



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI LAW COURTS**

Petition 152 of 2011

**SUSAN MUNGAI .....PETITIONER**

**VERSUS**

**THE COUNCIL OF LEGAL EDUCATION..... 1<sup>ST</sup> RESPONDENT**

**PROFESSOR W. KULUNDU BITONYE,  
DIRECTOR OF KENYA SCHOOL OF LAW ..... 2<sup>ND</sup> RESPONDENT**

**HON ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT**

**JUDGMENT**

**Introduction**

1. In her petition dated the 26<sup>th</sup> of August 2011, the petitioner seeks various orders against the respondents for alleged violation of her constitutional rights. The petition arises out of a decision by the 1<sup>st</sup> respondent not to admit the petitioner to the Kenya School of Law. The petition is brought against the Council of Legal Education as the 1<sup>st</sup> respondent, Professor W. Kulundu - Bitonye, the Director, Kenya School of Law, as the 2<sup>nd</sup> respondent, and the Attorney General as the 3<sup>rd</sup> respondent. The petitioner alleges that her fundamental rights under Articles 27, 28, 29(d) and (f), 31 (c) and (d), 43 (f), 47, 50 (1) and 55 of the Constitution have been violated by the 1<sup>st</sup> and 2<sup>nd</sup> respondent and seeks the following orders:

**(a) Judicial Review Order of Certiorari to quash and set aside the decision of the Respondent dated 31<sup>st</sup> August 2007 to deny Your petitioner admission to the Kenya School of Law.**

**(b) Judicial Review Order of Mandamus directing the respondent to review and reconsider their decision contained in the letter of 31<sup>st</sup> August 2007 not to admit your petitioner to the Kenya School of Law.**

**(c) Monetary compensation for the mistreatment, dehumanization, mental agony and anguish, and psychological torture inflicted on the petitioner by the respondents as will be assessed by this Honourable Court.**

**(d) Other measures as will be approved by this Honourable Court to rehabilitate and restore the human dignity and physical integrity of Your Petitioner including the delay of five years taken in dealing with her application to the Kenya School of Law.**

**(e) Costs of the suit.**

**(f) any further or better relief this Honourable Court may deem fit to grant.**

2. The petition is supported by an affidavit sworn by the petitioner on the 26<sup>th</sup> of August 2011 and a supplementary affidavit sworn on 8th December 2011. The respondents oppose the petition and filed a replying affidavit sworn by the 2<sup>nd</sup> respondent, Professor W. Kulundu-Bitonye, on the 22<sup>nd</sup> of November 2011. The petitioner and the 1<sup>st</sup> and 2<sup>nd</sup> respondents filed written submissions dated the 2<sup>nd</sup> of February, 2012 and the 7<sup>th</sup> of March 2012 respectively. The petition was argued before me on the 30<sup>th</sup> of April and the 10<sup>th</sup> of July 2012.

### **The Facts**

3. The petitioner applied for admission to the Kenya School of Law by letter dated the 25<sup>th</sup> of September 2006. She submitted alongside her application documents indicating her qualifications which included her Kenya Certificate of Education (KCE) 'O' Level certificate, Kenya Advanced Certificate of Education 'A' Level Certificate, and her Bachelor of Laws (LLB) certificate from London Guildhall University in the United Kingdom.

4. After considering the application, the 1<sup>st</sup> respondent came to the conclusion that the petitioner's application for admission to the Kenya School of Law, when measured against the criteria set by the admission regulations of the Council of Legal Education, did not meet the criteria as the petitioner did not hold a qualifying degree for admission to the Kenya School of Law.

### **The Petitioner's Case**

5. In her affidavit dated 26<sup>th</sup> August 2011 sworn in support of the petition, the petitioner states that she applied to the 1<sup>st</sup> respondent for admission to the Kenya School of Law for the purpose of training to become an Advocate. Her application was however rejected by the 1<sup>st</sup> respondent. The rejection was communicated in a letter dated the 31<sup>st</sup> of August 2007 addressed to the Permanent Secretary, Ministry of Justice and Constitutional Affairs, and copied to several other persons, local and foreign, and to the petitioner.

6. Apart from being aggrieved by the rejection of her application, the petitioner contends that the letter of 31<sup>st</sup> August 2007 contained various falsehoods and inaccuracies which extremely damaged her character, traumatized her and affected her ability to get employment that was commensurate with her level of education. The petitioner states that she holds a Bachelor of Laws degree (LLB) which she obtained in August 2001, a Master of Arts degree obtained in October 2002 and a Master of Laws (LLM) degree. She also states that she has 2 principal passes at GCE "A" Level and an ILEX certificate.

7. The petitioner further states that the Law Society of the United Kingdom, which is mandated to oversee legal education in the United Kingdom gave her the clearance certificate required to enable her pursue the Legal Practice Course (LPC) on 2<sup>nd</sup> June 2005; that she was invited to take the course at London Metropolitan University but that she opted to take the course in Kenya.

8. The petitioner avers that her application to the Kenya School of Law was not handled properly; that she was grossly mistreated and humiliated, and that the decision to reject her application for admission was based on false information, lies, fabrication, malice and spite by the 2<sup>nd</sup> respondent. She alleges that the mistreatment she has been subjected to is a violation of her right to human dignity, amounts to psychological torture; has inflicted on her mental agony and fear, and was a diminution of her character.

9. The petitioner argues that the only qualifications that she was required to have in order to qualify for admission to the Kenya School of Law were those set out in section 12 and 13 of the Advocates Act; that therefore the provisions of the **Council of Legal Education (Admission) Regulations 1997** and **The Council of Legal Education (Kenya School of Law) Regulations, 2009** are *ultra vires* the Advocates Act as they purport to amend a statute through subsidiary legislation. She contends that the Council of Legal Education does not have power under Section 14 or any other provision of the Council of Legal Education Act to make rules for admission of Advocates outside the provisions of the Advocates Act.

10. The petitioner also contends that she is in any event over qualified if her qualifications are considered against the requirements of the **Council of Legal Education (Kenya School of Law) Regulations 2009** as she holds qualifications which are over and above those required under the rules.

### **The 1<sup>st</sup> and 2<sup>nd</sup> Respondent's Case**

11. The 1<sup>st</sup> and 2<sup>nd</sup> respondents concede that the petitioner did apply for admission to the Kenya School of Law by a letter dated 25<sup>th</sup> September 2006, and that her application was rejected. The respondents, however, deny that the rejection was actuated by malice as alleged by the petitioner, or that they have violated any of the petitioner's rights under the Constitution.

12. The 2<sup>nd</sup> respondent is the Director of the Kenya School of Law which is established under the Council of Legal Education Act (Chapter 16A of the Laws of Kenya). He contends that the petition is grossly defective for his being joined in his personal capacity rather than as the Director of the School of Law.

13. The respondents further contend that admissions to the Kenya School of Law have, since inception of the **Council of Legal Education (Admission) Regulations 1997**, and as have been further promulgated in the 2009 Regulations, been done strictly in accordance with the Regulations. They contend that treating the petitioner's case preferentially and in breach of the Regulations would not only be discriminatory but will violate public policy. They argue that the Court is enjoined under the Constitution to uphold law and public policy, and to respect the exercise of discretion by the respondents provided it is exercised under provisions of law as set out in the Council of Legal Education Act and the Council of Legal Education (Kenya School of Law) Regulations, 1997.

14. On the petitioner's allegations that the respondents violated her privacy by copying the letter of 31<sup>st</sup> August 2007 to several government departments and individuals, the respondents contend that the issue of the petitioner's application to the Kenya School of Law was never a private matter. They aver that the discussion surrounding the petitioner's application to the Kenya School of Law was conducted in several offices in Kenya and the United Kingdom; that the petitioner had approached all the offices to which the letter was copied to intervene in her case; that the letter dated 31<sup>st</sup> August 2007 was written in response to an inquiry from the Ministry of Justice and Constitutional Affairs and was copied to the various parties for their information as they had been in correspondence over the issue since 2003.

15. The 1<sup>st</sup> and 2<sup>nd</sup> respondent therefore argue that all the parties to whom the letter of 31<sup>st</sup> August 2007 was copied had written or been involved in some way in writing to the Kenya School of Law with regard to the issue of qualification of the petitioner; that the petitioner had therefore, by her actions in approaching and involving public institutions and offices on the issue of her admission authorized discussions and communications on the issue with these offices.

16. The 1<sup>st</sup> and 2<sup>nd</sup> respondent contend that in any event, the letter of 31<sup>st</sup> August 2007 was written at the request of the petitioner as contained in her letter dated the 26<sup>th</sup> of January 2007; that the 1<sup>st</sup> respondent had made its decision with regard to the petitioner's application in November, 2006 and communicated the decision to the petitioner, hence her letter of 25<sup>th</sup> January, 2007; that she was therefore not entitled to the orders of judicial review that she was seeking as the decision had been made more than 6 months prior to the making of the application.

17. The respondents also argue that their decision was based on the law and the requirements for

admission to the Kenya School of Law, and on the basis of the information that they had received with regard to the petitioner's qualifications.

## **Determination**

18. The petitioner seeks, among others, an order of Certiorari to quash the decision of the 1<sup>st</sup> respondent dated 31<sup>st</sup> August 2007 to deny her admission to the Kenya School of Law, an order of Mandamus directing the respondent to review and reconsider their decision, monetary compensation for the '*mistreatment, dehumanization, mental agony and anguish, and psychological torture*' inflicted on her by the respondents and such other measures as will '*rehabilitate and restore the human dignity and physical integrity*' of the petitioner. She also alleges violation of her constitutional rights, citing in particular violation of her rights under Articles 27, 28, 29(d) and (f), 31 (c) and (d), 43 (f), 47, 50 (1) and 55 of the Constitution.

19. In determining this matter, I take the view that I must address myself to two main issues and two collateral issues. The two main issues are whether there has been a violation of the petitioner's rights under the Constitution, and whether this court is entitled to interfere with the decision of the 1<sup>st</sup> respondent and grant the orders sought by the petitioner. The two collateral issues have been raised by the respondents and they pertain to the competence of this petition. The first is whether suing the 2<sup>nd</sup> respondent in his personal capacity renders the petition defective, and whether the orders sought can be granted as the impugned decision was made more than 6 months prior to the filing of the petition and therefore the petition is in breach of the provisions of the Law Reform Act and Order 53 of the Civil Procedure Act with regard to the limitation of time for filing of suits for prerogative orders.

20. The 2<sup>nd</sup> respondent is the Director of the 1<sup>st</sup> respondent. As such, no relief can be sought against him personally in light of the fact that he acted in his official capacity. Nothing has been presented before this Court that would justify the joinder of the 2<sup>nd</sup> respondent to this petition. Any actions or decision made by the 2<sup>nd</sup> respondent were taken or made in his official capacity. In the circumstances, the joinder was wrongful. However, bearing in mind the provisions of Article 159(1)(d) that '***justice shall be administered without undue regard to procedural technicalities,***' I take the view that the joinder of the 2<sup>nd</sup> respondent does not render the petition fatally defective. The decision was communicated by the 2<sup>nd</sup> respondent on behalf of the 1<sup>st</sup> respondent, and should the Court find that there has been a violation of any of the petitioner's rights, then appropriate orders can be made against the 1<sup>st</sup> respondent only.

21. The respondents argue that the orders sought are not available to the petitioner as they are sought outside the time frame allowed under the Law Reform Act and Order 53 of the Civil Procedure Act. The petitioner has, however, invoked the jurisdiction of this Court under the provisions of Article 23 of the Constitution which empowers the Court, in determining a petition brought under Article 22, to grant appropriate relief, including orders of judicial review.. In my view, should the petitioner make out a case for grant of the orders that she seeks, the Court would have jurisdiction to grant the orders sought. The limitation in the Law Reform Act and the Civil Procedure Act cannot override the provisions of the Constitution. I find support for this position in the decision of the Court in the case of **Republic –v- Judicial Commission of Inquiry Ex parte Jackson Mwalulu & Others Misc Civil Application No. 1279 of 2004** where the Court stated that

***“it follows therefore the legality of acts or decisions including nullities goes beyond the provisions of Order 53 rule 2 and 7...yet the High Court in England has jurisdiction to grant orders of certiorari and prohibition. We think we have the same powers and even more because we have in addition powers under a written constitution”.***

## **Violation of Constitutional Rights**

22. The petitioner alleges violation of various rights under the Constitution. To obtain relief with regard to such alleged violations, the petitioner must demonstrate the manner in which the respondents have violated her rights under the provisions of the Constitution that she has cited-see the case of **Anarita**

**Karimi Njeru -v- R (1976-80) 1 KLR 1272.** She has alleged violation of her rights under Articles 27, 28, 29(d) and (f), 31 (c) and (d), 43 (f), 47, 50 (1) and 55. The alleged violations arise in respect of two acts: the rejection of her application for admission to the Kenya School of Law, and the act of copying the letter dated 31<sup>st</sup> August 2007 to various parties.

23. Article 27 of the Constitution contains the prohibition against discrimination; Article 28 guarantees to everyone the right to human dignity; 29 pertains to freedom and security of the person, while Article 29 (d) and (f) prohibit torture and cruel and inhuman treatment. Article 31 protects the right to privacy, while Article 47 guarantees to everyone fair administrative action. Article 50 guarantees the right to fair hearing, while Article 55 protects the rights of youth and requires the state to take all measures, including affirmative action, to ensure access by youth to education and employment.

24. Two issues arise with regard to the alleged violation of the above provisions of the Constitution. The first is whether the petitioner can properly bring a petition alleging violation of rights that the Constitution in force at the time of the alleged acts did not provide for. The acts complained of took place in 2007, when the former constitution was in force. I take the view that the new Constitution does not have retrospective application, and consequently, any alleged violation of rights that were not protected under the former Constitution cannot be sustained-see the decisions in **Joseph Ihuo Mwaura & 82 Others -v- The A.G Petition No 498 of 2009, B. A & Another -v- Standard Group Limited-Petition No 48 of 2011.** However, even were the provisions of the new Constitution applicable, do the facts of this case demonstrate a violation of the petitioner's rights?

25. The petitioner applied by letter dated 25<sup>th</sup> September 2006 for admission to the Kenya School of Law. The respondents, after considering the petitioner's qualifications against the regulations for admission to the Kenya School of Law, rejected her application on the basis that she did not have the requisite qualifications. The respondents assessed the petitioners qualifications against the requirements of the **Council of Legal Education (Kenya School of Law) Regulations, 1997.** Under these regulations, the petitioner did not qualify for admission to the Kenya School of Law. From the pleadings of the parties, it is clear that the respondents applied exactly the same criteria to measure the petitioner's application and qualifications as they did for all other applicants. The criteria was then set out in the **Council of Legal Education (Kenya School of Law) Regulations, 1997.**

26. The petitioner tacitly concedes this when she submits that the 1<sup>st</sup> respondent did not have jurisdiction under the provisions of section 14 of the Council of Legal Education Act to enact the **Council of Legal Education (Kenya School of Law) Regulations, 1997;** that it acted *ultra-vires* its powers and in violation of the Advocates Act by purporting to amend it through subsidiary legislation; that the only qualifications required for admission to the Kenya School of Law were those set out in Section 13 of the Advocates Act, and that neither section 14 of the Council of Legal Education Act nor any other provision in that Act donates power to the Council to make rules for admission of Advocates outside the statutory qualifications set out under the Advocates Act.

27. From the above matters, it is clear that, rather than the respondents having acted in a manner that was discriminatory against the petitioner, it was the petitioner who was seeking what can only be viewed as preferential treatment from the respondents. The Admission Regulations applicable to all those seeking admission to the Kenya School of Law in 2006 when the petitioner made her application were the **Council of Legal Education (Kenya School of Law) Regulations, 1997.** There is nothing before this Court to show that all other applicants were not required to meet these qualifications. What the petitioner was asking was for the 1<sup>st</sup> respondent to waive these requirements with regard to her; and what she is asking this Court to do is to find that even if she was not qualified under those regulations, they were against the requirements of the Advocates Act anyway, and she should not have been required to meet them.

28. While the petitioner challenges the legality of the provisions of the **Council of Legal Education (Kenya School of Law) Regulations, 1997** in her submissions before this Court, there are no prayers sought with regard to the provisions and there is therefore no basis for the Court to make any findings in that regard.

29. In the case of **Republic –v- The Council of Legal Education ex parte James Njuguna and 14 Others, Misc Civil Case No. 137 of 2004 (Unreported)** in which the petitioners, albeit for different reasons from those advanced by the petitioner in this case, questioned the legality of the Council of Legal Education(Kenya School of Law) Regulations 1997, the Court (Nyamu J) held as follows:

***‘The Council of Legal Education followed to the letter the purpose and objects of the Act including the applicable regulations and this Court has no reason to intervene in a way that interferes with the merit of the decisions clearly falling within the relevant regulations and which have been applied by the Council of Legal Education without any procedural irregularity or for an improper purpose. I decline to do so. The Council of Legal Education has the power and duty to insist on the highest professional standard for those who wish to qualify as advocates. The Regulations are aimed at achieving this. The decision was made on merit and this Court has no reason to intervene. The Regulations and the policy behind the rules were properly made pursuant to the Act and it is not for the Court to be concerned with the efficaciousness of the decision made pursuant to the regulations.’***

30. I agree with this decision. The Regulations that the petitioner questions are made under powers vested in the Council of Legal Education by the Council of Legal Education Act. Under section 6 of the Act, the Council is vested with power to regulate legal education in Kenya, and as the Court also stated in **Republic –v-The Council of Legal Education ex parte James Njuguna and 14 Others (supra)**,

***“..... The Council of Legal Education is the best judge of merit pertaining to academic standards and not the courts. Parliament clearly vests the power of formulating policy of training and examining of advocates on the Council of Legal Education and it would be wrong in the view of this court to intervene with the merits of the decision by the Council of Legal Education...”***

31. The petitioner has set out at great length her qualifications and asks this Court to issue orders compelling the 1<sup>st</sup> respondent to review its decision not to admit her to the Kenya School of Law. Given the finding above with regard to the Admission Regulations, this Court has no basis for interfering with the decision of the respondents. Indeed, the Court has no power and no basis for making a mandatory order directing the respondent to review its decision and admit the petitioner. To do so would be for the Court to place itself in the position of the 1<sup>st</sup> respondent and to make determinations with regard to qualifications for admission to the Kenya School of Law which the 1<sup>st</sup> respondent is mandated by statute to do. If I may paraphrase the finding of the Court in **Republic –v-The Council of Legal Education ex parte James Njuguna and 14 Others (supra)**, a Court of law would only be entitled to inquire into the merits of a decision in circumstances where the decision maker abused its discretion, exercised its decision for an improper purpose, acted in breach of its duty to act fairly, failed to exercise its statutory duty reasonably, acts in a manner which frustrates the purposes of the Act which gives it power to act, exercises its discretion arbitrarily or unreasonably, or where its decision is irrational or unreasonable as defined in the case of **Associated Provincial Picture Houses Ltd. –v- Wednesbury Corporation [1947] 1 KB 223**. In the case before me, there is no evidence to suggest that the 1<sup>st</sup> respondent, in dealing with the application for admission by the petitioner, acted in any of the ways set out above that would justify interference by this Court with its decision.

### **Violation of the Right to Privacy**

32. The petitioner alleges that by copying its letter dated 31<sup>st</sup> August 2007 to various parties, the 1<sup>st</sup> respondent violated her right to privacy under Article 31 of the Constitution of Kenya 2010 and subjected her to torture and cruel and degrading treatment. As observed earlier, the Constitution of Kenya 2010 does not have retrospective application, and so events that took place prior to the promulgation of the Constitution cannot give rise to violation of rights under the new Constitution. Had the right been protected, however, is there any evidence before the Court that demonstrates a violation of this right? From the various letters annexed to both the petitioner’s and the respondents’ affidavits, it is clear that the issue of the petitioner’s bid for admission to the Kenya School of Law was the subject of discussion by many parties. In her own letter of 25<sup>th</sup> January 2007, the petitioner asks the respondent to put in writing its rejection of her application for the purpose of availing it to the Ministry of Justice when she states as

follows:

25/1/2007

Dear Sir,

Further to our meeting in your office last week whereby you asked me to sort out my problem with the University of Greenwich (UK), I have been to the British Council, Law Society (Kenya) and the Ministry for Justice. The Ministry for Justice asked me that, the Kenya School of Law should put it in writing the reason why I cannot be admitted to the Kenya School of Law could I request you to please give me the letter, I have been subjected to too much anxiety it would be unfair for you to ask me to go home, you are going to communicate.

The address you have in your file is for upcountry and am in Nairobi currently.

Thanks for your help

Yours sincerely

Susan Mungai

33. In addition, judging from its first paragraph, the letter of 31<sup>st</sup> August 2007 appears to have been in response to a letter from the Ministry of Justice. The letter begins as follows: ***‘Refer to your letter and our previous correspondence on this matter.’*** The Court also notes that there was correspondence on the issue from the Ministry of Foreign Affairs, the Member of Parliament for Kikuyu Constituency, the British Council, the Chairman of the Council of Legal Education, Hon Justice Emmanuel O’kubasu JA (as he then was) among others, on the matter. The 2<sup>nd</sup> respondent avers, and this has not been disputed by the petitioner, that she sought the intervention of all the above parties in the matter, and so the 1<sup>st</sup> respondent was justified in copying its letter to them.

34. Even had the constitutional guarantee to privacy contained in Article 31 of the 2010 Constitution been available to the petitioner in 2007, it would be difficult to find a basis for finding a violation in this case. Article 31 protects the right not to have information relating to one’s private affairs ***‘unnecessarily...revealed’***. The petitioner had in this case made the matter of her admission an issue for discussion among various offices, and she cannot then turn around and claim that her private information has been revealed.

### **Violation of the Right not to be Subjected to Torture and Other Cruel and Degrading Treatment**

35. The petitioner alleges that she was subjected to torture and cruel and degrading treatment, and cites various cases in support of her contention. She relies the provisions of Article 29 of the Constitution of Kenya 2010.

36. The term ***‘torture and cruel and degrading treatment’*** has acquired a very specific definition in our jurisdiction and in international law. As the High Court observed in **Dennis Mogambi Mong’are -v- The Attorney General and Others Petition No. 146 of 2011:**

***‘Torture and cruel, inhuman and degrading treatment are terms that have acquired a specific meaning in law. They do not refer to general discomfort or inconvenience arising out of the application of the ordinary legal process particularly where such a process has the imprimatur of the Constitution. In the case of Republic –v- Minister For Home Affairs and Others ex parte Sitamze Nairobi HCCC NO. 1652 OF 2004 [2008] 2 EA 323, Justice Nyamu, citing various authorities expressed himself as follows, ‘The provisions of section 74(1) of the Constitution of Kenya are echoed in article 7 of the International Covenant on Civil and Political Rights, 1966, (ICCPR) which states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. .... Torture means ‘infliction of intense pain to the body or mind; to punish, to extract a confession or information or to***

*obtain sadistic pleasure. It means infliction of physically founded suffering or the threat to immediately inflict it, where such infliction or threat is intended to elicit or such infliction is incidental to means adopted to elicit, matter of intelligence or forensic proof and the motive is one of military, civic or ecclesiastical interest. It is a deliberate inhuman treatment causing very serious and cruel suffering. "Inhuman treatment" is physical or mental cruelty so severe that it endangers life or health. It is an intentional act which, judged objectively, is deliberate and not accidental, which causes serious mental or physical suffering or injury or constitutes a serious attack on human dignity.*' (Emphasis added)

37. Do the acts complained of by the petitioner reach the above threshold and therefore violate the provisions of Section 74 of the former constitution? The allegations of violation of rights are grounded on the contents of the letter of 31<sup>st</sup> August 2007. Given the findings with regard to the letter and the meaning given to the rights protected under Section 74 and as are now protected under Articles 28 and 29, I can find no violation of the rights protected under these Articles.

38. From the foregoing, it is clear that there has been no violation of the petitioner's rights, and therefore no basis for issuing orders to compel the respondents to review its decision not to admit her to the Kenya School of Law communicated to her in November 2006.

39. However, the petitioner is not thereby shut out from pursuing her ambition to practice law in Kenya. She avers that she is over-qualified under the **Council of Legal Education (Kenya School of Law) Regulations, 2009**. She has been advised by the respondents to make an appropriate application under the 2009 regulations for consideration by the respondents. Ultimately, the decision whether or not a person is qualified for admission to the Kenya School of Law remains the preserve of the 1<sup>st</sup> respondent, and the court will only interfere in the circumstances enumerated above. The 1<sup>st</sup> respondent has, however, an obligation to consider such application as the petitioner may make under the **Council of Legal Education (Kenya School of Law) Regulations, 2009** on its merits, fairly and on the basis of the criteria set in the admission regulations.

40. It must be patently clear that this court finds no merit in this petition, and the same is dismissed. Each party shall bear its own costs.

41. I appreciate the well-researched submissions and authorities by the parties in this matter.

**Dated, Delivered and Signed at Nairobi this 5<sup>th</sup> day of October 2012.**

**MUMBI NGUGI**  
**JUDGE**  
**5.10.2012**

Judgment delivered in open Court in the presence of  
**KAZUNGU** – Court Clerk  
**MR. NJORO** for the Petitioner and in the absence of the respondents.

**MUMBI NGUGI**  
**JUDGE**  
**5/10/2012**