



**Republic v Office of Data Protection Commissioner; Indoshi & another
(Applicant); Shikanda & 2 others (Interested Parties) (Application E177 of 2025)
[2025] KEHC 16907 (KLR) (Judicial Review) (18 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16907 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
APPLICATION E177 OF 2025
JM CHIGITI, J
NOVEMBER 18, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

OFFICE OF DATA PROTECTION COMMISSIONER RESPONDENT

AND

GRACE ELLAH INDOSHI APPLICANT

FELISTUS KHADI MUKAMI APPLICANT

AND

HELLEN SHIKANDA INTERESTED PARTY

NATION MEDIA GROUP PLC INTERESTED PARTY

MUKUMU GIRLS SCHOOL INTERESTED PARTY

RULING

Applicants' Case;

1. The Application that is before the court for determination is the one dated 24th June 2025 wherein the Applicants are seeking leave to apply for orders of mandamus compelling the Respondent to admit and act upon ODPC Complaint No. E0285 of 2025: Grace Ellah Indoshi & Felistus Khadi Mukami v Hellen Shikanda, Nation Media Group PLC & The Board of Management, The Sacred Heart of Mukumu Girls School, and thereafter to investigate and determine the complaint within sixty days.



2. The Application is guided by the case of Republic v County Council of Kwale & another Ex parte Kondo & 57 Others, and Munyiri v Attorney General & another (2023), which affirm that the purpose of leave under Order 53 is to screen frivolous claims and allow only arguable matters to proceed to substantive hearing.
3. It is their case that the 1st and 2nd Interested Parties unlawfully published the 1st Applicant's name and photograph in the Saturday Nation of 27th March 2023, erroneously depicting her as deceased following the Mukumu Girls incident.
4. They argue that the publication was made without the consent of the 2nd Applicant, who was then the legal guardian of the 1st Applicant.
5. It is further their case that although a public apology was later issued on 28th May 2023, the Applicants maintain that their data subject rights under Article 31 of *the Constitution* and the *Data Protection Act, 2019* were violated. Consequently, they lodged ODPC Complaint No. 0285 of 2025 with the Respondent.
6. It is their case that although the Respondent initially acknowledged receipt of the complaint and subsequently directed them to resubmit it using the prescribed DPCI form, no substantive action followed. They assert that despite re-submitting the complaint electronically and physically.
7. It is their case that the conduct violated their rights to fair administrative action and a fair hearing under Articles 47 and 50 of *the Constitution*.
8. The Applicants rely on Gichuhi & 2 others v Data Protection Commissioner; Mathenge & another (Interested Parties) (Judicial Review E028 of 2023), where the Court held that a determination made outside the 90-day statutory period under Section 56(5) of the Data Protection Act is rendered without jurisdiction and is therefore a nullity.
9. They submit that since the ninety days lapsed on 26th May 2025 without any decision or communication from the Respondent, the Respondent failed in its statutory obligations and violated the Applicants' constitutional rights.

Analysis and Determination;

10. The issue for determination is whether or not the Applicants have made out a case that warrants the insurance of the order for leave to initiate Judicial Review proceedings.
11. Even though the Application is unopposed, The Applicants have to satisfy the court that they have an arguable case, which is not frivolous in nature.
12. Upon looking at the Applicant's Case and without getting into the merits of the case, this court is satisfied that the Applicants have disclosed a prima facie case.
13. The material before the Court demonstrates that the Applicants lodged a complaint with the Respondent, complied with all procedural requirements, and persistently sought action within the statutory framework.
14. The Respondent, on the other hand, did not comply with its statutory obligations under The Data Protection Act.



Determination;

15. The Application meets the legal threshold for leave under Order 53 Rule 1 of the Civil Procedure Rules.

Orders:

1. Leave is hereby granted to the Applicants to file Judicial Review proceedings seeking the orders of Mandamus as set out in the Chamber Summons dated 24th June 2025.
2. This file is closed.
3. The substantive Notice of Motion shall be filed and served within twenty-one (21) days from the date hereof.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 18TH DAY OF NOVEMBER 2025.

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J. CHIGITI (SC)

JUDGE

