

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**JUDICIAL REVIEW DIVISION**  
**JUDICIAL REVIEW APPLICATION NO E328 OF 2025**

**GALAXY** **PHARMACEUTICALS**  
**LTD.....APPLICANT**

**VERSUS**

**PHARMACY AND POISONS BOARD.....RESPONDENT**

**RULING ON LEAVE TO APPLY**

1. The Chamber Summons dated 16<sup>th</sup> October 2025 seeks leave of court to apply for Judicial Review orders of certiorari, mandamus and prohibition against the Respondent Pharmacy and Poisons Board, challenging the decision of the Board made vide Notice of Intention to cancel dated 26<sup>th</sup> March 2025 and the decision of 22<sup>nd</sup> May 2025 cancelling the exparte applicant's drug Registration certificates in respect of 40 Pharmaceutical Products and removing the said products from the Respondent's official Register and database of approved medical products; by way of certiorari and mandamus to compel the Respondents to reinstate the cancelled certificates of Registration and to restore the (40) products in the official register/data base and to prohibit or restrain the Respondent from assigning or authorising or licensing the interested party or any other third party to import, distribute, market or deal in the said products which are said to be trade-marked by the exparte applicant.

2. the applicant also prays that the leave so granted do operate as stay of the decision of 22<sup>nd</sup> May 2025 including subsequent administrative actions based on that decision pending the hearing and determination of the substantive motion.
3. I have perused the application, grounds, verifying affidavit and the statutory statement. Although the application is brought under certificate of urgency, I do not find any urgency involved since the impugned decisions were made in March and May 2025 respectively. I therefore do not certify it as urgent.
4. That said, the applicant seeks leave of court to apply and to challenge the decisions in question. I have perused Order 53 Rules 1 and 2 of the Civil Procedure Rules. I observe that albeit the decision of 26<sup>th</sup> March 2025 was made over 6 months ago, Order 53 Rule 2 prohibits the court from granting leave to apply for certiorari where the decision being challenged is a judgment, order, decree, conviction or other proceeding for purpose of being quashed.
5. The decisions being challenged herein do not fall under the categories of matters stated in order 53 Rule 2 as they are administrative decisions, not judgments, orders, decrees, conviction or proceedings. Accordingly, I am satisfied that leave to apply for certiorari can be considered and granted where the court is satisfied that an arguable case has been made to grant such leave.

6. Additionally, I have considered the complaint by the applicant and in my view, without delving into the substance of the matter, the application is not frivolous. This is not to say that it is merited in the end but that there are issues for determination including whether the Respondent complied with the law – Pharmacy and Poisons Act and Rules and Guidelines for suspension, withdrawal, withholding and Cancellation/Revocation of Marketing authorization of Health products and Health Technologies and the Fair Administrative Action Act, among other alleged procedural irregularities.
7. In the premises, I grant leave to the applicant to apply for Judicial Review orders of certiorari, mandamus and prohibition sought. The substantive motion to be filed and served within 21 days of today.
8. On whether leave granted should operate as stay, I observe that the Notice of Intention to cancel was already actualised and deregistration of the pharmaceutical products was done in May 2025. That being the case, there is no way this court can order for stay at this stage, 5 months later without hearing the substantive motion inter-partes.
9. The applicant had the opportunity to approach the court and seek for stay during the period of the notices of intention to cancel the licences before cancellation and deregistration which came in May 2025. I find that granting stay at this stage would amount to reinstating the products without hearing the other parties.

10. Accordingly, I decline to order for stay as sought. The substantive motion shall be filed in a fresh and separate file.

11. Costs, if any shall be in the main motion.

12. Accordingly, this file is closed.

13. I so order.

**Dated, Signed and Delivered at Nairobi this 21<sup>st</sup> Day of October, 2025**

**R.E. ABURILI  
JUDGE**