



Koiyet v County Public Service Board Uasin Gishu & another (Petition E017 of 2024) [2025] KEELRC 2711 (KLR) (3 October 2025) (Ruling)

Neutral citation: [2025] KEELRC 2711 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET
PETITION E017 OF 2024
MA ONYANGO, J
OCTOBER 3, 2025**

BETWEEN

TITO KOIYET PETITIONER

AND

COUNTY PUBLIC SERVICE BOARD UASIN GISHU 1ST RESPONDENT

COUNTY GOVERNMENT OF UASIN GISHU 2ND RESPONDENT

RULING

1. The application dated 9th May 2025 was filed by the Respondents seeking for orders that:-
 - i. Spent
 - ii. The Contemnors, Micah Kipkoech Rogony, Silah K. Ronoh and Ambrose Tarus, be and are hereby deemed to have purged contempt of court.
 - iii. The sentencing slated for 14th May 2025 and any other date thereafter be reviewed, varied and/or set aside.
 - iv. This Honourable Court be pleased to make an order to the effect that the contemnors have complied with the Court order issued on 26th November 2024 and the Court be pleased to give directions regarding the hearing of the main Petition.
 - v. The costs of this application be provided for
2. The application is supported by the affidavits sworn on 9th May 2025 by the Contemnors herein namely, Micah Kipkosgei Rogony, the CECM-Finance and Economic Planning, Ambrose Tarus, the former Acting County Secretary of the 2nd Respondent and Silah K. Ronoh, the Secretary of the County Service Public Board.



3. In those affidavits, the Contemnors have apologized to the Court and the Petitioner for the violation of the Court's orders issued on 26th November 2024.
4. In particular, Micah Kipkosgei Rogony, in his affidavit, asserts that he has since unconditionally complied with the Court's order and that towards purging his contempt, he wrote a letter dated 5th May 2025 to the Petitioner on the subject, 'Reinstatement of Rights as an Accounting Officer.'
5. He deposes that in that letter, he effectively withdrew the letter dated 17th January 2025 and accordingly indicated that the Petitioner's rights as an Accounting Officer in the County Government of Uasin Gishu are reinstated. That in the letter, he advised the Petitioner to proceed to exercise his rights as an Accounting Officer as per the Public Finance Management Act, 2012 and other applicable laws.
6. The Contemnors contend that they have since purged the contempt to safeguard and restore the dignity of the Court and public confidence of the Judiciary.
7. The Petitioner opposed the application vide a Replying Affidavit sworn on 20th May 2025 where he avers that the apology tendered by the Contemnors herein is not genuine as it is not accompanied by any meaningful or timely action to remedy the contempt and that it has only been made upon realization of the legal consequences of the contemnor's conduct.
8. According to the Petitioner, the Contemnors' assertion of compliance through a letter dated 5th May 2025 is inconsequential and does not cure the fact that a prior letter dated 17th January 2025 explicitly sought to withdraw the accounting functions from the Petitioner, an act that was in clear violation of subsisting court orders which action exposes a deliberate and sustained disregard of lawful orders.
9. The Petitioner maintains that the Contemnors have in their letter dated 5th May 2025 claimed that the decision to withdraw accounting functions was made through a letter dated 16th January 2025 but the letter withdrawing his accounting functions is dated 17th January 2025. This discrepancy, according to the Petitioner is material, and points to a pattern of inconsistencies and deception aimed at misleading this Honourable Court.
10. Further, the Petitioner avers that the purported letter of reinstatement dated 5th May, 2025 has never been served upon him, nor has he been notified of its existence through any official channel and that he only came across it in the documents filed in court. This, according to him, demonstrates that the Contemnors have not acted in good faith and are merely attempting to create a record for appearance's sake rather than taking genuine steps toward compliance.
11. In addition, the Petitioner asserts that there is already an acting City Manager in place in contravention of the express terms of the Court order issued on 26th November 2024 which order directed that the position of City Manager was not to be filled or interfered with pending the hearing and determination of the case.
12. The Petitioner states that the Contemnors' actions in appointing an acting City Manager, despite this clear directive, constitutes a flagrant violation of the said order and further reinforces their contemptuous disposition.
13. The Petitioner has thus disputed the assertion by the Contemnors that contempt has been unconditionally purged vide the letter dated 5th May 2025 arguing that the letter was drafted after the ruling on contempt and does not restore the status quo and neither does it cure the harm already occasioned by the disobedience of the court order.
14. According to the Petitioner, the letter dated 5th May 2025 is an insufficient post-facto action that fails to meet the threshold for purging contempt.



15. The application was disposed of by way of written submissions.

The Contemnors' submissions

16. In their submissions dated 3rd June 2025, the Contemnors identified the issue for determination to be whether this court has inherent jurisdiction to grant the orders sought in the application dated 9th May 2025.
17. It is submitted that in as much as this court possesses inherent jurisdiction to punish anybody found to have disobeyed its orders, such as the Contemnors herein, it is trite law that the purpose of contempt proceedings is not meant to be punitive but to ensure the authority and dignity of our Courts are upheld.
18. According to the Contemnors, through the affidavit of apology/purging of contempt sworn by the Contemnors on 9th May 2025, they have demonstrated the positive steps they took in purging the contempt.
19. They further submit that in their affidavits, they demonstrated genuine remorse and have made undertakings and commitments to always abide by court orders.
20. In support of their case, the Contemnors cited the case of Fred Matiangi, the Cabinet Secretary, Ministry of Interior and Coordination of National Government v Miguna Miguna & 4 others cited in paragraph 18 of the case of Patrice Thlopane Mosepe v Francis Gaitho (2022] eKLR, Law Society of Kenya & 3 others v Inspector General of Police & 4 others (Petition E436 of 2024) (2024] KEHC 10995 (KLR) (Constitutional and Human Rights) (20 September 2024) (Ruling) – Neutral Citation: (2024]KEHC 10995 (KLR) and MSA High Court Judicial Review No. 32 of 2020, Guard Force Group Limited v Public Procurement Administrative Review Board.
21. In the end, the court was urged to grant the orders sought in the application dated 9th May 2025.

The Petitioner's submissions

22. In his submissions dated 3rd June 2025, the Petitioner framed the issues for determination to be:-
 - i. Whether the apology tendered by the Respondents constitute sufficient purging of contempt in the circumstances of this case
 - ii. Whether the Respondents have demonstrated genuine compliance with the orders issued by this court on 26th November 2024
 - iii. Whether the conduct of the Respondents warrants imposition of punitive sanctions to vindicate the authority of the court
23. On the first issue, the Petitioner submitted that an apology in the context of contempt must be unreserved, genuine, and accompanied by concrete action that restores compliance with court orders and that a mere expression of regret without demonstrable steps to reverse or neutralize the contemptuous act cannot suffice to purge contempt. To buttress this position, the Petitioner cited the case of Republic v Principal Secretary, Ministry of Defence & Another: Ex parte George Kariuki Waithaka (2021] eKLR,
24. It is the Petitioner's submission that the apologies of the Respondents as set out in their affidavits do not reflect any genuine remorse or acceptance of wrongdoing and that while they express regret, the language used is vague and couched in general terms. That the Respondents have offered no



explanation for their delay in purporting to act in line with the court's orders, nor do they disclose when or how they reversed the unlawful decisions.

25. It is submitted that the apology as offered by the Contemnors is neither genuine nor sufficient in law and as such, does not amount to a true purging of contempt
26. On the second issue, the Petitioner submits that the Respondents' actions reveal a calculated effort to create the illusion of compliance while in reality continuing to defy the court's orders. According to the Petitioner, the order issued on 26th November 2024 expressly restrained the Respondents from interfering with the Petitioner's position as City Manager and directed that the position should not be filled until the Petition is heard and determined but notwithstanding the order, the Respondents issued a letter withdrawing accounting and operational functions from the Petitioner.
27. It is the Petitioner's further submission that an Acting City Manager is currently in office, directly contravening the express directive that the position of City Manager is not filled pending determination of the suit. The Petitioner contends that the presence of an Acting Manager not only undermines the status of the Petitioner but also evidences a continuing violation of the order of this Honourable Court.
28. Additionally, the Petitioner maintains that he never received any communication reinstating him to full duties and that the letter of reinstatement dated 5th May 2025 was not served on him but was only revealed in court documents. This action according to the Petitioner undermines the credibility of the Respondents' claim that they have complied with the court's orders.
29. The Petitioner submits that the Respondents have neither retracted the offending decisions nor made good the consequences of their disobedience and that as such, their conduct amounts to a continued affront to judicial authority which should not be condoned.
30. Lastly, on the issue whether the conduct of the Respondents warrants the imposition of punitive sanctions to vindicate the authority of the court, the Petitioner submits that the Respondents' actions reflect a pattern of disrespect for lawful authority and a disregard for constitutional values of the rule of law and fidelity to public duty.
31. According to the Petitioner, this is an appropriate case for the imposition of sanctions to vindicate the Court's authority as the apologies rendered do not excuse the unlawful acts already undertaken. The court has been urged to take appropriate punitive measures against the Respondents to uphold the rule of law and integrity of judicial orders.
32. In support of this position, the Petitioner relies on the case of Teachers Service Commission v Kenya National Union of Teachers & 2 others (2013) KEELRC 656 (KLR), Kenya Tea Growers Association v Francis Atwoli & 5 Others (2012)eKLR and Econet Wireless Ltd v Minister for Information & Communication of Kenya & Another [2005] eKLR

Determination

33. I have considered the application, the affidavits filed and the rival submissions. In my view, the only issue that presents itself for this court's determination is whether the Contemnors have purged their Contempt of the Court orders of 26th November 2024.
34. The record shows that the court order issued on 26th November 2024 at the instance of the Petitioner restrained the 1st and 2nd Respondents from interfering with the employment of the Petitioner as City Manager or from substantively filing the position of City Manager, City of Eldoret during the pendency of the Petitioner's tenure as City Manager, City of Eldoret, pending inter parties hearing of the application.



35. On 5th March 2025, the Petitioner filed an application seeking to cite the County Secretary, County Executive Member for Finance and Economic Planning and the Secretary, County Public Service Board of Uasin Gishu for contempt stating that despite them having knowledge of the Court orders of 26th November 2024, the Respondents failed and refused to comply with the court orders.
36. There is evidence on record showing that the Respondents, vide a letter dated 17th January 2025, revoked the Petitioner's rights as an accounting officer in total disregard of the court orders issued on 26th November 2024.
37. In their affidavits of apology/purging of contempt, the Contemnors apologised for violating court orders. In his affidavit of apology dated 9th May 2025, Micah Kipkosgei Rogony asserted that he has since unconditionally complied with this court's order towards purging his contempt vide a letter dated 5th May 2025 reinstating the rights of the Petitioner as an accounting officer.
38. The Court of Appeal in *Rose Detho vs Ratilal Automobiles Ltd & 6 others* [2007] eKLR, stated thus:-
“In my mind, purging contempt is not composed of merely appearing in court and apologizing to the Court. It means atoning for or wiping out the offence or putting right what the court had ordered to be done and which was not done....”
39. The Petitioner in opposition to the Contemnors' application has contended that the Contemnors' apologies as set out in their affidavits do not reflect any genuine remorse as they have offered no explanation for their delay in purporting to act in line with the court's orders. In addition, the Petitioner avers that despite the order of 26th November 2024 expressly restraining the Respondents from interfering with the Petitioner's position as City Manager and directing that the position is not to be filled until the Petition is heard and determined, the Respondents went ahead and issued a letter withdrawing accounting and operational functions from the Petitioner.
40. In the case of *Directline Assurance Company Limited v Jamii Bora Bank Limited & 5 Others* (2015) KEHC 8316 (KLR) the court observed as follows:
“A civil court has no interest in punishing a litigant, unless a litigant leaves the court with no option but to resort to quasi- criminal proceedings to punish a litigant. When a court orders are being disobeyed, or are about to be disobeyed, and the contemnor comes down and purges the contempt, either out of his own freewill or at the prompt of the court, the court will accept the purge of the contempt unless circumstances exist to suggest that the coming down, or the alleged purging of the contempt, is not genuine, or is done in bad faith, or is in itself a continuation of the original contempt. In accepting the coming down of the contemnor, the court will assess the reasons given for the disobedience, the time taken to come down, and the cost incurred in the process.”
41. In the instant case, the Contemnors have expressed their remorse and confirmed that the Petitioner's rights as an accounting officer has since been reinstated as evidenced by the letter dated 5th May 2025.
42. In my view, citing the contemnors for contempt of the court while they have already purged the contempt and have expressed remorse would not serve the ends of justice. The purpose of contempt proceedings is not merely punitive, but to uphold the authority of the court and to secure compliance with its orders.
43. Accordingly, the application dated 9th May 2025 is allowed as follows:-



- a. The court finds that the Contemnors, Micah Kipkoech Rogony, Silah K. Ronoh and Ambrose Tarus have purged the contempt of court orders delivered on 26th November 2024 and are thus hereby discharged.
- b. There shall be no orders as to costs

44. Orders accordingly

DATED, DELIVERED AND SIGNED THIS 3RD DAY OF OCTOBER, 2025.

M. ONYANGO

JUDGE

