



**Oyugi v Teachers Service Commission & 3 others; Phd (Interested Party) (Constitutional Petition E015 of 2025) [2025] KEELRC 3055 (KLR) (23 October 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3055 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
CONSTITUTIONAL PETITION E015 OF 2025**

**K OCHARO, J  
OCTOBER 23, 2025**

**BETWEEN**

**THOMAS MOSOMI OYUGI ..... PETITIONER**

**AND**

**THE TEACHERS SERVICE COMMISSION ..... 1<sup>ST</sup> RESPONDENT**

**NATIONAL ASSEMBLY ..... 2<sup>ND</sup> RESPONDENT**

**CABINET SECRETARY, MINISTRY OF EDUCATION ..... 3<sup>RD</sup> RESPONDENT**

**THE ATTORNEY GENERAL ..... 4<sup>TH</sup> RESPONDENT**

**AND**

**CPA DR. ADANO SALAD KADUBO, PHD ..... INTERESTED PARTY**

**RULING**

1. I have carefully considered the submissions by counsel for the parties herein and in the circumstances of this matter dispose of the oral application by counsel Mr. Odati in the following manner:-

a. The right to appeal against a decision of court is a constitutional right. Initiation of post-decision proceedings for instance stay of execution of an order of the court or proceedings pending appeal is a statutory right.

The two rights contemplate that a person who has lost an application which he or she had the right to initiate, as the Intended Interested Party herein, does not lose audience of the court in post decision proceedings for example an application for stay of proceedings pending appeal.

b. However, the post decision proceedings must be initiated within the boundaries set by the law. Favourable orders for an applicant engaging the post-decision proceedings can only be availed if he or she meets the threshold set out by law.



The law that can be the basis for stay of proceedings pending filing of a formal application for stay of proceedings pending appeal has not been cited to this court. Order 42 of the civil Procedure Rules does not contemplate an application like the one that has been made by counsel for the Intended Interested Party.

If the Intended Interested Party wants to exercise his undoubted right of appeal he is hereby given the leave to. But for orders of stay of proceedings sought, he has to engage the relevant provisions of the law, file a formal application for the orders and allow the application to be heard on its merits.

- c. The typed ruling on the application dated 25<sup>th</sup> July 2025 shall be uploaded on the system by 30<sup>th</sup> October 2025 at noon.
- d. The ruling on the Petitioner's application, the 1<sup>st</sup> Respondent's application dated 3<sup>rd</sup> June 2025 and the preliminary Objection, dated 5<sup>th</sup> June 2025 shall be delivered on 11<sup>th</sup> December 2025.

**READ, SIGNED AND DELIVERED THIS 23<sup>RD</sup> OCTOBER 2025**

**OCHARO KEBIRA**

**JUDGE**

