



Amukobole (Suing on behalf of Candidate 366xxxxxxxx - A Minor) v Kenya National Examinations Council; County Director of Education, Bungoma County Ministry Of Education & another (Interested Parties); Njengere, Chief Executive Officer, KNEC (Alleged Contemnor) (Miscellaneous Civil Application E596 of 2025) [2025] KEHC 17554 (KLR) (Civ) (25 November 2025) (Ruling)

Neutral citation: [2025] KEHC 17554 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

MISCELLANEOUS CIVIL APPLICATION E596 OF 2025

SIFUNA NIXON, J

NOVEMBER 25, 2025

BETWEEN

SYLAS AMUKOBOLE (SUING ON BEHALF OF CANDIDATE 366XXXXXXXX - A MINOR) APPLICANT

AND

KENYA NATIONAL EXAMINATIONS COUNCIL RESPONDENT

AND

COUNTY DIRECTOR OF EDUCATION, BUNGOMA COUNTY MINISTRY OF EDUCATION INTERESTED PARTY

AND

DR DAVID NJENGERE, CHIEF EXECUTIVE OFFICER, KNEC ALLEGED CONTEMNOR

AND

LUGULU GIRLS HIGH SCHOOL INTERESTED PARTY

RULING

1. The Kenya National Examination Council (KNEC), the Respondent is Kenya’s Examination Authority. Dr DAVID NJENGERE the proposed contemnor, is the Respondent’s Chief Executive Officer. The Applicant SYLAS AMUKOBOLE, is the parent/guardian of candidate No. 36600002022 a minor whose results in the Music Paper 2 & Paper 3 (Subject Code 511) in the Kenya



- Certificate of Secondary Education (KCSE) Examination of the year 2024, were withheld by the Respondent; on suspicion of being involved in examination irregularities. The said minor is a former student of LUGULU GIRLS HIGH SCHOOL; and who sat for KCSE at that School, in the year 2024.
2. Aggrieved by that drastic action of the Respondent, the Applicant on behalf of the said candidate, lodged an Appeal against the said action. The Appeal was filed in the National Examinations Appeals Tribunal. It was Appeal No. E002 of 2025.
 3. In a judgement delivered on 28th March 2025, the Tribunal directed the Respondent, to reinstate the candidate's original marks in the said subject, and issue her with a valid result slip within 14 days from the date of the judgment. The Respondent has to date not complied with the said orders; despite service, and despite having knowledge of them.
 4. Which non-compliance, the Applicant has in this Application claimed is willful and in disobedience. Hence, he is by this Application urging this Court to find the said Dr DAVID NJENGERE the Chief Executive Officer, guilty of contempt, and commit him to prison for a term of six months.
 5. The Application has stated that it is invoking Article 165(6) of the Kenya Constitution, Section 5 of the *Judicature Act* (Cap 8 Laws of Kenya), Rule 39 of the High Court Organization and Administration General Rules 2016, Sections 5 & 63 of the *Civil Procedure Act* (Cap 21 Laws of Kenya), and Section 2 of the *Interpretation and General Provisions Act* (Cap 2 Laws of Kenya).
 6. The Respondent and the said Dr DAVID NJENGERE, have opposed the Application through a Replying Affidavit sworn by one ANDREW FRANCIS OTIENO, the Respondent's Deputy Director of Research & Quality Assurance. The said Replying Affidavit and which purported re-litigate the same issues that were before the Tribunal, and to justify the withholding of the said results, and cited a 30 days stay, that the Respondent obtained on 14th May 2025, in NAIROBI HIGH COURT TRIBUNAL APPEAL NO. E009 OF 2025.
 7. The Respondent in its said response, has contended that it obtained stay orders. Hence that there is no disobedience. The Applicant for his part has contended that the said orders were having been granted on 14th May 2025. Hence that they are no longer in force, and there is no evidence of extension thereafter.

Determination

8. The Application proceeded by way of written submissions. Both parties filed their respective submissions. There are two issues for determination in this Application. Namely, (a) Whether the Tribunal's said orders have been disobeyed, and (b) What orders or sanction should this Court issue?
9. In determining these issues, I have read the Application (together its Supporting Affidavit), the Respondent's response, the rival submissions filed by both parties, as well as the relevant law and applicable legal principles. I also note that the orders of Tribunals, are enforceable in this Court.
10. The Respondent and its said officer Dr DAVID NJENGERE, are aware of the said orders; as evidenced with their having challenged said orders in this Court and sought to stay them. That is in NAIROBI HIGH COURT TRIBUNAL APPEAL NO. E009 OF 2025, which Appeal was later transferred to High Court at Bungoma, and is still pending.
11. It is undeniable that it is now several months since the Tribunals orders were issued. It is also undeniable that the orders were served on the Respondent. It is also undeniable that the Respondent's Chief Executive Officer DR DAVID NJENGERE is aware of the said orders, their content and what they



require KENYA NATIONAL EXAMINATION COUNCIL (KNEC) to do. Which is, to release the candidate's KCSE examination results of the said subject (Code 511).

12. It is also an uncontested and undenied fact, that the said orders have not been complied with. What is in contest is whether that compliance is in defiance, and whether there are in force any orders staying that order, to justify the continued withholding of the said examination results.
13. Judicial orders are not a proposal or invitation, compliance with them is a must, and disobedience is not an option. It is not in a litigant's place, to in defiance protest, attempt to rationalize or logicalize a court order that has been directed to him. If dissatisfied with, or aggrieved by it, he can pursue a review or appeal it and wait for the outcome of the Appeal.
14. This is not the case here as the Respondent and its CEO, have in their response to this Application continued protesting and lamenting the orders, while justifying the very action the Tribunal found to be improper, unlawful and without lawful justification- i.e the withholding of the said examination results. This is unacceptable in any legal system.
15. In *Econet Wireless (K) Limited v. Minister for Information & Communication* [2005] KEHC 1767 (KLR), the court observed that judicial orders must be obeyed, even if a party believes them to be wrong. In *HADKINSON v. HADKINSON* (1952) 2 All ER 567, it was observed that judicial orders should be obeyed, unless and until discharged. That the uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or even void.
16. Where an interim stay is granted, it lapses automatically if the time within which it is to subsist, expires without renewal. The burden of proving that the stay that the High Court (Mrima J) granted in NAIROBI HIGH COURT TRIBUNAL APPEAL NO. E009 OF 2025, is still subsisting, was on the Respondent and the said DR DAVID NJENGERE. They failed to provide proof that the said orders were extended as alleged and are still subsisting. Thereby failing to discharge that burden. When a stay lapses by effluxion of time, the obligation to obey the subject order, automatically resumes.

Final Orders

17. The said orders having not been complied with, this Application is hereby found to have merit and orders are hereby issued as follows:
 - a. The Respondent is hereby directed to forthwith comply with the said orders and release the said examination results within 14 days from the date of this ruling; unless there can be in force, any order of stay or a Court judgment setting them aside.
 - b. This matter shall be mentioned on 16/12/2025, for Dr DAVID NJENGERE the CEO of the KENYA NATIONAL EXAMINATION COUNCIL, to show cause why he cannot be punished for disobedience of the said orders, and for further orders.
 - c. The said Dr DAVID NJENGERE, is hereby ordered to appear in person before me on that day.

DATED AND DELIVERED AT NAIROBI ON THIS 25TH DAY OF NOVEMBER 2025.

PROF (DR) NIXON SIFUNA

JUDGE

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