internal organs.

93. In rebutting the claim of violation of the Petitioner's right to legitimate expectation, the Respondents submitted that even though the Petitioner resat the subject examination and passed, it did not absolve him from earlier malpractices.

94. It was their case that it would not have been possible or reasonable to stop the Petitioner or any other student from resitting the examination before students' disciplinary hearings were conducted.

95. The Respondents referred to the Supreme Court in Communications Commission of Kenya & 5 Others -vs- Royal Media Services & 5 others (2014) eKLR where the Apex Court stated thus: -

...For an expectation to be legitimate, it must be founded upon a promise or practice by the public authority, that is said to be bound to fulfil the expectation.

96. It was the Respondent's case that there is no action they took that would bind them to any expectation that the Petitioner had to graduate.

97. In conclusion, the Respondents submitted that the entire Amended Petition is unfounded and the reliefs sought by the Petitioner are beyond the province of this Court. They urged that the Petition be dismissed with costs.

Analysis:

98. From the foregoing arguments and counter-arguments, the pleadings and the decisions referred to, two broad issues emerge for determination. They are the following: -

a. Whether the Petition raises any constitutional issues and if so, whether the Petition is barred by the principle of exhaustion.

b. In the event the Petition survives issue (a) above, whether the Petitioner's expulsion from the University contravened Articles 47 and 50(1) of *the Constitution* for want of fair trial and fair administrative procedures.

99. This Court will deal with the above issues in seriatim.

(a).Whether the Petition raises any constitutional issues and if so, whether the Petition is barred by the principle of exhaustion:

100. This issue comprises of two sub-issues being whether the Petition raises any constitutional issues and, if so, whether the Petition is barred by the principle of exhaustion.

101. On the first sub-issue, what constitutes a constitutional issue was considered at length in Nairobi High Court Constitutional Petition No. E406 of 2020 Renita Choda vs. Kirit Kapur Rajput (2021) eKLR where it was stated as follows: -

33. Long before the downing of the new constitutional dispensation under *the Constitution* of Kenya 2010, Courts have variously emphasized the need for clarity of pleadings. I echo the position.

34. *The Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 (commonly referred to as 'the Mutunga Rules') also provide for the contents of Petitions. Rule 10 thereof provides seven key contents of a Petition as follows: -

Form of petition.

10.

(1) An application under rule 4 shall be made by way of a petition as set out in Form A in the Schedule with such alterations as may be necessary.

(2) The petition shall disclose the following—

(a) the petitioner's name and address;

(b) the facts relied upon;

(c) the constitutional provision violated;

(d) the nature of injury caused or likely to be caused to the petitioner or the person in whose name the petitioner has instituted the suit; or in a public interest case to the public, class of persons or community;

(e) details regarding any civil or criminal case, involving the petitioner or any of the petitioners, which is related to the matters in issue in the petition;

(f) the petition shall be signed by the petitioner or the advocate of the petitioner; and

(g) the relief sought by the petitioner.

35. Rule 10(3) and (4) of the Mutunga Rules also have a bearing on the form of petitions. They provide as follows: -

(3) Subject to rules 9 and 10, the Court may accept an oral application, a letter or any other informal documentation which discloses denial, violation, infringement or threat to a right or fundamental freedom.

(4) An oral application entertained under sub rule (3) shall be reduced into writing by the Court.

36. Rules 9 and 10 are on the place of filing and the Notice of institution of the Petition respectively.

37. The Supreme Court in Communications Commission of Kenya & 5 Others vs. Royal Media Services Limited & 5 Others case (supra) had the following on Constitutional Petitions: -

> Although Article 22(1) of *the Constitution* gives every person the right to initiate proceedings claiming that a fundamental right or freedom has been denied, violated or infringed or threatened, a party invoking this Article has to show the rights said to be infringed, as well as the basis of his or her grievance. This principle emerges clearly from the High Court decision in Anarita Karimi Njeru vs. Republic, (1979) KLR 154: the necessity of a link between the aggrieved party, the provisions of *the Constitution* alleged to have been contravened, and the manifestation of contravention or infringement. Such principle plays a positive role, as a foundation of conviction and good faith, in engaging the constitutional process of dispute settlement.

38. Both parties are in agreement with what a constitutional issue is. They both referred to Fredricks & Other vs. MEC for Education and Training, Eastern Cape & Others case (supra) where the Court, rightly so, delimited what a constitutional issue entails and the jurisdiction of a Constitutional Court as follows: -

> *The Constitution* provides no definition of 'constitutional matter'. What is a constitutional matter must be gleaned from a reading of *the Constitution* itself: if regard is had to the provisions of... Constitution, constitutional matters must include disputes as to whether any law or conduct is inconsistent with *the Constitution*, as well as issues concerning the status, powers and functions of an

> organ of State.... the interpretation, application and upholding of *the Constitution* are also constitutional issues. So too .... is the question of the interpretation of any legislation or the development of the common law promotes the spirit, purport and object of the Bill of Rights. If regard is had to this and to the wide scope and application of the Bill of Rights, and to the other detailed provisions of *the Constitution*, such as the allocation of powers to various legislatures and structures of government, the jurisdiction vested in the Constitutional Court to determine constitutional matters and issues connected with decisions on constitutional matters is clearly on extensive jurisdiction...

39. In the United States of America, a constitutional issue refers to any political, legal, or social issue that in some way confronts the protections laid out in the US Constitution.

40. Taking cue from the foregoing, and broadly speaking, a constitutional issue is, therefore, one which confronts the various protections laid out in a Constitution. Such protections may be in respect to the Bill of Rights or *the Constitution* itself. In any case, the issue must demonstrate the link between the aggrieved party, the provisions of *the Constitution* alleged to have been contravened or threatened and the manifestation of contravention or infringement. In the words of Langa, J in Minister of Safety & Security vs. Luiters, (2007) 28 ILJ 133 (CC): -

> ... When determining whether an argument raises a constitutional issue, the Court is not strictly concerned with whether the argument will be successful. The question is whether the argument forces the Court to consider constitutional rights and values...

41. Whereas it is largely agreed that *the Constitution* of Kenya, 2010 is transformative and that the Bill of Rights has been hailed as one of the best in any Constitution in the world, as Lenaola, J (as he then was) firmly stated in Rapinder Kaur Atal vs. Manjit Singh Amrit case (supra) '... Courts must interpret it with all liberation they can marshal...'

42. Resulting from the above discussion and the definition of a constitutional issue, this Court is in agreement with the position in Turkana County Government & 20 Others vs. Attorney General & Others case (supra) where a Multi-Judge bench affirmed the profound legal standing that claims of statutory violations cannot give rise to constitutional violations.

102. Having deduced what a constitutional issue is, a careful reading of the Petition herein reveals a profound link between the Petitioner, the provisions of *the Constitution* alleged to have been contravened and the manifestation of contravention or infringement.

103. It is, therefore, the finding of this Court that indeed the Petition, properly so, raises several constitutional issues.

104. Next is the consideration of the sub-issue on whether the Petition is barred by the principle of exhaustion.

105. In interrogating the doctrine of exhaustion and its applicability in Akusala Borniface & Another vs. Law Society of Kenya & 12 Others; Law Society of Kenya Nairobi Branch (Interested Party) [2021] EKLR, the Court traced its origin as follows: -

> 25. The doctrine of exhaustion in Kenya traces its origin from Article 159(2)(c) of *the Constitution* which recognizes and entrenches the use of alternative mechanisms of dispute resolution in the following terms: -

159(2) In exercising judicial authority, the Courts and tribunals shall be guided by the following principles-

(a) ...

(b) ...

(c) alternative forms of dispute resolution including resolution, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted, subject to clause 3.

26. Clause 3 is on traditional dispute resolution mechanisms.

106. The doctrine of exhaustion was comprehensively dealt with by a 5-Judge Bench in Mombasa High Court Constitutional Petition No. 159 of 2018 consolidated with Constitutional Petition No. 201 of 2019 William Odhiambo Ramogi & 3 others v Attorney General & 4 others; Muslims for Human Rights & 2 others (Interested Parties) (2020) eKLR. The Court stated as follows: -

52. The question of exhaustion of administrative remedies arises when a litigant, aggrieved by an agency's action, seeks redress from a Court of law on an action without pursuing available remedies before the agency itself. The exhaustion doctrine serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is, first of all, diligent in the protection of his own interest within the mechanisms in place for resolution outside the Courts. This encourages alternative dispute resolution mechanisms in line with Article 159 of *the Constitution* and was aptly elucidated by the High Court in R vs. Independent Electoral and Boundaries Commission (I.E.B.C) Ex Parte National Super Alliance (NASA) Kenya and 6 others [2017] eKLR, where the Court opined thus:

> 42. This doctrine is now of esteemed juridical lineage in Kenya. It was perhaps most felicitously stated by the Court of Appeal in Speaker of National Assembly v Karume [1992] KLR 21 in the following oft-repeated words:
>
> Where there is a clear procedure for redress of any particular grievance prescribed by *the Constitution* or an Act of Parliament, that procedure should be strictly followed. Accordingly, the special procedure provided by any law must be strictly adhered to since there are good reasons for such special procedures.
>
> 43. While this case was decided before *the Constitution* of Kenya 2010 was promulgated, many cases in the Post-2010 era have found the reasoning sound and provided justification and rationale for the doctrine under the 2010 Constitution. We can do no better in this regard than cite another Court of Appeal decision which provides the Constitutional rationale and basis for the doctrine.
>
> This is Geoffrey Muthiga Kabiru & 2 others – vs- Samuel Munga Henry & 1756 others [2015] eKLR, where the Court of Appeal stated that:
>
> It is imperative that where a dispute resolution mechanism exists outside Courts, the same be exhausted before the jurisdiction of the Courts is invoked. Courts ought to be fora of last resort and not

> the first port of call the moment a storm brews...The exhaustion doctrine is a sound one and serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is first of all diligent in the protection of his own interest within the mechanisms in place for resolution outside the Courts. The Ex Parte Applicants argue that this accords with Article 159 of *the Constitution* which commands Courts to encourage alternative means of dispute resolution.

107. The Court also dealt with the exceptions to the doctrine of exhaustion. It expressed itself as follows: -

> 59. However, our case law has developed a number of exceptions to the doctrine of exhaustion. In R. vs Independent Electoral and Boundaries Commission (I.E.B.C.) & Others ex parte The National Super Alliance Kenya (NASA) (supra), after exhaustively reviewing Kenya's decisional law on the exhaustion doctrine, the High Court described the first exception thus:
>
> > What emerges from our jurisprudence in these cases are at least two principles: while, exceptions to the exhaustion requirement are not clearly delineated, Courts must undertake an extensive analysis of the facts, regulatory scheme involved, the nature of the interests involved – including level of public interest involved and the polycentricity of the issue (and hence the ability of a statutory forum to balance them) to determine whether an exception applies. As the Court of Appeal acknowledged in the Shikara Limited Case (supra), the High Court may, in exceptional circumstances, find that exhaustion requirement would not serve the values enshrined in *the Constitution* or law and permit the suit to proceed before it. This exception to the exhaustion requirement is particularly likely where a party pleads issues that verge on Constitutional interpretation especially in virgin areas or where an important constitutional value is at stake. See also Moffat Kamau and 9 Others vs Aelous (K) Ltd and 9 Others.)
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> 60. As observed above, the first principle is that the High Court may, in exceptional circumstances consider, and determine that the exhaustion requirement would not serve the values enshrined in *the Constitution* or law and allow the suit to proceed before it. It is also essential for the Court to consider the suitability of the appeal mechanism available in the context of the particular case and determine whether it is suitable to determine the issues raised.
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> 61. The second principle is that the jurisdiction of the Courts to consider valid grievances from parties who lack adequate audience before a forum created by a statute, or who may not have the quality of audience before the forum which is proportionate to the interests the party wishes to advance in a suit must not be ousted. The rationale behind this precept is that statutory provisions ousting Court's jurisdiction must be construed restrictively. This was extensively elaborated by Mativo J in Night Rose Cosmetics (1972) Ltd v Nairobi County Government & 2 others [2018] eKLR.
>
> 62. In the instant case, the Petitioners allege violation of their fundamental rights. Where a suit primarily seeks to enforce fundamental rights and freedoms and it is demonstrated that the claimed constitutional violations are not mere "bootstraps" or merely framed in Bill of Rights language as a pretext to gain entry to the Court, it is not barred by the doctrine of exhaustion. This is especially so because the enforcement of fundamental rights or freedoms is a question which can only be determined by the High Court.

108. The above decision was appealed against by the Respondents. The Court of Appeal in upholding the decision and in dismissing the appeal in Mombasa Civil Appeal No. 166 of 2018 Kenya Ports Authority v William Odhiambo Ramogi & 8 others [2019] eKLR held as follows: -

> The jurisdiction of the High Court is derived from Article 165 (3) and (6) of *the Constitution*. Accordingly, the High Court has unlimited original jurisdiction in criminal and civil matters, including determination of a question of enforcement of the bill of rights and interpretation of *the Constitution* encompassing determination of any matter relating to the Constitutional relationship between the different levels of government.
>
> At the High Court, we note that the learned Judges dealt with this matter under the question framed as follows: Is the court barred from considering the suit at present by virtue of Article 189 of *the Constitution* and sections 33 and 34 of Inter-Governmental Relations Act of 2012 (IGRA)? The parties have advanced similar arguments as before the learned Judges of the High Court. The High Court went further than just looking at the ruling by Ogola J. They also took into account the doctrine of exhaustion as enunciated in Republic vs. Independent Election and Boundaries Commission (IEBC) ex parte National Super Alliance (NASA) Kenya & 6 Others [2017] eKLR. They applied a dual pronged approach before concluding that the dispute was not an inter-governmental dispute under IGRA. First, they considered that the test for determining the matter as an inter-governmental dispute for purposes of application of IGRA was not simply to look at who the parties to the dispute were, but the nature of the claim in question and; secondly, they considered that the claimed Constitutional violations seeking to be enforced are not mere "bootstraps." We have keenly addressed our minds to the learned Judges' decision and are satisfied that they stayed within the expected contours and properly directed themselves. Once they determined that the dispute was not inter-governmental in nature, we do not think it is necessary to consider whether the petitioners had exhausted their legal avenue. Jurisdiction by the High Court under Article 165 (5) of *the Constitution* became automatic. And in our view, it could not be ousted or substituted.

109. Further, in Civil Appeal 158 of 2017, Fleur Investments Limited -vs- Commissioner of Domestic Taxes & another [2018] eKLR, the Learned Judges of the Court of Appeal relied on an earlier decision in Speaker of National Assembly vs Njenga Karume (1990-1994) EA 546 to assume jurisdiction by bypassing the mechanism under Income Tax Tribunal. They observed as follows: -

> 23. For the reasons we have given earlier and others that will become apparent, there were definitely exceptional circumstances that existed in this case that were outside the ambit of the Income Tax Tribunal which called for intervention by way of judicial review. Whereas courts of Law are enjoined to defer to specialised Tribunals and other Alternative Dispute Resolution Statutory bodies created by Parliament to resolve certain specific disputes, the court cannot, being a bastion of Justice, sit back and watch such institutions ride roughshod on the rights of citizens who seek refuge under *the Constitution* and other legislations for protection. The court is perfectly in order to intervene where there is clear abuse of discretion by such bodies, where arbitrariness, malice, capriciousness and disrespect of the Rules of natural justice are manifest. Persons charged with statutory powers and duties ought to exercise the same reasonably and fairly.

110. The High Court has variously reiterated the position that it is only the High Court and Courts of equal status which can interpret *the Constitution*. (See Royal Media Services Ltd. -vs- Attorney General & 6 Others (2015) eKLR among others).

111. Returning back to the case at hand, the Respondent contended that the Petition is premature as the Petitioner is yet to complete the internal dispute mechanism in place at the University. According to the Respondents, the Petitioner has a pending appeal before the Students' Appeals Board and before its determination, this Court lacks any jurisdiction over the dispute.

112. Both parties agree on the said internal dispute mechanism at the University and the pending appeal before the Students' Appeals Board. The Petitioner, however, raised the issue of laches against the Respondents in prosecuting the appeal. On its part, the Respondents attributed the delay on the pendency of this case.

113. On account of having taken part in examination irregularities, the Petitioner was suspended from the University on 10th June, 2021 and attended a disciplinary hearing on 24th June 2021. Vide a letter dated 28th July, 2021, the Petitioner was expelled from the University.

114. The Petitioner then, and timeously, lodged an appeal to the Students' Appeals Board. The appeal is yet to be heard. It, therefore, means that the appeal has been pending before the Students' Appeals Board for over 2 years.

115. The Petitioner was admitted to a 4-year-academic course. In essence, the course would take two calendar years. It, hence, turns out that the period taken to complete the undergraduate studies in the University is the same as the one which the University has, so far, taken in dealing with the appeal. Further, the appeal is still pending and the Respondents did not give any indication on how soon the appeal is likely to be heard and determined. The Respondents largely blamed the institution of the instant proceedings stating that its file is always out of office in preparation and prosecution of this matter.

116. In fact, and sadly so, a student who joined the University in 2021 for a 4-year-academic course is likely to have graduated during the period which the Petitioner awaits the hearing of the appeal.

117. *The Constitution* of Kenya, 2010 ushered in a transformative trajectory in the governance of the country. For instance, prior to 2010, equity was a common law doctrine whose remedies were purely discretionary. However, the 2010 Constitution elevated equity to a constitutional principle under Article 10(2)(b). In such a scenario, even the maxims of equity were also so elevated. (See the Court of Appeal in Willy Kimutai Kitilit v Michael Kibet [2018] eKLR).

118. One of the equitable maxims speaks to reasonable expediency. It is the maxim that equity aids the vigilant and not the indolent. In this case, the Respondents have taken over two years to hear an appeal and has no intention of doing so any sooner. The Respondents, by any standards, are guilty of laches. The reason put forth cannot hold at all. The Respondents cannot casually argue that it has not been able to hear and determine the appeal since its file is always out of office. One even wonders whether the Respondents, at the very minimum, cannot create a duplicate file.

119. It is, therefore, apparent that the Respondents' conduct amounts to a deliberate and calculated move to have the appeal pending for the longest time possible whereas it is comfortably holding to the doctrine of exhaustion.

120. To this Court, and on the basis of the foregoing, it is the position that the Respondents' internal disciplinary process ends up not capable of according the Petitioner the quality of audience which is proportionate to the interests he wishes to advance. The process would also not serve the values enshrined in *the Constitution* or law since it infringes Article 10(2)(b) of *the Constitution* on account of the apparent laches on the part of the Respondents. To that end, the twin exceptions to the doctrine of exhaustion apply to this case.

121. The upshot is, therefore, that the unique circumstances in this matter excludes the applicability of the doctrine of exhaustion. As such, this Court reserves the jurisdiction to determine the Petition on its merits and so proceeds to deal with the rest of the issues.

c.Whether the Petitioner's expulsion from the University contravened Articles 47 and 50(1) of *the Constitution* for want of fair trial and fair administrative procedures:

122. The facts and submissions relating to the alleged contravention of Articles 47 and 50(1) of *the Constitution* in the manner the Petitioner was expelled from the University have been well captured above and at length.

123. For ease of this discussion, since the two Articles captured above complement each other as they both relate to the aspects of due process, the discussion herein will, simultaneously, involve both of them.

124. Article 47 of *the Constitution* states as follows: -

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

2. If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.

3. Parliament shall enact legislation to give effect to the rights in clause (1) and that legislation shall—

    a. provide for the review of administrative action by a Court or, if appropriate, an independent and impartial tribunal; and

    b. promote efficient administration.

125. The legislation that was contemplated under Article 47(3) is the Fair Administrative Actions Act. Section 4 thereof provides that: -

4. Administrative action to be taken expeditiously, efficiently, lawfully etc.

    (1) Every person has the right to administrative action which is expeditious, efficient, lawful, reasonable and procedurally fair.

    (2) Every person has the right to be given written reasons for any administrative action that is taken against him.

    (3) Where an administrative action is likely to adversely affect the rights or fundamental freedoms of any person, the administrator shall give the person affected by the decision–

        (a) prior and adequate notice of the nature and reasons for the proposed administrative action;

        (b) an opportunity to be heard and to make representations in that regard;

        (c) notice of a right to a review or internal appeal against an administrative decision, where applicable;

        (d) a statement of reasons pursuant to section 6;

        (e) notice of the right to legal representation, where applicable;

(f) notice of the right to cross-examine or where applicable; or

(g) information, materials and evidence to be relied upon in making the decision or taking the administrative action.

(4) The administrator shall accord the person against whom administrative action is taken an opportunity to–

(a) attend proceedings, in person or in the company of an expert of his choice;

(b) be heard;

(c) cross-examine persons who give adverse evidence against him; and

(d) request for an adjournment of the proceedings, where necessary to ensure a fair hearing.

(5) Nothing in this section, shall have the effect of limiting the right of any person to appear or be represented by a legal representative in judicial or quasi-judicial proceedings.

(6) Where the administrator is empowered by any written law to follow a procedure which conforms to the principles set out in Article 47 of *the Constitution*, the administrator may act in accordance with that different procedure.

126. Section 2 of the Fair Administrative Actions Act defines an 'administrative action', an 'administrator' and a 'decision' as follows: -

'administrative action' includes –

i. The powers, functions and duties exercised by authorities or quasi-judicial tribunals; or

ii. Any act, omission or decision of any person, body or authority that affects the legal rights or interests of any person to whom such action relates;

'administrator' means 'a person who takes an administrative action or who makes an administrative decision'.

"decision" means any administrative or quasi-judicial decision made, proposed to be made, or required to be made, as the case may be;

127. The Court of Appeal in Civil Appeal 52 of 2014 Judicial Service Commission vs. Mbalu Mutava & Another (2015) eKLR addressed itself to Article 47 of *the Constitution* as follows: -

> Article 47(1) marks an important and transformative development of administrative justice for, it not only lays a constitutional foundation for control of the powers of state organs and other administrative bodies, but also entrenches the right to fair administrative action in the Bill of Rights. The right to fair administrative action is a reflection of some of the national values in article 10 such as the rule of law, human dignity, social justice, good governance, transparency and accountability. The administrative actions of public officers, state organs and other administrative bodies are now subjected by article 47(1) to the principle of constitutionality rather than to the doctrine of ultra vires from which administrative law under the common law was developed.

128. In South Africa, the Constitutional Court in President of the Republic of South Africa and Others vs. South African Rugby Football Union and Others CCT16/98) 2000 (1) SA 1 ring-fenced the importance of fair administrative action as a constitutional right. The Court referred to Section 33 of the South African Constitution which is similar to Article 47 of the Kenyan Constitution. The Court expressed itself as under: -

> 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...

129. Article 47 of *the Constitution*, therefore, goes beyond being a mere codification of the common law principles on administrative action. Its main purpose 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...'. The entrenchment of Article 47 in *the Constitution* was a deliberate move by Kenyans in demanding inter alia fairness, transparency and accountability in public administration. Public officers must, therefore, embrace the paradigm shift and engage the right gear in ensuring that the manner in which they make and execute administrative decisions complies with Article 47 of *the Constitution* and the Fair Administrative Actions Act.

130. This Court will now apply the foregoing to the facts in this case. As said, the issue is whether the Petitioner was accorded an expeditious, efficient, lawful, reasonable and procedurally fair process before the impugned decision was made.

131. From the foregoing discussion, there is no doubt the decision to expel the Petitioner from the University was an administrative action. In sum, it was an administrative action because it affected the legal rights and interests of the Petitioner. As such it had to pass the constitutional and statutory tests of lawfulness, reasonableness and procedural fairness.

132. Article 50(1) of *the Constitution* guarantees the right to have any dispute that can be resolved by the application of law to be decided in a fair process either before a Court or, if appropriate, another independent and impartial tribunal or body.

133. The Petitioner raised several issues impugning the manner in which the dispute was heard before the Students Disciplinary Committee. This Court will look at them as under.

Notice of hearing:

134. It is mutually conceded that the Petitioner was suspended from the University on 10th June 2021 and attended a disciplinary hearing on 24th June 2021.

135. Whereas the Petitioner contended that he was called by the 3rd Respondent on 23rd day of June, 2021 to collect two letters. He obliged. One letter was dated 10th June 2021. It was a suspension letter. The

other one was an invitation to a disciplinary committee hearing scheduled for the following day, that is, the 24th June 2021. The letter was dated 15th June 2021. The Petitioner, therefore, averred that the notice was not reasonable and adequate.

136. On their part, the Respondents held that the Petitioner was called on 10th and 15th June 2021 to collect the letters respectively, but did not show up until the 23rd June, 2021.

137. On the face of the position taken by the Petitioner, the Respondents did not adduce any evidence to support their contention. As such, the averments by the Respondents that the Petitioner was called to collect the letters earlier do not hold. This Court now finds that the Petitioner was called by the 3rd Respondent to collect the letters on 23rd June, 2021 and that he was required to appear before the disciplinary committee on the following day.

138. On the basis of the above, the Petitioner was definitely not accorded adequate notice of the disciplinary committee hearing.

Evidence against the Petitioner:

139. The Petitioner contended that apart from the letter informing him to attend the disciplinary hearing, he was not availed with any evidence that supported the allegations against him. Although he so attended and participated in the hearing, he did not have any information of the evidence before hand. He then argued that he was not accorded adequate facilities to prepare for his defence as well as lacked reasonable access to the evidence against him or at all.

140. The Respondents posited that the Petitioner was asked whether he was ready to proceed with the hearing and he confirmed as much. He should, therefore, not be heard to argue otherwise since had he sought for time and the evidence, the issues would have been addressed accordingly.

141. The Respondents neither produced the minutes of the proceedings nor called witnesses who were part of the hearing to testify on their behalf. It is, therefore, unlikely that this Court will agree with the Respondents. Further, it remained both a constitutional and statutory requirement that the Petitioner was to be availed with the information, materials and evidence to be relied upon by the Respondents at the hearing since the Respondents did not prove that the Petitioner, by his conduct or otherwise, waived his right to the information, materials and the evidence.

142. This Court, therefore, finds that the Petitioner was not accorded adequate facilities to prepare for his defence as well as lacked reasonable access to the evidence against him.

Right to examine witnesses:

143. The Petitioner's position that no witnesses testified before the Committee, but that he was only confronted with the incriminating evidence at the hearing stands.

144. Fair hearing encompasses an opportunity to cross-examine witnesses. Again, there is no evidence that the Petitioner waived the right to examine the witnesses.

Speedy trail:

145. Whereas any hearing of a dispute ought to be expedited, a trial which takes too short a time that it does not accord the parties adequate time and facilities to prepare and prosecute the matter has, on a number of times, been declared not to stand the constitutional calling of a fair trial.

146. While applying *the Constitution* in relation to speedy criminal trials, my Lordship Mativo, J (as he then was) addressed the unconstitutionality attributed to such trials. Although the Learned Judge was

dealing with a criminal matter, he, nevertheless, defined the legal principles that are applicable across all matters before Courts. The Judge, in Joseph Ndungu Kagiri v Republic [2016] eKLR, stated as follows: -

> In my considered opinion, the speedy trial provided for in our constitution is not "a rushed and unconsidered justice." No. It cannot be nor can it be so construed under any circumstances. In my considered view, our constitution provides for a speedy trial but it anticipates a trial with two sides, which must as of necessity exhibit the best antidote to both sides. It must demonstrate a criminal justice system that is not too fast, and not too slow, but just right. [11] To me that is the proper meaning of the phrase "to have the trial begin and conclude without unreasonable delay." The drafters of *the constitution* never anticipated a trial that is too speedy to the detriment of an accused person. I reiterate that the flip side of the maxim "justice delayed is justice denied... "is a rushed, unconsidered, un-procedural and unconstitutional trial that undermines sound criminal justice system." The effect is that such a trial is a sham and has absolutely no place in our constitutionalism.

147. The foregoing was the case in this matter. The Petitioner received a letter a day before the disciplinary committee hearing, the hearing proceeded without any witnesses, the Petitioner was called upon to defend himself in the same sitting, and, a decision to expel him made shortly thereafter.

148. Therefore, on the basis of the fast pace in which the disciplinary proceedings were undertaken, the Petitioner was accorded 'a rushed, unconsidered, un-procedural and unconstitutional trial...'.

149. Drawing from the above, it is apparent that the decision to expel the Petitioner from the University did not conform to the requirements of Articles 47 and 50(1) of *the Constitution* and Fair Administrative Actions Act. At a minimum, to meet the constitutional and statutory threshold, the Respondents had to do the following: -

a. Give the Petitioner adequate notice of the allegations against him and the disciplinary hearing;

b. Avail, in advance, the information, materials and evidence to be relied upon by the Respondents at the hearing, to the Petitioner;

c. Unless the Petitioner waived the right, the Respondents were to avail the witnesses and the Petitioner was to be at liberty to cross-examine them. The Petitioner was also to be informed of his right to legal representation.

150. None of these happened. For this reason alone, the decision to expel the Petitioner from the University contravened Articles 47 and 50(1) of *the Constitution* and Fair Administrative Actions Act. The decision is constitutionally infirm.

Disposition:

151. Deriving from the above, the Petition and the application herein are hereby determined as follows: -

a. A declaration be and hereby issue that the decision of the Kenyatta University Students Disciplinary Committee and/or the Respondents herein in discontinuing the Petitioner from the University contravened Articles 47 and 50(1) of *the Constitution* and Section 4 of the Fair Administrative Actions Act. The said decision is, therefore, constitutionally infirm, null and void ab initio.

b. An order of Judicial Review in the nature of Certiorari hereby issue bringing the said decision of the Kenyatta University Students Disciplinary Committee and/or the Respondents in

discontinuing the Petitioner from the University before this Court for quashing. The said decision is hereby quashed.

c. An order hereby issues that the Petitioner be and is hereby reinstated into the studentship of the University and that he is eligible to graduate in the next graduation ceremony of the University save for other grounds.

d. Each party shall bear its own costs.

Orders accordingly.

DELIVERED, DATED AND SIGNED AT KITALE THIS 21ST DAY OF SEPTEMBER, 2023.

A. C. MRIMA

JUDGE