



REPUBLIC OF KENYA

IN THE HIGH COURT AT KISUMU

PETITION NO. 1 OF 2017

BETWEEN

INGANGA ALFRED ARUNGA.....PETITIONER

AND

UNIVERSITY OF NAIROBI.....RESPONDENT

RULING

1. The petitioner is a former student of the University of Nairobi (“the University”) having pursued a Bachelor of Laws Degree (LLB) under admission number G34/50671/2012.
2. The gravamen of his petition is that he completed his four-year course and was on 2nd December 2016 conferred with the Bachelor of Laws degree during the 56th congregation for the conferment of degrees and award of diplomas at the Chancellor’s Court at the University of Nairobi Main Campus. After admission, he applied to be admitted to the Advocates Training Programme at the Kenya School of Law which required him to submit his degree certificate and transcripts.
3. The petitioner states that he was issued with the Degree Certificate on 16th January 2017 and had been issued with a provisional transcript during his four years of study at the University. He was informed that the original transcripts would be ready for collection on 23rd January 2017. When the petitioner went to collect the transcripts at the University’s Chiromo Campus, his original degree certificate was confiscated and he was verbally informed that there was a tip from an anonymous source that he had graduated through deceit and fraud.
4. The petitioner contends that the action of the University to confiscate his degree certificate and withhold his transcripts is a violation of constitutional rights particularly the right to fair administrative action guaranteed under **Article 47(1)** of the Constitution. He seeks several reliefs including the release of his official documents and consequential relief including damages.
5. In the Notice of Motion dated 31st January 2017, the petitioner seeks the following orders;

[2] THAT the Honourable court do issue summons to the VICE-CHANCELLOR-UNIVERSITY OF NAIROBI, Professor Peter Mbithi to attend the Honourable court and show cause why the institution is detaining the petitioner’s degree certificates and original transcripts.

[2] THAT the Honourable court does issue conditional order for the immediate release of the original Academic Transcripts for 1st to 4th year of study and degree certificate for the award of Bachelor of Laws (LLB) to the Petitioner by the Respondent pending the hearing and

determination of the present petition.

6. The application is supported by the petitioner's deposition which outlines his case which I have set out above.

7. According to the affidavit of service, the Notice of Motion and hearing notice were served on the University and acknowledged receipt on 22nd March 2017. When the matter was called out for hearing there was no appearance for the University or its officers. There was also no replying affidavit or any form of opposition to the application on the court file.

8. I am satisfied the petitioner has established a prima facie case for violation of his rights to fair administrative action which includes failure by the University to inform him in writing why his degree certificate was confiscated and why his transcripts cannot be released. Prayer [2] affords the respondent an opportunity to put its case forward. I decline to grant prayer [3] as it is in the nature of a mandatory injunction which ought not to be granted at an interlocutory stage without exceptional circumstances. I accordingly make the following order;

(a) THAT the VICE-CHANCELLOR-UNIVERSITY OF NAIROBI, Professor Peter Mbithi be and is hereby summoned to attend this Court on 25th April 2017 to show cause why the institution is detaining the petitioner's degree certificates and original transcripts.

(b) Costs of the application in the petition.

DATED and DELIVERED at KISUMU this 5th day of April 2017.

D.S. MAJANJA

JUDGE

Mr Abande instructed by Omondi, Abande and Company Advocates for the petitioner.