



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

JUDICIAL REVIEW APPLICATION NO. 119 OF 2020

IN THE MATTER OF AN APPLICATION FOR LEAVE FOR JUDICIAL REVIEW ORDERS OF CERTIORARI,  
PROHIBITION AND A DECLARATION

BETWEEN

HONOURABLE MOGAKA, VINCENT KEMOSI.....APPLICANT

VERSUS

THE NATIONAL ASSEMBLY MINORITY WHIP.....1<sup>ST</sup> RESPONDENT

THE SPEAKER OF THE NATIONAL ASSEMBLY ...2<sup>ND</sup> RESPONDENT

THE CLERK OF THE NATIONAL ASSEMBLY.....3<sup>RD</sup> RESPONDENT

RULING

1. The Applicant herein has filed an application by way of a Chamber Summons dated 7<sup>th</sup> May 2020, seeking leave to apply for orders of certiorari, prohibition and a declaration with respect to the Respondent's recommendation to de-whip him from two Parliamentary Committees. Among the grounds raised by the Applicant are that he was not given an opportunity to be heard, and that the recommendation for his removal was made without the concurrence of the political party that sponsored and nominated the Applicant to the two Committees.

2. The said application is supported by a statement dated 2<sup>nd</sup> June 2020, and a verifying affidavit sworn on the same date by the Applicant. Upon perusal of the application and supporting documents, I note that the Applicant has averred that he was nominated to serve in the two Parliamentary Committees by his party, namely Ford Kenya, and has annexed a letter marked "MVK 2" by the said party confirming this position.

3. In light of the provisions of the Political Parties Act as regards the resolution of disputes between members of political parties, and the provisions of the Fair Administrative Action Act as regards exhaustion of internal mechanisms of appeal and review, it is my view that the question of leave to commence judicial review proceedings against the Respondents require to be heard *inter partes* before any orders can be granted by this Court.

4. In the circumstances, and in light of the scaling down of court operations due to the COVID-19 pandemic, I hereby direct and order as follows:

**I. The Applicant shall serve the Respondents with the Chamber Summons dated 2<sup>nd</sup> June 2020, (ii) skeletal submissions on the said Chamber Summons (iii) a copy of these directions and (iv) a hearing notice with twenty-one (21) days of today's date .**

**II. The Respondents are granted leave to file and serve their responses to the Chamber Summons dated 2<sup>nd</sup> June 2020 and skeletal submissions thereon within twenty-one (21) days of service by the Applicant.**

**III. The Chamber Summons dated 2<sup>nd</sup> June 2020 shall be heard on 20<sup>th</sup> July 2020.**

**IV. In view of the Ministry of Health directives on the safeguards to be observed to stem the spread of the current COVID-19**

pandemic, this Court shall hear and determine the Applicant's Chamber Summons dated 2<sup>nd</sup> June 2020 on the basis of the electronic copies of the pleadings and the written submissions filed by the parties.

V. The parties shall file and avail their pleadings, applications and written submissions electronically, by sending them to the Deputy Registrar of the Judicial Review Division at [judicialreview48@gmail.com](mailto:judicialreview48@gmail.com) with copies to [asunachristine51@gmail.com](mailto:asunachristine51@gmail.com).

VI. The electronic copies of pleadings and documents sent by the parties shall be clearly and correctly titled to indicate the J.R Case Number, the description of the Party sending it (that is whether the *Ex Parte* Applicant, Respondent or Interested Party), and the nature of the pleading or document.

VII. The service of pleadings and documents directed by the Court shall be by way of personal service and electronic mail, and in the case of service by way of electronic mail, the parties shall also email a copy of the documents so served to the Deputy Registrar of the Judicial Review Division at [judicialreview48@gmail.com](mailto:judicialreview48@gmail.com) with copies to [asunachristine51@gmail.com](mailto:asunachristine51@gmail.com).

VIII. The parties shall also be required to send the respective affidavits of service by way of electronic mail to the Deputy Registrar of the Judicial Review Division at [judicialreview48@gmail.com](mailto:judicialreview48@gmail.com) with copies to [asunachristine51@gmail.com](mailto:asunachristine51@gmail.com).

IX. The Deputy Registrar of the Judicial Review Division shall send a copy of this ruling and the extracted orders to the Applicant by electronic mail by close of business on Thursday, 4<sup>th</sup> June 2020.

X. The Deputy Registrar of the Judicial Review Division shall put this matter on the Division's causelist for hearing on 20<sup>th</sup> July 2020, and bring it to the attention of a Judge in the Division on that date for directions.

XI. Parties shall be at liberty to apply.

5. Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 3<sup>RD</sup> DAY OF JUNE 2020

P. NYAMWEYA

JUDGE