



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

(Coram: A. C. Mrima, J.)

PETITION NO. E365 OF 2020

JOSEPHAT NYAMACHE NYARIBO..... PETITIONER

-VERSUS-

- 1. KENYA SCHOOL OF LAW**
- 2. DIRECTOR/CEO, KENYS SCHOOL OF LAW**
- 3. COUNCIL OF LEGAL EDUCATION**
- 4. THE HON. ATTORNEY GENERAL.....RESPONDENTS**

JUDGMENT

Introduction and Background:

1. This matter revolves around a determination as to whether the Petitioner herein, *Josephat Nyamache Nyaribo*, was accorded a fair hearing in the course of some disciplinary hearings.
2. The Petitioner was admitted to the Kenya School of Law, (hereinafter referred to as '*the 1st Respondent*' or '*the School*'), to undertake the Advocates Training Programme (ATP) leading to an award of a Diploma in Law. The Petitioner would then be eligible for admission into the Roll of Advocates of the High Court of Kenya.
3. The admission to the School was *vide* a letter dated 30th November, 2007.
4. The Petitioner sat for the bar examinations at the School four times between 2008 and 2010. In his last attempt he sat for two units. He passed one and failed the other.
5. The Petitioner had, prior to sitting of the examinations in 2010, supplied the School with Bank payment receipts in confirmation that he had duly paid the School's requisite fees. However, in the course of verification, the School found out that the payments reflected in the Bank receipts forwarded to it by the Petitioner were not part of its Bank records.
6. The School commenced investigations. It confirmed that the receipts did not reflect genuine payments as alleged by the Petitioner. The School initiated disciplinary proceedings. The Petitioner appeared before a Disciplinary Committee and his case was heard. He was found culpable and expelled from the School. The School's letter dated 18th April, 2011 communicated the expulsion.
7. The Petitioner appealed the decision to the Council of the Legal Education. His appeal was summarily dismissed and the expulsion confirmed. The Council's letter dated 22nd July, 2011 communicated the decision.
8. Nine years after the decision by the Council of the Legal Education, the Petitioner instituted the Petition herein.
9. In the main, the Petitioner seeks the following orders: -

(a) A declaration that the determination that the petitioner was expelled from the school with the process leading to that

determination violated the petitioner's right under Articles 27, 47 and 50 of the constitution and the same is null and void.

(b) A declaration that the respondents violated the constitutional rights of the petitioner and in particular Articles 27, 43, 47 and 50 of the constitution.

(c) An order to set aside or quash the respondent's decision contained in the letter dated 18 April 2011.

(d) An order compelling the 1st and 2nd defendant to give out results of the remarked unit.

(e) An order compelling the 3rd respondent to issue a compliance certificate to the petitioner.

(f) Any other or further relief that this honourable court shall deem fit and just to grant in the circumstances.

(g) The costs of this petition.

10. In support of the Petition, the Petitioner swore an affidavit on 6th November, 2020 and written submissions.

11. The 1st and 2nd Respondents opposed the Petition. The 3rd and 4th Respondents did not participate in the matter. The 1st and 2nd Respondents filed a joint Replying Affidavit sworn by *Fredrick Muhia*, School's Academic Manager, on 1st February, 2021. They also filed written submissions and a List of Authorities.

12. It is contended by the 1st and 2nd Respondents that the Petitioner was accorded fair hearings and further that the Petitioner admitted wrong-doing. As such, the Petition be dismissed.

Analysis and Determination:

13. On careful reading of the material presented before Court by the parties, I discern the main issue for determination as whether the Respondents accorded the Petitioner fair hearings in the course of the disciplinary proceedings.

14. The Petitioner amplified his case in the submissions. He asserted that the decisions by the School and the Council were unmerited and ought to be quashed and set aside.

15. The Petitioner maintained that he sent his friend to make the payments to the Bank on his behalf after which he innocently handed over the receipts to the School. He submits that it is unfair for him to be punished for an issue he knew nothing about. He further asserts that he is yet to be charged of any forgery.

16. The Petitioner contends that the impugned decisions variously infringe Article 47 of the Constitution and the Fair Administrative Actions Act. The decisions in *Gathigia v. Kenyatta University*, Nairobi HCMA No. 1029 of 2007 (2008) KLR 587, *Republic v. Attorney General & Another ex parte Salome Nyambura Nyagah* (2014) eKLR, *Lucy Wanjiku Gitumbi & Another v. Dedan Kimathi University of Technology* (2018) eKLR and *Republic v. Kenya School of Law ex parte Thomas Otieno Oriwa* (2015) eKLR were cited in support of the Petitioner's submission.

17. The Petitioner prays that the Petition be allowed as prayed.

18. The 1st and 2nd Respondents aver that the Petitioner was properly notified of the complaint against him and accorded a hearing before the Disciplinary Committee of the 1st Respondent (hereinafter referred to as '**the Committee**').

19. The 1st and 2nd Respondents further aver that the Petitioner was accordingly informed of the hearing of the complaint before the Committee and that he appeared in person and tendered his defence. The Committee considered the defence and made the decision to expel the Petitioner from the School.

20. It is the 1st and 2nd Respondents position that the Petitioner appealed to the Council of Legal Education where the appeal was disallowed.

21. The 1st and 2nd Respondents submit that they complied with the then laws in force in the conduct of the proceedings. They posit that they upheld the constitutional tenets in Article 10 of the Constitution and adhered to every other constitutional and legal calling in discharging their mandates.

22. Relying on *Zacharia Okoth Obado v. Edward Akong'o Oyugi & 2 Others* (2014) eKLR, *Communications Commission of Kenya & 5 Others v. Royal Media Services Limited* (2014) eKLR and *Mumo Matemu v. Trusted Society of Human Alliance & 5 Others* (2013) eKLR, the 1st and 2nd Respondents further submitted that the Petition was deficient of clarity and specificity to the extent that it could not be cured by the provisions of Article 159(2)(d) of the Constitution.

23. It was also posited that the Fair Administrative Actions Act does not apply to this matter since the Act was enacted on 17th June, 2015, long after the determination of the Petitioner's appeal before the Council of Legal Education and that the principles of retrospectivity of statutes as discussed in *Kalpana H. Rawal v. Judicial Service Commission & 4 Others* (2015) eKLR, *American States W S v. Johnson* 31 Cal.

App. 2d 606 (Cal Ct App. 1939 and Paul Posh Aborwa v. Independent Elections and Boundaries Commission & 2 Others (2014) eKLR did not apply to this case.

24. In any event, the 1st and 2nd Respondents submit that they adhered to Article 47 of the Constitution and that its decision was not illegal, irrational, unreasonable or procedurally unfair. The decision in *John Wachiuri t/a Githakwa Graceland & Wandumbi Bar & 50 Others v. The County Government of Nyeri & Another, Republic v. National Water Conservation & Pipeline Corporation & 11 Others, Carephone (PTY) Ltd v. Marcus NO, Eunice Cecilia Mwikali Maema v. Council of Legal Education & 2 Others, Republic v. Registrar of Documents & 4 Others ex parte AMA (2018) eKLR* among many others were referred to in support of the said submission.

25. In the end, the 1st and 2nd Respondents implored this Court to dismiss the Petition.

26. There is no doubt that the disciplinary proceedings were conducted in 2011. By then the Constitution of Kenya, 2010 had been promulgated the year before. Therefore, both the Petitioner and the Respondents were dutifully called upon to uphold and defend the Constitution.

27. As the Petitioner's claim hinges on whether Article 47 of the Constitution was adhered to, I will reproduce sub-articles (1), (2) and (3) thereof and as under: -

(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*

28. This Court is alive to the fact that in 2011, the legislation that was contemplated under Article 47(3) of the Constitution was yet to be enacted. The legislation came to being on 17th June, 2015. The legislation is the Fair Administrative Action Act, No. 4 of 2015. It is an Act of Parliament to give effect to Article 47 of the Constitution, and for connected purposes.

29. I have, with care, perused the Fair Administrative Action Act. Whereas the said Act was not in force in 2011, its provisions variously reiterate some provisions of the Constitution. A closer look into the said Act reveal that the Act mainly expounded the aspects of the right to a fair trial which is provided for in several provisions of the Constitution.

30. It is, therefore, the position of this Court that in as much as the Fair Administrative Action Act was not in force in 2011, the Constitution of Kenya, 2010 wholly applied to this matter.

31. Courts have, *inter alia*, expounded the provision of Article 47 of the Constitution. In **Civil Appeal 52 of 2014 Judicial Service Commission vs. Mbalu Mutava & Another (2015) eKLR** Court of Appeal addressed itself on the above. The Court held that: -

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.

32. The South African 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 while referring to Section 33 of the South African Constitution which is similar to Article 47 of the Kenyan Constitution stated 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. The right was further discussed in **Republic v Fazul Mahamed & 3 Others ex-parte Okiya Omtatah Okoiti [2018] eKLR**. The Court had the following to say:

25. In *John Wachiuri T/A Githakwa Graceland & Wandumbi Bar & 50 Others vs The County Government of Nyeri & Ano* [39] the

Court emphasized that there are three categories of public law wrongs which are commonly used in cases of this nature.

These are: -

a. **Illegality** - Decision makers must understand the law that regulates them. If they fail to follow the law properly, their decision, action or failure to act will be "illegal". Thus, an action or decision may be illegal on the basis that the public body has no power to take that action or decision, or has acted beyond its powers.

b. **Fairness** - Fairness demands that a public body should never act so unfairly that it amounts to abuse of power. This means that if there are express procedures laid down by legislation that it must follow in order to reach a decision, it must follow them and it must not be in breach of the rules of natural justice. The body must act impartially, there must be fair hearing before a decision is reached.

c. **Irrationality and proportionality** - The Courts must intervene to quash a decision if they consider it to be demonstrably unreasonable as to constitute 'irrationality' or 'perversity' on the part of the decision maker. The benchmark decision on this principle of judicial review was made as long ago as 1948 in the celebrated decision of Lord Green in **Associated Provincial Picture Houses Ltd vs Wednesbury Corporation**: -

If decision on a competent matter is so unreasonable that no reasonable authority could ever have come to it, then the Courts can interfere...but to prove a case of that kind would require something overwhelming...

34. Emerging from the above, there is no doubt the 1st Respondent's decision to expel the Petitioner from the School and the 3rd Respondent's decision to summarily affirm the 1st Respondent's decision on appeal were both administrative actions. In sum, they were administrative actions because they affected the legal rights and interests of the Petitioner. As such, the decisions had to pass the constitutional tests of lawfulness, reasonableness and procedural fairness.

35. In order to ascertain whether the twin impugned decisions were lawful, it is imperative to look into the law then in force. The conduct of the affairs of the School and the 3rd Respondent in 2011 were governed by the **Council of Legal Education Act**, Cap. 16A of the Laws of Kenya (hereinafter referred to as '**the CLE Act**').

36. The CLE Act was repealed in 2012 with the enactment of the Legal Education Act, No. 27 of 2012.

37. Section 6 of the CLE Act provided for the objects and functions of the Council of Legal Education (hereinafter referred to as '**the Council**') as follows: -

(1) *The object and purpose for which the Council is established is to exercise general supervision and control over legal education in Kenya and to advise the Government in relation to all aspects thereof.*

(2) *Without prejudice to the generality of the foregoing, the Council shall-*

(a) *establish, manage and control such training institutions as may be necessary for-*

(i) *organizing and conducting courses of instruction for the acquisition of legal knowledge, professional skills and experience by persons seeking admission to the Roll of Advocates in Kenya, in such subjects as the Council may prescribe;*

(ii) *organizing and conducting courses in legislative drafting;*

(iii) *organizing and conducting courses for magistrates and for persons provisionally selected for appointment as such;*

(iv) *organizing and conducting courses for officers of the Government with a view to promoting a better understanding of the law;*

(v) *organizing and conducting such courses for para-legals as the Council may prescribe;*

(vi) *organizing and conducting continuing legal education courses;*

(vii) *holding seminars and conferences on legal matters and problems;*

(viii) *organizing and conducting such other courses as the Council may from time to time prescribe;*

(b) *conduct examinations for the grant of such academic awards as may be prescribed;*

(c) *award certificates, fellowships, scholarships, bursaries and such other awards as may be prescribed*

38. Under Section 14 of the CLE Act, the Council was vested with powers to make regulations for the following purposes: -

(a) *make provision with respect to the engagement and training*

of pupils by advocates and their respective conduct, duties and responsibilities;

(b) make different provisions for different circumstances;

(c) authorize the charging by the Council of fees;

(d) make provision for the establishment of training institutions by the Council;

(e) prescribe the requirements for the award of diplomas, certificates and other academic awards of the Council;

(f) provide for the description of diplomas, certificates and other academic awards of the Council;

(g) provide for the settlement of the terms and conditions of service, including the appointment, dismissal, remuneration and retiring benefits of the members of staff of the Council; and

(h) prescribe anything which may be prescribed under this Act.

39. The manner in which the Council was to conduct its proceedings was provided for in the **First Schedule** of the CLE Act.

40. Pursuant to the powers granted to the Council under Section 7 of the CLE Act to make regulations, *The Council of Legal Education (Kenya School of Law) Regulations, 2009* (hereinafter referred to as '**the Regulations**') were enacted. The Regulations provided for, among others, the admission of students to the School, academic programmes, examinations, conferment of awards, student discipline and disciplinary procedures before the School and the Council.

41. From the foregoing, it is apparent that the consecutive duties to conduct disciplinary proceedings by the School and the Council were lawful for they were provided for in law.

42. The next consideration is whether the disciplinary processes were procedurally fair.

43. The 1st and 2nd Respondents deponed to the manner in which the proceedings before the School's Disciplinary Committee were conducted. Upon citing the irregularity on the part of the document presented by the Petitioner to the School, the Committee was convened. The Petitioner was informed of the same and called to attend a hearing. The Petitioner attended in person. The Committee thereafter deliberated the issue and resolved that the Petitioner be expelled from the School. The Petitioner was duly informed of the decision in writing.

44. The Petitioner did not impugn the Committee in any other way apart from not agreeing with the decision. The Petitioner, for instance, did not raise any issue that the Committee was not constituted in accordance with or that it conducted its affairs contrary to the law.

45. The Petitioner's contention that his rights under Articles 27, 43, 47 and 50 of the Constitution were infringed by the 1st and 2nd Respondents, therefore, does not lie. There is no evidence in support of such serious allegations.

46. This Court finds that the manner in which the 1st and 2nd Respondents conducted the disciplinary process against the Petitioner was lawful, reasonable and procedurally fair.

47. The Petitioner was dissatisfied with the decision of the Committee. He appealed to the Council.

48. The 3rd Respondent did not defend the Petition against it in this matter.

49. The Petitioner alleges that the appeal was summarily determined by the Council without being accorded a hearing. That position is not controverted and the record is silent on anything which may lead the Court to otherwise raise its antennae.

50. Article 50(1) of the Constitution states as under: -

Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body.

51. The above provision is part of the Bill of Rights.

52. In light of the manner in which the 2nd Respondent dealt with the appeal and eventually rendered the impugned decision, the gist of Article 50(1) of the Constitution comes into focus.

53. **Article 24** of the Constitution is on limitation of human rights and fundamental freedoms in the Bill of Rights. It enumerates the specific instances where any limitation is permissible. It states as follows: -

(1) A right or fundamental freedom in the Bill of Rights shall not be limited except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into

account all relevant factors, including—

(a) the nature of the right or fundamental freedom;

(b) the importance of the purpose of the limitation;

(c) the nature and extent of the limitation;

(d) the need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others; and

(e) the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.

(2) Despite clause (1), a provision in legislation limiting a right or fundamental freedom—

(a) in the case of a provision enacted or amended on or after the effective date, is not valid unless the legislation specifically expresses the intention to limit that right or fundamental freedom, and the nature and extent of the limitation;

(b) shall not be construed as limiting the right or fundamental freedom unless the provision is clear and specific about the right or freedom to be limited and the nature and extent of the limitation; and

(c) shall not limit the right or fundamental freedom so far as to derogate from its core or essential content.

(3) The State or a person seeking to justify a particular limitation shall demonstrate to the court, tribunal or other authority that the requirements of this Article have been satisfied.

(4) The provisions of this Chapter on equality shall be qualified to the extent strictly necessary for the application of Muslim law before the Kadhis' courts, to persons who profess the Muslim religion, in matters relating to personal status, marriage, divorce and inheritance.

(5) Despite clauses (1) and (2), a provision in legislation may limit the application of the rights or fundamental freedoms in the following provisions to persons serving in the Kenya Defence Forces or the National Police Service—

(a) Article 31—Privacy;

(b) Article 36—Freedom of association;

(c) Article 37—Assembly, demonstration, picketing and petition;

(d) Article 41—Labour relations;

(e) Article 43—Economic and social rights; and

(f) Article 49—Rights of arrested persons.

54. **Article 25** provides for the specific rights and fundamental freedoms which **cannot** be limited. It is tailored as follows: -

Despite any other provision in this Constitution, the following rights and fundamental freedoms shall not be limited—

(a) freedom from torture and cruel, inhuman or degrading treatment or punishment;

(b) freedom from slavery or servitude;

(c) **the right to a fair trial;** and

(d) the right to an order of habeas corpus.

55. The right to a fair trial is among the rights and fundamental freedoms which cannot be limited in anyway whatsoever.

56. It is a fact that the Petitioner was not heard before the decision affirm the expulsion was made. The Petitioner, hence, did not take part in the matter before the decision was made.

57. In upholding the Constitution and the law, the 3rd Respondent ought to have handled the matter the other way round. It ought to have first informed the Petitioner the manner in which the appeal was to be dealt with. It then ought to have further informed the Petitioner how he was to take part in the hearing of the appeal, that is, whether he was to make a physical appearance or otherwise. After hearing the appeal, the

Council would then render its decision. However, the Council did not undertake any of such steps. Instead, it dealt with the matter summarily.

58. In opting to deal with the appeal without, *first*, informing the Petitioner of its procedures and, *second*, without according the Petitioner a hearing, the Council cannot be heard to allege that it acted within the confines of the Constitution and the law.

59. The decision by the Council did not, therefore, pass the procedurally propriety test. The decision is procedurally infirm. The decision contravened Articles 47(1) and 50(1) of the Constitution.

60. As I come to the end of this sub-issue, I must make it clear that the discussion on Articles 47(1) and 50(1) of the Constitution only centres on the procedure undertaken by the 3rd Respondent in arriving at the impugned decision. For clarity, the discussion does not venture into the merits or otherwise of the 3rd Respondent's decision to affirm the decision by the School.

61. This approach is the heart of judicial review proceedings which I will briefly look at below.

62. Judicial review has over time been a subject of litigation. The Court of Appeal in Civil Appeal No 185 of 2001 **Municipal Council of Mombasa -vs- Republic & Umoja Construction Ltd** stated the parameters of judicial review as follows: -

Judicial Review is concerned with the decision-making process not with the merits of the decision itself; the court would concern itself with such issues as to whether the decision makers had the jurisdiction, whether the persons affected by the decision were heard before it was made and whether in making the decision the decision makers took into account relevant matters or did take into account irrelevant matters. The court should not act as a Court of Appeal over the decider which would involve going into the merits of the decision itself such as whether there was or there was not sufficient evidence to support the decisions. (emphasis added).

63. The above position was restated in **Republic -vs- Kenya Revenue Authority exparte Yaya Towers Ltd (2008) eKLR** with the holding that the remedy of judicial review is concerned with reviewing not the merits of the decisions of which the application of judicial review is made but the decision-making process itself.

64. *The Halsbury's Laws of England 4th Edition Vol. (1)(1) at paragraph 60* bolsters the position and cautions that the purpose of judicial review proceedings is to ensure that an individual is given a fair treatment by the authority in which he has been subjected to and that it is no part of that purpose to substitute the opinion of the Judiciary or of the individual Judges for that of the authority constituted by law to decide the matter in question and unless the restriction on the power of the Court is observed, the Court, will, under the guise of preventing abuse of power, be itself, guilty of usurpation of power.

65. Having said so, the grounds on which the Court exercises its judicial review jurisdiction have also been a subject of consideration by Courts. In the Ugandan case of **Pastoli vs Kabale District Local Government Council & Others (2008) 2 EA 300**, the Court citing with approval the cases of *Council of Civil Unions v. Minister for the Civil Service (1985) AC 2* and *An application by Bukoba Gymkhana Club (1963) EA 478* held as follows: -

In order to succeed in an application for judicial review, the applicant has to show that the decision or act complained of is tainted with illegality, irrationality and procedural impropriety.....Illegality is when the decision-making authority commits an error of law in the process of taking or making the act, the subject of the complaint. Acting without jurisdiction or ultra vires, or contrary to the provisions of a law or its principles are instances of illegality. It is, for example, illegality, where a Chief Administrator Officer of a District interdicts a public servant on the direction of the District Executive Committee, when the power to do so are vested by law in the District Service Commission....Irrationality is when there is such gross unreasonableness in the decision taken or act done, that no reasonable authority, addressing itself to the facts and the law before it, would have made such a decision is usually in defiance of logic and acceptable moral standards.... Procedural impropriety is when there is a failure to act fairly on the part of the decision-making authority in the process of taking a decision. The unfairness may be in non-observance of the rules of natural justice or to act with procedural favour towards one to be affected by the decision. It may also involve failure to adhere and observe procedural rules expressly laid down in a statute or legislative instrument by which such authority exercises jurisdiction to make a decision. (emphasis added).

66. The 3rd Respondent's impugned decision is, hence, in contravention of the Constitution.

67. Lastly, it will be remiss for this Court not to mention that the Petitioner did not lay any claim against the Hon. Attorney General sued as the 4th Respondent herein. The 4th Respondent is hereby expunged from these proceedings.

Disposition:

68. The foregoing discussion leads this Court to find that whereas the decision by the 1st and 2nd Respondents to expel the Petitioner from the School is upheld, the decision by the 3rd Respondent is impugned.

69. Flowing from these findings and conclusions, the disposition of the Petition dated 6th November, 2020 is as follows: -

(a) The claims by the Petitioner against the 1st and 2nd Respondents (the Kenya School of Law and the Director/Chief Executive Officer of the Kenya School of Law) are hereby dismissed with costs. For clarity, the decision by the Kenya School of Law to expel the Petitioner as contained in the letter dated 18th April, 2011 is upheld.

(b) A Declaration hereby issue that the 3rd Respondent's (Council of Legal Education) decision to dismiss the Petitioner's appeal without hearing the Petitioner was arrived at in contravention of the Petitioner's rights as guaranteed under Articles 47(1) and 50(1) of the Constitution.

(c) An Order of *Certiorari* hereby issue calling, removing, delivering up to this Honourable Court and quashing, setting aside or revoking the 3rd Respondent's decision contained in the letter dated 22nd July, 2011 affirming the decision by the Kenya School of Law to expel the Petitioner.

(d) The 3rd Respondent shall forthwith reconsider the Petitioner's appeal in accordance with this judgment.

(e) The 3rd Respondent shall shoulder the Petitioner's costs of this Petition.

Orders accordingly.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 22ND DAY OF JULY, 2021

A. C. MRIMA

JUDGE

Judgment virtually delivered in the presence of:

Mr. Migiro, Counsel for the Petitioner.

Miss Pauline Mbuso, Counsel for the Respondent.

Elizabeth Wambui – Court Assistant