



REPUBLIC OF KENYA



Kariuki (Suing as a member of and in the interest of a group of persons going by the name Eintreten Association) & 4 others v Mwangi & another (Constitutional Petition E009 of 2024) [2025] KEHC 17615 (KLR) (28 November 2025) (Judgment)

Neutral citation: [2025] KEHC 17615 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
CONSTITUTIONAL PETITION E009 OF 2024**

H NAMISI, J

NOVEMBER 28, 2025

IN THE MATTER OF ARTICLES 10(2) (A), 19(3) (B), 20(3)(B) , 22(2) (B), 23, 33(1) (A) , 35(1)(A), 43(F), 47, 174(C) OF THE CONSTITUTION OF KENYA 2010

AND

IN THE MATTER OF AN ALLEGED INFRIDGEMENT/DENIAL/VIOLATION OF THE RIGHT OF THE GROUPS OF THE PETITIONERS TO INFORMATION UNDER ARTICLE 35(1) (A) OF THE CONSTITUTION OF KENYA 2010 AND AS RECOGNIZED OR CONFERRED BY THE PROVISIONS OF SECTION 4 OF THE ACCESS TO INFORMATION ACT CAP 7M LAWS OF KENYA , SECTION 80 OF THE EVIDENCE ACT CAP 80 LAWS OF KENYA AS READ WITH THE PROVISIONS OF SECTION 10 OF THE PUBLIC OFFICER ETHICS ACT CAP 185B LAWS OF KENYA (CONSTRUED WITH THE ALTERATIONS, ADAPTATIONS, QUALIFICATIONS AND EXCEPTIONS NECESSARY TO BRING IT INTO CONFORMITY WITH THE CONSTITUTION OF KENYA 2010) AND/OR SECTION 5(2)(H) OF THE PUBLIC SERVICE (VALUE AND PRINCIPLES) ACT NO. CAP 185A LAWS OF KENYA AND IN LINE WITH THE PROVISIONS OF ARTICLE 19(3) (B) OF THE CONSTITUTION OF KENYA 2010

AND

IN THE MATTER OF AN ALLEGED INFRIDGEMENT/DENIAL/VIOLATION OF THE RIGHT OF THE GROUPS OF THE PETITIONERS TO A FAIR ADMINISTRATIVE ACTION UNDER ARTICLE 47 OF THE CONSTITUTION OF KENYA 2010 AND AS RECOGNISED OR CONFERRED BY THE PROVISIONS OF SECTION 4 OF THE FAIR ADMINISTRATIVE ACTIONS ACT CAP 7L LAWS OF KENYA IN LINE WITH THE PROVISIONS OF ARTICLE 19(3)(B) OF THE CONSTITUTION OF KENYA 2010 AND IN THE MATTER OF AN ALLEGED INFRIDGEMENT/DENIAL/VIOLATION OF THE RIGHT OF THE GROUPS OF THE PETITIONERS TO THE RULE OF LAW UNDER ARTICLE 10(2)(A) OF THE CONSTITUTION OF KENYA 2010 AS RECOGNISED OR CONFERRED THE PROVISIONS OF SECTION 4 OF THE ACCESS TO INFORMATION ACT CAP 7M LAWS OF KENYA , SECTION 80 OF THE EVIDENCE ACT CAP 80 LAWS OF KENYA AS READ WITH THE PROVISIONS OF SECTION 10 OF THE PUBLIC OFFICER ETHICS ACT CAP 185B LAWS



OF KENYA (CONSTRUED WITH THE ALTERATIONS, ADAPTATIONS, QUALIFICATIONS AND EXCEPTIONS NECESSARY TO BRING IT INTO CONFORMITY WITH THE CONSTITUTION OF KENYA 2010) AND/OR SECTION 5(2)(H) OF THE PUBLIC SERVICE (VALUE AND PRINCIPLES) ACT CAP 185A LAWS OF KENYA AND IN LINE WITH THE PROVISIONS OF ARTICLE 19(3)(B) OF THE CONSTITUTION OF KENYA 2010.

AND

IN THE MATTER OF AN ALLEGED INFRIDGEMENT/DENIAL/VIOLATION OF THE RIGHT OF THE GROUPS OF THE PETITIONERS TO SEEK, RECEIVE AND IMPART INFORMATION UNDER ARTICLE 33(1) (A) OF THE CONSTITUTION OF KENYA 2010 AND IN THE MATTER OF AN ALLEGED INFRIDGEMENT/DENIAL/VIOLATION OF THE RIGHT OF THE GROUPS OF THE PETITIONERS TO EDUCATION UNDER ARTICLE 43(F) OF THE CONSTITUTION OF KENYA 2010

AND

IN THE MATTER OF AN ALLEGED INFRIDGEMENT/DENIAL/VIOLATION OF THE RIGHT OF THE GROUPS OF THE PETITIONERS TO INFORMATION UNDER ARTICLE 174(C) OF THE CONSTITUTION OF KENYA 2010 AS RECOGNIZED OR CONFERRED BY THE PROVISIONS OF SECTION 4 OF THE ACCESS TO INFORMATION ACT, CAP 7M LAWS OF KENYA , SECTION 80 OF THE EVIDENCE ACT, CAP 80 LAWS OF KENYA AS READ WITH THE PROVISIONS OF SECTION 10 OF THE PUBLIC OFFICER ETHICS ACT, CAP 185B LAWS OF KENYA (CONSTRUED WITH THE ALTERATIONS, ADAPTATIONS, QUALIFICATIONS AND EXCEPTIONS NECESSARY TO BRING IT INTO CONFORMITY WITH THE CONSTITUTION OF KENYA 2010) AND/OR SECTION 5(2)(H) OF THE PUBLIC SERVICE (VALUE AND PRINCIPLES) ACT CAP 185A LAWS OF KENYA AND IN LINE WITH THE PROVISIONS OF ARTICLE 19(3)(B) OF THE CONSTITUTION OF KENYA 2010

BETWEEN

JAMES GACHERU KARIUKI (SUING AS A MEMBER OF AND IN THE INTEREST OF A GROUP OF PERSONS GOING BY THE NAME EINTRETEN ASSOCIATION) 1ST PETITIONER

MOSES MEGA GITHINJI (SUING AS A MEMBER OF AND IN THE INTEREST OF A GROUP OF PERSONS GOING BY THE NAME MALEWA SIBS ASSOCIATION) 2ND PETITIONER

JAMES GACHIRA NGANGA (SUING AS A MEMBER OF AND IN THE INTEREST OF A GROUP OF PERSONS GOING BY THE NAME WISELIKE GROUP) 3RD PETITIONER

RACHEAL NJERI KARIUKI (SUING AS A MEMBER OF AND IN THE INTEREST OF A GROUP OF PERSONS GOI BY THE NAME NONGA MWARA ASSOCIATION) 4TH PETITIONER

JOYCE NJOKI KIBUTHU (SUING AS A MEMBER OF AND IN THE INTEREST OF A GROUP OF PERSONS GOING BY THE NAME LOBBYDALE ASSOCIATES) 5TH PETITIONER

AND



SIMON MWANGI 1ST RESPONDENT

RUIRU JUJA WATER AND SEWERAGE COMPANY LTD 2ND RESPONDENT

JUDGMENT

1. The matter before this Court is a constitutional Petition seeking to enforce the constitutional right to access information, and to remedy the alleged defiance of a statutory order by the Respondents.
2. By Petition dated 17 May 2024, the Petitioners seek the following reliefs against the Respondents:
 - i. A declaration do issue that the provisions of Section 6(1) (h) of the [Access to Information Act](#) Cap 7M Laws of Kenya does not limit the requirement on public entities to furnish information to citizens under Section 80 of Cap 80 laws Kenya and/or under section 4(1) of the of the [Access to Information Act](#) Cap 7M Laws of Kenya having had regard to the provisions of Section 4(5) of the of the [Access to Information Act](#) Cap 7M Laws of Kenya;
 - ii. A declaration do issue that the groups of the Petitioners herein are entitled to access to the information they sought on 5 December 2023 from the 2nd Respondent herein which is a public entitle as of a right and the orders of the Commission on Administrative Justice made on 22 April 2024 are hereby made the orders of this honourable Court.
 - iii. A declaration do issue that the right of the groups of the Petitioners herein under Articles 10(2) (a), 33(1)(a), 35(1)(a), 43(f), 47 & 174(c) of [the Constitution](#) of Kenya 2010 have been infringed/denied/violated by the Respondents herein jointly or in the alternative;
 - iv. Aggravated damages included in general damages individually for the infringement/denial/ violation of the right(s) of the group of the petitioner under Articles 10(2) (a) 33(1)(a), 35(1) (a), 43(f), 47 & 174(c) of [the Constitution](#) of Kenya 2010.
 - v. Cost of the petition and any other or further relief the honourable Court may deem fit to grant.

The Petitioners' Case

3. The Petitioners are 5 individuals, each suing in a representative capacity on behalf of 5 distinct associations: Eintreten Association, Malewasibs Association, Wiselike Group, Nongaimwara Association and Lobbydale Associates. They have annexed documents including Deeds of Constitution and KRA PIN certificate for Eintreten Association to demonstrate their status as duly constituted groups. Each Petitioner has also filed an authority from their respective Association to institute these proceedings.
4. The Petitioners' case, as pleaded in their Petition and Supporting Affidavit sworn by the 1st Petitioner, is premised on a clear and largely undisputed factual timeline:
 - i. On 4 December 2023, the Petitioners, through a joint letter, made a formal request for information to the 2nd Respondent. This request was received and stamped by the 2nd Respondent on 5 December 2023.
 - ii. The information sought was twofold: Minutes of the 2nd Respondent's Annual General Meetings from 1 January 2013 to date; and copies of public advertisement for all employees who have been employed since 9 March 2013.



- iii. The Respondents did not provide the information or a written refusal within the 21-day period stipulated in law. Consequently, the Petitioners deemed this as a rejection under section 9(6) of the [Access to Information Act](#).
 - iv. On 29 December 2023, the Petitioners escalated the matter by applying to the Commission on Administrative Justice (CAJ) for a review of the deemed rejection.
 - v. The CAJ intervened, writing to the Respondents on 9 January 2024. This prompted a response from the Respondent's Advocates, M/s Triple NW& Company Advocates LLP, on 16 January 2024. This response declined the request, citing the existence of a pending court case, Nairobi Petition No. E327 of 2022, and the limitations under section 6(1)(h) of the [Access to Information Act](#).
 - vi. After considering the parties' positions, the CAJ, in its quasi-judicial capacity, issued a formal Order on 22 April 2024, explicitly directing the 2nd Respondent to facilitate access to information and records held within 7 days.
 - vii. The Petitioner aver that this 7-day period lapsed on 29 April 2024, and the Respondents have, to date, neither complied with the order nor appealed it.
5. The Petitioners contend that this conduct by the Respondents constitutes a flagrant violation of their constitutional rights, including the right to access information (Article 35), the right to fair administrative action (Article 47), the rule of law (Article 10), freedom of expression (Article 33), the right to education (Article 43 (f)), and the objects of devolution, including public participation (Article 174(c)). They seek, inter alia, declarations that their rights have been violated, an order adopting the CAJ's order as an order of this Court, aggravated damages for violation, and costs of the Petition.

The Respondents' Case

6. The Respondents oppose the Petition through a Replying Affidavit sworn by Simon Mwangi on 14 August 2024, Grounds of Opposition dated 28 August 2024 and their written submissions.
7. The 1st Respondent confirms that he is the Managing Director of the 2nd Respondent, which he describes as a public company limited by guarantee. The Respondents' defence is twofold, comprising preliminary objections and substantive justifications.
8. Regarding the Preliminary Objections, the Respondent's principal defence rests on the plea of sub judice. The Respondents contend that the Petition is sub judice and an abuse of court process under section 6 of the [Civil Procedure Act](#). They aver that the matter directly and substantially in issue is already pending determination in Nairobi High Court Constitutional Petition No. E327 of 2022, where the Petitioners are also parties and the 2nd Respondent is the 23rd Respondent. They annex a case activity report for E327/2022 and a Replying Affidavit from the file to support this.
9. The Respondents also argue that the Petitioners, being associations, have no locus standi to enforce the right under Article 35 (1)(a) of [The Constitution](#). They submit that this right is reserved for citizens, which according to the decision in Famy Care Limited vs. Public Procurement Administrative Review Board & Another eKLR is limited to natural persons and does not include juridical persons.
10. With regard to their substantive defences, the Respondents argue that the right to information is not absolute and is subject to limitations under Article 24 of [The Constitution](#) and section 6 of the [Access to Information Act](#). They specifically invoke section 6(1)(h) on information that would damage a public entity's position in legal proceedings, section 6(1)(d) on unwarranted invasion of privacy and section 6(1)(i) on infringement of professional confidentiality.



11. The 1st Respondent depones that the request for information dating back to 2013 is high obstructive and impracticable to retrieve. In a contradictory averment, the 1st Respondent also depones that the Petitioners are on a fishing expedition as some of the information they seek is already out in the public and more specifically available on the company website. An extract from the website is annexed.

The Petitioners' Rejoinder

12. The Petitioners filed an Affidavit in Rejoinder on 9 September 2024 and submissions. they raise a counter-objection and responded to the Respondents' defences as follows:
13. Regarding the competency, the Petitioners object to the 1st Respondent's Replying Affidavit, arguing it is incompetent to speak for the 2nd Respondent without a Board Resolution or the company seal, as required by order 9, Rule 2(c) of the Civil Procedure Rules.
14. On the issue of sub judice, the Petitioners argue that the two suits are distinct. They clarify that Petition E327 of 2022 concerns the Respondents' failure to convert from a private limited company to a public company as required by the [Water Act](#). This Petition, by contrast, concerns a specific information request made in December 2023, and the subsequent defiance of a CAJ order issued in April 2024. They argue that the cause of action is different and arose much later.
15. In response to the argument on locus standi, the Petitioners submit that the Famy Care case (supra) has been superseded by the [Access to Information Act](#). They point to section 2 of the Act, which explicitly defines "citizen" to include any private entity that is controlled by one or more Kenyan citizens.
16. The Petitioners' central argument is that the Respondents' substantive defences are res judicata. The Respondents raised the section 6(1)(h) defence before the CAJ, which rejected it and issued a final order. The Respondents failed to appeal this order to the High Court within the 21 days prescribed by section 23(3) of the [Access to Information Act](#). Therefore, the order is final and binding, and the Respondents estopped from re-litigating the merits.

Analysis & Determination

17. I have carefully considered the parties' extensive pleadings, annexures and submissions. The following issues lend themselves for determination:
 - i. Whether the 1st Respondent's Replying Affidavit sworn on 14 August 2024 is competent and properly on record to represent the 2nd Respondent;
 - ii. Whether the Petitioners, suing on behalf of unincorporated associations, have the requisite locus standi to enforce the right under Article 35(1)(a) of [The Constitution](#);
 - iii. Whether this Petition is sub judice in light of the pending Nairobi High Court Constitutional Petition No. E327 of 2022;
 - iv. Whether the Respondents have, on the merits, established a justifiable limitation of the Petitioners' rights under Article 24 of [the Constitution](#) and Section 6 of the [Access to Information Act](#);
 - v. Whether the Petitioners are entitled to the remedies sought.
18. This Court will first address the preliminary objections, as they are dispositive.



Preliminary Objections

19. The Petitioners argue that the Affidavit by the 1st Respondent is fatally defective for want of a board resolution, citing Order 9 Rule 2(c) of the Civil Procedure Rules. The Respondents counter that the Petitioners are estopped, having sued the 1st Respondent in his capacity as the Chief Executive Officer.
20. It is trite law that a corporation is a distinct legal entity and can only act or make depositions through its authorised officers, typically by way of a board resolution. However, the situation here is unique. The Petitioners have sued the 1st Respondent, Simon Mwangi, in his own name. Furthermore, at paragraph 14 of the Petition, they specifically identify the 1st Respondent as the statutory information officer designate of the 2nd Respondent in accordance with the provisions of section 7(1) of the [Access to Information Act](#).
21. Section 7(1) of the Act explicitly designates the Chief Executive Officer of a public entity as the ex officio information officer. The Petition impugns the acts and omissions of this very officer. The 1st Respondent's Affidavit, therefore, is unquestionably competent as his own deposition, attesting to his own conduct as the statutory officer whose decisions are at the heart of this dispute. The Affidavit is his evidence in chief, both personally and as the public officer responsible.
22. To strike out the Affidavit, which responds to allegations made against him in this capacity, would be an overly formalistic application of procedure. The objection is a procedural technicality that does not go to the root of the dispute. In line with the constitutional imperative under Article 159(2)(d) to administer justice without undue regard to procedural technicalities, this Court finds the Replying Affidavit is competent and properly on record as the evidence of the 1st Respondent. This Preliminary Objection is accordingly dismissed.
23. The Respondents' second objection is that the Petitioners, as associations, are not citizens and, therefore, cannot invoke Article 35(1)(a). Their entire argument rests on the 2012 decision in the Famy Care case (supra), which held that citizen in this context referred to a natural person.
24. This Court finds that the Respondents' reliance on the Famy Care Case is misplaced, as it has been overtaken by subsequent and specific legislation. The decision was rendered in 2012, four years before Parliament enacted the statute to operationalize the very right in question.
25. In 2016, Parliament passed the [Access to Information Act](#), No. 31 of 2016. The long title of the Act unequivocally states its purpose: An Act of Parliament to give effect to Article 35 of [the Constitution](#). Parliament, in its wisdom, found it necessary to define the beneficiaries of this right. Section 2 provides a clear and unambiguous definition:

“citizen” means any individual who has Kenyan citizenship, and any private entity that is controlled by one or more Kenyan citizens.
26. The Petitioners have provided their Deeds of Constitution and the Minutes of their meetings, which list their Kenyan citizen members. They are, precisely, “private entities controlled by one or more Kenyan citizens.” The statutory provision enacted to give effect to Article 35 has expressly clarified and expanded the scope of “citizen” for the purposes of this right. The Act is the governing law on this point, and it supersedes the 2012 judicial interpretation.
27. Furthermore, this broad interpretation aligns with the constitutional architecture of access to justice. Articles 22 and 258 of [The Constitution](#) provide for a broad and liberal approach to locus standi,



encouraging, not restricting, the ability of persons and associations to approach the Court in defence of *the Constitution*. Article 20(3) and (4) provides that:

- (3) In applying a provision of the Bill of Rights, a court shall—
 - (a) develop the law to the extent that it does not give effect to a right or fundamental freedom; and
 - (b) adopt the interpretation that most favours the enforcement of a right or fundamental freedom.
- (4) In interpreting the Bill of Rights, a court, tribunal or other authority shall promote—
 - (a) the values that underlie an open and democratic society based on human dignity, equality, equity and freedom; and
 - (b) the spirit, purport and objects of the Bill of Rights.

28. The Petitioners, as associations of Kenyan citizens, fall squarely within the definition of citizen under section 2 of the *Access to Information Act*. They have the requisite locus standi to bring this Petition. This Preliminary Objection is without basis and is dismissed.
29. On the question of sub judice, the test, as articulated by the Supreme Court in *Kenya National Commission on Human Rights v Attorney General; Independent Electoral & Boundaries Commission & 16 others (Interested Parties) [2020] KESC 54 (KLR)* is not merely whether there is an overlap of parties or a tangential relationship in subject matter. the test is whether the matter in issue is also directly and substantially in issue in the previous suit, such that there is a genuine risk of two courts of concurrent jurisdiction issuing conflicting or embarrassing decisions on the same question.
30. This Court must, therefore, compare the two suits. Based on the Respondents' evidence and the Petitioners' clarification, Nairobi Petition E327 of 2022 concerns the corporate governance status of water companies. The matter directly and substantially in issue is whether the 2nd Respondent, along with 60 others, is in breach of the *Water Act* and Legal Notice No. 60 of 2017 for allegedly failing to transform from a private limited liability company to a public limited liability company.
31. In the instant Petition, the matter directly and substantially in issue is entirely different. The cause of action is the 2nd Respondent's failure to respond to a specific request for information dated 4 December 2023, and, more precisely, its subsequent defiance of a binding statutory order from the CAJ dated 22 April 2024.
32. The two causes are distinct. The one in this suit had not even arisen when the Nairobi suit was filed. This Court can determine whether the Respondents violated Article 35 and defied a CAJ order without making any finding on whether the 2nd Respondent should be a public limited liability company under the *Water Act*. Similarly, the Nairobi Court can determine the status issue without reference to this specific issue.
33. The Respondents have conflated a jurisdictional bar (sub judice) with a defence on the merits (Section 6(1)(h) of the *Access to Information Act*, which exempts information prejudicial to legal proceedings). The latter is a defence that the 2nd Respondent was entitled to raise—and indeed did raise before the CAJ. Whether that defence had merit is a different question from whether this Court has jurisdiction. There is no risk of conflicting judgments on the same question. The preliminary objection on sub judice is unfounded and is hereby dismissed.



The Petition

34. Having dismissed the Preliminary Objections, this Court now turns to the substantive merits of the Petition.
35. It is my considered opinion that the determinative issue is the legal effect of the un-appealed order of the CAJ. The factual timeline is clear. The Respondents, through their Advocates, received the CAJ's notification and submitted their defence, explicitly relying on the pending Nairobi suit E327/2022 and Section 6(1)(h) of the *Access to Information Act*. The CAJ, acting in its quasi-judicial capacity under Section 22 of the Act, considered the parties' positions and issued a final, reasoned Order on 22 April 2024, compelling disclosure.
36. The Act provides a specific, mandatory and time bound appeal mechanism. Section 23(3), (4) and (5) provides:
- (3) A person who is not satisfied with an order made by the Commission under subsection (2) may appeal to the High Court within twenty-one days from the date the order was made.
 - (4) An order of the Commission under subsection (2) may be filed in the High Court by any party thereto in such manner as the Commission may, in regulations made in consultation with the Chief Justice, prescribe and such party shall give written notice of the filing of the order to all other parties within thirty days of the date of the filing of the order.
 - (5) If no appeal is filed under subsection (3), the party in favour of whom the order is made by the Commission may apply ex-parte by summons for leave to enforce such order as a decree, and the order may be executed in the same manner as an order of the High Court to the like effect.
37. Being dissatisfied with the order, the Respondents' statutory remedy was an appeal to this Court. The record shows, and the Respondents have not pleaded otherwise, that they filed no such appeal. The 21-day period to do so has long since lapsed.
38. The consequence is that the CAJ Order of 22 April 2024 became final, valid, and binding upon the Respondents. All the substantive defences the Respondents now attempt to raise before this Court—the Section 6 limitations, the privacy concerns, the impracticability—are matters that were, or ought to have been, conclusively determined by the CAJ.
39. The Respondents cannot have a second bite at the cherry. They cannot ignore a final statutory order and then, when enforcement proceedings are brought, attempt to re-litigate the very merits that the order was based on. This is a classic collateral attack and a gross abuse of the judicial process. The Respondents are estopped, and the merits of their defences are res judicata. This principle, that a party who fails to use a specific statutory appeal mechanism cannot later challenge the merits of a decision, is well-established in our law (see *Judicial Service Commission v Shollei & another* [2014] KECA 334 (KLR)).
40. The Respondents' defiance of a final, un-appealed statutory order is, in itself, a flagrant violation of the rule of law. This finding is buttressed by the 1st Respondent's own Affidavit, which is riddled with contradictions. In paragraph 21, the 1st Respondent depones that the information is "highly obstructive and impracticable to retrieve." Yet, a few sentences later in paragraph 26, he depones that the information is already out there in the public and more specifically is available on the company website. An officer of a public company cannot, in good faith, claim in the same breath that information is both impossible to find and simultaneously available on a website. This manifest



untruth fatally undermines the bona fides of the entire defence and paints a picture of a public entity determined to stonewall a citizen's request by any means necessary.

41. The Respondents' conduct, from start to finish, demonstrates a bad-faith refusal to comply with *the Constitution* and the law. They ignored the initial request. They lost before the CAJ. They ignored the CAJ's Order. And when finally brought before this Court, they have advanced a frivolous jurisdictional claim and a self-contradictory Affidavit.
42. This Court finds that the Respondents' actions constitute a clear and continuing violation of the Petitioners' rights under Article 35 and Article 47, and are an affront to the national value of the rule of law in Article 10.

Remedies

43. Having found the Petition to be meritorious, I will now consider the appropriate reliefs under Article 23.
44. The Petitioners seek several declarations. Prayer (a) seeks a declaration on the interplay between section 6(1)(h) of the *Access to Information Act* and section 80 of the *Evidence Act*. As this Court's finding is based on the res judicata effect of the CAJ order, it is not necessary to issue this specific declaration.
45. Prayer (b) seeks a declaration that the Petitioners are entitled to the information and that the CAJ order be made an order of this Court. This prayer is proper, merited and is the correct enforcement mechanism. The same shall be granted.
46. Prayer (c) seeks a declaration that Articles 10(2)(a), 33(1)(a), 35(1)(a), 43(f), 47, and 174(c) of *The Constitution* have been violated. Based on the analysis, the Court finds that the primary rights flagrantly violated are Article 10 (Rule of Law), Article 35 (Access to Information), and Article 47 (Fair Administrative Action). A declaration to this effect shall issue.
47. Citing the case of *Raiply Woods (K) Ltd & another v Baringo County & 3 others* eKLR, the Petitioners seek aggravated damages. The Respondents submit that a declaration is a sufficient remedy. The purpose of a constitutional remedy is, inter alia, to vindicate the right and deter future breaches. This is not a case of a simple, good faith misunderstanding of law. As outlined above, the Respondents' conduct has been high-handed, obstructive, and in bad faith. They have ignored the Petitioners, defied a statutory commission, and submitted false and contradictory evidence to this Court. This conduct has forced the Petitioners, who are groups of private citizens, to expend significant time and resources to move this Court to enforce a right that was already confirmed by the CAJ. A simple declaration would be a hollow victory, effectively rewarding the Respondents' strategy of defiance and attrition.
48. In *Kitheka & 18 others v County Government of Machakos & 2 others* [2018] KEHC 4907 (KLR), the Court affirmed that it must grant a remedy that is appropriate and effective to vindicate the rights of the citizens. In this case, the Respondents' egregious conduct calls for an award of damages. This award is not to enrich the Petitioners, but to vindicate *the Constitution* and sanction the Respondents for their flagrant disregard for the rule of law.
49. In view of the foregoing, I find the Petition dated 17 May 2024 to be meritorious and the same succeeds. In that respect, I make the following orders:
 - i. An order is hereby issued that the order of the Commission on Administrative Justice dated 22 April 2024, directing the 2nd Respondent to furnish the Petitioners with:
 - (a) Annual General Meeting minutes of the 2nd Respondent from 1 January 2013 to date; and



- b) Copies of public advertisements for all employees of the 2nd Respondent employed from 9 March 2013, is hereby adopted and issued as an order of this Court.
- ii. An order is hereby issued directing the Respondents, jointly and severally, to comply fully with Order (i) above and furnish all the specified information to the Petitioners within 14 days from the date hereof;
- iii. A declaration is hereby made that the Respondents, by refusing to comply with the order of the Commission on Administrative Justice dated 22 April 2024 (Ref: Ati Review Application No. CAJ/ATI/RWSCO/009/15/24-MW) have violated the Petitioners' rights under Article 10, Article 35 and Article 47 of *The Constitution* of Kenya;
- iv. An order is hereby issued that the Respondents, jointly and/or severally, shall pay to each of the five (5) Petitioner Associations (Eintreten Association, Malewasibs Association, Wiselike Group, Nongaimwara Association, and Lobbydale Associates) the sum of Kshs 400,000/= (totalling Kshs 2,000,000/-) as aggravated damages for the flagrant violation of their constitutional rights.
- v. Costs are awarded to the Petitioners.

DATED AND DELIVERED AT THIKA THIS 28 DAY OF NOVEMBER 2025

HELENE R. NAMISI

JUDGE OF THE HIGH COURT

Delivered virtually in the presence of:

For Appellants: James Gacheru Kariuki

For Respondents: N/A

Court Assistant: Lucy Mwangi

