REPUBLIC OF KENYA

IN THE HIGH COURT AT NYERI

JUDICIAL REVIEW APPLICATION NO. E005 OF 2025

BARBRA ANYANGO OCHIENG' .... APPLICANT

VERSUS

THE VICE CHANCELLOR,
KARATINA UNIVERSITY..................................1ST RESPONDENT

KARATINA UNIVERSITY ....2ND RESPONDENT

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JUDGMENT

1. This is a judgment in respect of the Judicial Review Application dated 26.5.2025. The Applicant is seeking for orders as follows:
    a) The court be pleased to issue an order of certiorari and quash the decision of the Respondents made on 11.2.2025 and communicated vide the letter dated 20.2.2025 and the decision of the Examinations Irregularities Appeals Board dated 4.4.2025 expelling the Applicant and cancelling all her academic results.
    b) The court be pleased to issue an order of mandamus compelling the Respondents to

reinstate the Applicant to Karatina University and restore all academic results previously earned.

c) The court be pleased to issue an order of prohibition restraining the Respondents from further victimizing, expelling, cancelling the results of, or otherwise adverse action against the Applicant on the basis of the impugned decision.

d) A declaration be issued that the Respondents' actions violated the Applicant's rights under Article 47 and 50 of the Constitution and were *ultra vires*, procedurally unfair and unlawful.

e) The court be pleased to award the Applicant general and exemplary damages for the breach of the Applicant's constitutional rights.

d) Costs.

2. The application is premised on the grounds on its face and is supported by the affidavit of the even date, sworn by the Applicant. It is deposed as follows:

   (i) The Applicant was a student of the Respondents pursuing Bachelor of Science in Nursing.

   (ii) On 28.1.2025 during the examination, the Applicant was alleged to be in position unauthorised written material by virtue of writings on the Applicant's examination card.

   (iii) The said conduct was not expressly prohibited under the Respondent's examination regulations and did not amount to an examination irregularity.

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(iv) The Applicant was invited to appear before the Senate Committee on 11.2.2025 and appeared before the disciplinary committee without any prior notice.

(v) The disciplinary committee reached the decision to expel the Appellant on 11.2.2025 and a verdict to cancel all her academic materials including previous academic years.

(vi) The Applicant appealed to the appeals committee on 26.2.2025 to appear before the appeals board on 4.4.2025, where the board confirmed the decision of the examinations committee on the same day.

(vii) No reasons were given for the decisions.

(viii) The actions of the Respondent violated Article 47 of the Constitution.

3. The Respondents filed their Replying Affidavits sworn on 11.7.2025 and 30.9.2025 on the material grounds that:

   (i) The Karatina University Charter accorded several powers and duties to the Senate under paragraph 23(3) of the Charter, including:

   a) To make regulations governing methods of assessing and examining the academic performance of students;

   b) To evaluate the academic records of both undergraduate and postgraduate candidates for the purpose of admission into the University;

   c) To regulate the conduct of examinations; and

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d) Review the Statutes from time to time and to present recommendations there on Council provided that all Statutes shall be reviewed at least once every five years.

(ii) Statute XXXIV provides for the constitution of the Examinations Irregularities Committee (EIC) which is a standing Committee of Senate to determine the reported incidences of examinations irregularities by the Students.

(iii) There was also an examination appeals board to hear examination irregularities.

(iv) The nature of the irregularity is that she was caught with an examination card with writing on the back of it. This was contrary to the requirement that a student should not write on the examination card prescribed in Rule 2.3.4 of the Common Rules and Regulations of Examinations.

(v) Where the irregularity is by a medical student, that is, those taking health-related programs such as nursing, like the student, the penalty is to cancel the entire results of the studies and to expel them from the University.

(vi) The Applicant was given the opportunity to be heard in the presence of Ms. Mary Mumbi, her witness.

(vii) The Applicant also appealed and her appeal was considered and declined.

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(viii) The Applicant was accorded a fair hearing with all procedures observed.

(ix) The Applicant had sat five other courses in January 2025.

(x) The Registrar for Academic Affairs was present both at the Examinations Committee and Appeal level because that office was the custodian of all student files.

(xi) The presence of the Dean of Students at the appeal was in attendance and not part of the main decision-making.

Submissions

4. The Applicant filed submissions dated 2.9.2024 by which it was submitted that the Respondents violated the Applicant's right to fair administrative action. Reliance was placed inter alia on Article 47 of the Constitution and the case of **Republic v Kenyatta University; Ex parte Losem Naomi Chepkemoi [2020] KEHC 5799 (KLR)** as follows:

> *Persons who are likely to be affected by the proposed/likely action must be afforded an opportunity of being heard as to why that action should not be taken.*

5. It was submitted that the Applicant was denied the right to a fair hearing. The Applicant cited, among others, **Peninah Nandako Kiliswa v Independent Elections and Boundaries Commission & 2 others** [2014] KECA 807 (KLR) where it was submitted that the Court clarified that judicial review does not interrogate the merits of a

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decision, but only the legality and fairness of the process. Thus, an applicant only needs to show illegality, irrationality, or procedural impropriety.

6. It was submitted that the decision was irrational and ultra vires as the charge here was writing on the examination card. Regulation 2.5.8 Group 2(i) of the Common Rules speaks of possession of unauthorized material. This provision has always been understood to cover external materials, such as notes, books, or gadgets, brought into the exam hall. Writing on a university-issued answer card during an exam cannot, without more, be equated to possession of unauthorized material. Reliance was placed on **Attorney General & another v Commission on Administrative Justice** (Civil Appeal 7 of 2018) [2024] KECA 1157 (KLR) (20 September 2024) (Judgment).

7. The Respondents also filed submissions by which it was submitted that the Respondent granted the Applicant prior and adequate notice and an opportunity be heard, including the right to review as required under Sections 3 and 6 of the Fair Administrative Action Act. Reliance was placed inter alia on **Republic v Kenyatta University; Ex-parte Losem Naomi Chepkemoi** [2020] KEHC 5799 (KLR

8. The Respondents further submitted that the decision was reasonable. They cited inter alia **In Republic v Kenya School of Law; Ng'ang'a** (Exparte Applicant) (Judicial Review E022 of 2025) [2025] KEHC 4965 (KLR) (Judicial

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Review) (25 April 2025) (Judgment) to anchor the argument that the decision was reasonable and proportionate.

Analysis

9. The Applicant maintained that the acts of the Respondent were arbitrary, illegal, unreasonable, and unconstitutional and infringed on Article 47 of the Constitution as it violated the Applicant's right to fair administrative action. On the other hand, the Respondents appear to maintain the position that the decision was proper and in compliance with the University's Common Rules and Regulations for Examinations.

10. The right to fair administrative action is enshrined under Article 47 of the 2010 Constitution as doth;

> (1) Every person has the right to fair administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.
>
> (2) If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.
>
> (3) Parliament shall enact legislation to give effect to the rights in clause (1) and that legislation shall-
>
> (a) provide for the review of administrative action by a court or, if appropriate, an independent and impartial tribunal; and
>
> (b) promote efficient administration

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11. An administrative decision must satisfy the principles of administrative law. The reason stated was that the Applicant was caught with an examination card with writing on the back of it, which was unauthorized in an examination room. The particulars were that on 28.1.2025, between 3.00-6.00 pm, while sitting in an examination for the course NHS 311, the Applicant was found in possession of unauthorized material in the examination room.

12. The said assertion was described to be in breach of section 2.8.5 group 2(i) of the Common rules and regulations for examinations. The Applicant, however, maintained that the allegations did not constitute an offence in the first place.

13. In light of the matters under this Judicial Review Application, the court is concerned with the decision-making process, not with the merits of the decision itself, per se. The procedure pertains to whether the Respondents had the jurisdiction, whether the Applicant who was affected by the decision was heard before the decision was made, and whether, in making the decision, the Respondents took into account relevant matters or did take into account irrelevant matters. In the case of **Municipal Council of Mombasa Vs Republic & Umoja Consultants Ltd (2002) eKLR,** the Court of Appeal held that: -

> **Judicial review is concerned with the decision making process, not with the merits of the decision itself: the Court would concern itself with such issues as to**

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whether the decision makers had the jurisdiction, whether the persons affected by the decision were heard before it was made and whether in making the decision the decision maker took into account relevant matters or did take into account irrelevant matters…The court should not act as a Court of Appeal over the decider which would involve going into the merits of the decision itself-such as whether there was or there was not sufficient evidence to support the decision.'

14. The cadre of judicial review under our constitutional dispensation is higher, and administrative law is now hinged on Article 47 of the Constitution, whose effect is to be enforced as a threat to the right to fair administrative action. Under this pretext, the state's administrative bodies act only within their mandate, and for anything done outside it, judicial review is the corrective measure. In **Daniel Ingida Aluvaala and another vs Council of Legal Education & Another**,[Pet No. 254 of 2017] I observed that:-

Public bodies, no matter how well-intentioned, may only do what the law empowers them to do. That is the essence of the principle of legality, the bedrock of our constitutional dispensation, which is enshrined in our constitution. It follows that for the impugned decisions to be allowed to stand, it must be demonstrated that the decision is grounded on law.

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15. The Constitution has thus embedded into our legal system a transformative development of administrative justice which not only lays a constitutional foundation for control of the powers of state organs and other administrative bodies but also entrenches the right to fair administrative action in the Bill of Rights. In **Judicial Service Commission vs. Mbalu Mutava & Another[{2015} eKLR]** the Court of Appeal held that:-

> Article 47(1) marks an important and transformative development of administrative justice for, it not only lays a constitutional foundation for control of the powers of state organs and other administrative bodies, but also entrenches the right to fair administrative action in the Bill of Rights. The right to fair administrative action is a reflection of some of the national values in article 10 such as the rule of law, human dignity, social justice, good governance, transparency and accountability. The administrative actions of public officers, state organs and other administrative bodies are now subjected by article 47(1) to the principle of constitutionality rather than to the doctrine of ultra vires from which administrative law under the common law was developed.

16. The importance of fair administrative action as a Constitutional right was appreciated in the South African case of **President of the Republic of South Africa and Others vs. South African Rugby Football Union and Others CCT16/98) 2000 (1) SA 1** at paragraphs135 -136

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as follows about similar provisions on just administrative action in Section 33 of the South African Constitution:

> Although the right to just administrative action was entrenched in our Constitution in recognition of the importance of the common law governing administrative review, it is not correct to see section 33 as a mere codification of common law principles. The right to just administrative action is now entrenched as a constitutional control over the exercise of power. Principles previously established by the common law will be important though not necessarily decisive, in determining not only the scope of section 33, but also its content. The principal function of section 33 is to regulate conduct of the public administration, and, in particular, to ensure that where action taken by the administration affects or threatens individuals, the procedures followed comply with the constitutional standards of administrative justice. These standards will, of course, be informed by the common law principles developed over decades…

17. As a derivative of Article 47 of the Constitution, Section 7(2) of the Fair Administrative Action Act, 2015 provides for grounds of Judicial Review which include bias, procedural impropriety, ulterior motive, failure to consider relevant matters, abuse or discretion, unreasonableness, violation of legitimate expectation or abuse of power.

18. It was the duty of the Respondent to bring materials before this court to justify the assertion that the Applicant breached the Examination Rules. The Respondents relied on

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section 2.5.8 2(i) to create an offence and section 2.5.8 group 3(viii) to punish the Applicant by expelling her and cancelling her first semester examination results and the results for the previous year.

19. Is the action by the Representatives unlawful, irrational, and unreasonable? The court has considered the Common Rules and Regulations for Examination (April 2023). There was no offence stipulated to the effect that writings on the back of an examination card constituted unauthorized material. The nature and content of the writings were equally not detailed as to enable the Applicant tender her defence as anticipated under Article 50 of the Constitution. No material was indicated to have been used or introduced into the examination room through the card.

20. The applicant maintained that there were scribblings during writing exams and not before. The representative proceeded with fiat, without examining the card and the alleged writings, and the extent thereof, to find the applicant guilty of introducing materials into the examination room. Defacing the examination card, without more, does not amount to introducing materials into the examination room. Blanketly enforcing the rule without regard to the nature of defacement and the time it was defaced amounted to unlawful, irrational, and unreasonable conduct.

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21. Where the allegations against the Applicant were irrational, unreasonable and *ultra vires*, it was immaterial that due procedure was followed. The offences under the Respondents' regulations were severe and the rules needed to be stipulated with utmost clarity to enable proper defence by the Applicant. The Applicant could not be said to have been expelled from school and all her examination results cancelled for an offence that was not stipulated in the rules or whose scope and extent were blurred. The rules referred to being found in an examination room in possession of unauthorized material and the examination card was definitely not unauthorized material. It was the writings that were described as unauthorized but whose ingredients were not laid bare in the allegations of the Respondents against the Applicant.

22. Based on the above circumstances, the Applicant sought certiorari, prohibition and mandamus orders. The principles for Judicial Review reliefs were set out in a landmark case of **<u>Republic Vs Kenya National Examination Council Ex parte Gathenji and others Civil Appeal No.266 of 1996</u>**, where the Court of Appeal stated *inter alia* that:

> 'An order of certiorari can only quash a decision already made and an order of certiorari will issue if the decision is without jurisdiction or in excess of jurisdiction or where the rules of natural justice are not adhered to or any other reasonable cause. It is trite law that the remedy of Judicial Review is not concerned with the merits of the case but the

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decision-making process. In order for an applicant to succeed in an application for Judicial Review, he must satisfy the court that a public officer has acted unprocedurally, that his decision was unreasonable and that the impugned decision was illegal."

23. The order sought is directed to an inferior tribunal when it acts in excess of its authority. It is irrelevant that the respondent feels aggrieved. In order not to come into the purview of the High Court, steps must be taken to ensure the rule on rationality is maintained. In **Joram Mwenda Guantai vs The Chief Magistrate**, Nairobi Civil Appeal No. 228 of 2003 [2007] 2 EA 170, the Court of Appeal held as follows:

> **It is trite that an order of prohibition is an order from the High Court directed to an inferior tribunal or body which forbids that tribunal or body to continue proceedings therein in excess of its jurisdiction or in contravention of the laws of the land. It lies, not only in excess of jurisdiction or absence of it but also for a departure from the rules of natural justice. It does not, however, lie to correct the course, practice or procedure of an inferior tribunal, or a wrong decision on the merits of the proceedings … Equally so, the High Court has inherent jurisdiction to grant an order of prohibition to a person charged before a subordinate court and considers himself to be a victim of oppression. If the prosecution amounts to an abuse of the**

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> **process of the court and is oppressive and vexatious, the Judge has the power to intervene and the High Court has an inherent power and the duty to secure fair treatment for all persons who are brought before the court or to a subordinate court and to prevent an abuse of the process of the court.**

24. The principles guiding the Application of mandamus were encapsulated in the keynote case of the Court of Appeal. An order of mandamus *compels the performance of a public duty which is imposed on a person or body of persons by a statute and where that person or body of persons has failed to perform the duty to the detriment of a party who has a legal right to expect the duty to be performed.* The Court of Appeal in **Republic vs. Kenya National Examinations Council ex parte Gathenji & Others Civil Appeal No. 266 of 1996** stated as follows:

> The order of **mandamus** is of a most extensive remedial nature, and is, in form, a command issuing from the High Court of Justice, directed to any person, corporation or inferior tribunal, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. Its purpose is to remedy the defects of justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right or no specific legal remedy for enforcing that right; and it may issue in cases where, although there is an alternative legal remedy, yet that mode of

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> redress is less convenient, beneficial and effectual. The order must command no more than the party against whom the application is legally bound to perform. Where a general duty is imposed, a **mandamus** cannot require it to be done at once. Where a statute, which imposes a duty, leaves discretion as to the mode of performing the duty in the hands of the party on whom the obligation is laid, a **mandamus** cannot command the duty in question to be carried out in a specific way...These principles mean that an order of **mandamus** compels the performance of a public duty which is imposed on a person or body of persons by a statute and where that person or body of persons has failed to perform the duty to the detriment of a party who has a legal right to expect the duty to be performed. An order of **mandamus** compels the performance of a duty imposed by statute where the person or body on whom the duty is imposed fails or refuses to perform the same but if the complaint is that the duty has been wrongfully performed i.e. that the duty has not been performed according to the law, then **mandamus** is wrong remedy to apply for because, like an order of prohibition, an order of **mandamus** cannot quash what has already been done...Only an order of **certiorari** can quash a decision already made and an order of **certiorari** will issue if the decision is without jurisdiction or in excess of jurisdiction, or where the rules of natural justice are not complied with or for such like reasons.

25. In the fulfilment of obligation for which some other person has an interest, the court has jurisdiction to grant

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mandamus to compel the fulfilment. This jurisdiction, however, is not carte blanche. It cannot be granted where the constitution or statute has expressly empowered the Respondents to act in the manner stipulated by law. In **Shah vs. Attorney General (No. 3) Kampala HCMC No. 31 of 1969 [1970] EA 543,** Goudie, J held, *inter alia*, as follows:

> **Mandamus is a prerogative order issued in certain cases to compel the performance of a duty…Thus it is used to compel public officers to perform duties imposed upon them by common law or by statute and is also applicable in certain cases when a duty is imposed by Act of Parliament for the benefit of an individual…In cases where there is a duty of a public or quasi-public nature, or a duty imposed by statute, in the fulfilment of which some other person has an interest the court has jurisdiction to grant mandamus to compel the fulfilment… Whereas mandamus may be refused where there is another appropriate remedy, there is no discretion to withhold mandamus if no other remedy remains. When there is no specific remedy, the court will grant a mandamus that justice may be done…In mandamus cases it is recognised that when statutory duty is cast upon a Crown servant in his official capacity and the duty is owed not to the Crown but to the public any person having a sufficient legal interest in the performance of the duty may apply to the Courts for an order of mandamus to enforce it.**

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26. Having found that the actions of the Respondents were irrational, unreasonable, and ultra vires, I am inclined to issue judicial review prerogative orders in favour of the Applicant.

27. As to general damages, the Applicant prayed for general and exemplary damages. The damages are in the nature of breach of the constitutional right to fair administrative action and fair hearing for which judicial review orders were sought. However, the rule is that the Petitioners are expected to prove the loss incurred as a consequence of the Respondent's action in Constitutional matters.

28. The relevant principles applicable to award of damages for constitutional violations under the Constitution were explained by the Privy Council in the case of **Siewchand Ramanoop vs The AG of T&T, PC Appeal No 13 of 2004**. It was as doth:

> When exercising this constitutional jurisdiction the court is concerned to uphold, or vindicate, the constitutional right which has been contravened. A declaration by the court will articulate the fact of the violation, but in most cases more will be required than words. If the person wronged has suffered damage, the court may award him compensation. The comparable common law measure of damages will often be a useful guide in assessing the amount of this compensation. But this measure is no more than a guide because the award of compensation under section 14 is discretionary and, moreover, the violation of the

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> constitutional right will not always be co-terminous with the cause of action at law. An award of compensation will go some distance towards vindicating the infringed constitutional right. How far it goes will depend on the circumstances, but in principle it may well not suffice. The fact that the right violated was a constitutional right adds an extra dimension to the wrong. An additional award, not necessarily of substantial size, may be needed to reflect the sense of public outrage, emphasise the importance of the constitutional right and the gravity of the breach, and deter further breaches.

29. The same view was expressed by the Court of Appeal in **Peter Ndegwa Kiai t/a Pema Wines & Spirits v Attorney General & 2 others (Civil Appeal 243 of 2017) [2021] KECA 328 (KLR) (17 December 2021) (Judgment)** as doth:

> It is notable in this respect that comparative jurisprudence limits the award of general damages in constitutional cases to only proven damages and not presumed damages. In Ntanda Zeli Fose vs Minister of Safety and Security (supra), the Court held that an award of constitutional damages in addition to delictual damages would not be appropriate, and that delictual damages are an adequate vindication of the Plaintiffs constitutional rights. The Court was however not decided on the nature of an award where delictual damages are not available, and observed that the law was flexible to provide relief that was appropriate for a breach of constitutional rights.

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> 14.The US Supreme Court in Carey vs Piphus, 435 U.S. 247 (1978) ruled that while presumed compensatory damages may not be awarded in an action for a violation of procedural due process, nominal and proven compensatory damages are appropriate to redress such a grievance. Presumed compensatory damages in this regard are general damages that are recoverable without proof of actual loss.

30. An award of general damages in respect of constitutional rights infringement is based on the guiding principle that an award of general damages in constitutional petitions is discretionary and will depend on the circumstances of each case, and can indeed be granted as compensation for proven loss.

31. The Applicant did prove breach of fair administrative action on the part of the Respondents, which would entitle this court to the discretion to assess general damages if proved, for to do otherwise would be a dereliction of duty. In animating the discretionary powers of the Court in the case of **<u>Ramakant Rai vs. Madan Rai, Cr LJ 2004 SC 36</u>**, the Supreme Court of India rendered itself thus on the issue of judicial discretion:

> *Judicial discretion is canalized authority not arbitrary eccentricity. Cardozo, with elegant accuracy, has observed:*
>
> > *The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant roaming at will in*

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pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not a yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to 'the primordial necessity of order in the social life.' Wide enough in all conscience is the field of discretion that remains.

32. In the circumstance, general damages were not proved and the court is unable to award any. As for the exemplary damages, as stated in the case of **Godfrey Julius Ndumba Mbogori & another V. Nairobi City County [2018] eKLR:**

> **Exemplary damages are essentially different from ordinary damages. The object of damages in the usual sense of the term is to compensate. The object of exemplary damages is to punish and deter. We are guided by the case of Rookes v Barnard [1964] AC 1129 where Lord Devlin set out the categories of cases in which exemplary damages may be awarded which are: i) in cases of oppressive, arbitrary or unconstitutional action by the servants of the government, ii) cases in which** the **defendant's conduct has been calculated to make a profit for himself which may well exceed the compensation payable to the**

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> **plaintiff and iii) where exemplary damages are expressly authorized by statute.**

33. I will not award exemplary damages, for I have not found conduct on the part of the Respondents that was punitive. They acted under the pretext of their rules and regulations, albeit arbitrarily. Grant of the orders sought will suffice. The award of damages does not serve any useful purpose in concluding this imbroglio.

34. On costs, an award of costs in this court is governed by Section 27 of the Civil Procedure Act. They are discretionary. The Supreme Court has set forth guiding principles applicable in the exercise of that discretion in the case of **<u>Jasbir Singh Rai & 3 others v. Tarlochan Singh Rai & 4 others, SC Petition No. 4 of 2012; [2014] eKLR</u>**, as follows: -

> **[18] It emerges that the award of costs would normally be guided by the principle that costs follow the event: the effect being that the party who calls forth the event by instituting suit, will bear the costs if the suit fails; but if this party shows legitimate occasion, by successful suit, then the defendant or respondent will bear the costs. However, the vital factor in setting the preference is the judiciously-exercised discretion of the Court, accommodating the special circumstances of the case, while being guided by ends of justice. The claims of the public interest will be a relevant factor, in the exercise of such discretion, as will also be the motivations and conduct of the parties, before, during,**

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> **and subsequent to the actual process of litigation…. Although there is eminent good sense in the basic rule of costs– that costs follow the event – it is not an invariable rule and, indeed, the ultimate factor on award or non-award of costs is the judicial discretion. It follows, therefore, that costs do not, in law, constitute an unchanging consequence of legal proceedings – a position well illustrated by the considered opinions of this Court in other cases.**

35. Although costs follow the event, the court takes note of the special relationship of the parties that is bound to continue following this decision. I direct each party to bear their own costs.

Determination

36. The upshot is that I make the following orders: -

(a) The application dated 26.5.2025 is merited and is allowed.

(b) An order of certiorari is issued to bring to this court and quash the decision of the Respondents made on 11.2.2025 and communicated vide the letter dated 20.2.2025 and the decision of the Examinations Irregularities Appeals Board dated 4.4.2025 expelling the Applicant and cancelling all her academic results.

(c) An order of mandamus is issued compelling the Respondents to forthwith reinstate the Applicant to

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Karatina University and restore all the Applicant's academic results previously earned.

(d) An order of prohibition is issued restraining the Respondents from further victimizing, expelling, cancelling the results of, or otherwise adverse action against the Applicant on the basis of the impugned decision.

(e) A declaration be and is hereby issued that the Respondents' actions violated the Applicant's rights under Articles 47 and 50 of the Constitution and were ultra vires, procedurally unfair, and unlawful.

(f) I decline to issue damages.

(g) Each party to bear its own costs.

DELIVERED, DATED and **SIGNED** at **NYERI** on this **16th** day of **December, 2025**. Judgment delivered through Microsoft Teams Online Platform.

KIZITO MAGARE

JUDGE

In the presence of:-

Mr. Orondo for the Applicant

Ms. Mumbi for the Respondents

Applicant – present

Court Assistant – Michael

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