

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW APPLICATION NO. E047 OF 2021

BETWEEN

DR. NICHOLAS MUYALE (VETERINARY SURGEON,
CHAIRMAN KENYA VETERINARY ASSOCIATION (KVA)
& DE JURE MEMBER OF KVB).....APPLICANT

VERSUS

KENYA VETERINARY BOARD (KVB).....RESPONDENT

RULING

1. The Applicant herein filed a Chamber Summons application dated 2nd April 2021, seeking leave to commence judicial review proceedings against the Respondent in respect of its decision contained in a letter dated 19th March 2021. On 13th April 2021, this Court directed that the said application be canvassed *inter partes* and the Respondent given an opportunity to respond, particularly as to the issue whether the Applicant has exhausted the prescribed statutory remedy in section 37 of the Veterinary Surgeons and Veterinary Para-Professionals Act.

2. The Applicant has now filed another application by Notice of Motion dated 15th April 2021, seeking an order of stay of the Respondent's decision as contained in the letter dated 19th March 2021 pending the hearing and determination of the application.

3. The said application has no leg to stand on for two reasons. Firstly, no leave has been granted to the Applicant to commence any proceedings, and he therefore has no suit herein capable of being stayed. Secondly, the issue whether the Applicant is in the proper forum in the first place needs to be determined, and this issue goes to this Court's jurisdiction to grant any orders in this matter. The long and short of it is that there is no substratum for granting the stay orders sought.

4. In the circumstances, I hereby direct and order as follows:

(i) The Applicant's Notice of Motion dated 15th April 2021 is dismissed with no order as to costs.

(ii) The Applicant shall comply with the directions given herein on 13th April 2021 and this matter shall proceed for hearing on 25th May 2021.

(iii) The Deputy Registrar of the Judicial Review Division shall send a copy of this ruling to the Applicant by electronic mail by close of business on Friday, 16th April 2021.

(iv) Parties shall be at liberty to apply.

5. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 15TH DAY OF APRIL 2021

P. NYAMWEYA

JUDGE