

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT KAKAMEGA
CONSTITUTIONAL & HUMAN RIGHTS DIVISION
PETITION NO. E001 OF 2026

IN THE MATTERS OF: -
ARTICLES 2, 10, 19, 20, 21, 22, 23, 27, 28, 36, 38, 41, 47, 50, 159, 160,
162(2) (a), 165, AND 259;
OF THE CONSTITUTION OF KENYA, 2010;
AND
THE EMPLOYMENT AND LABOUR RELATIONS COURT ACT;
AND
THE FAIR ADMINISTRATIVE ACTION NO.4 OF 2015;
AND
THE KENYA NATIONAL UNION OF TEACHERS
CONSTITUTION;
AND THE PRINCIPLES OF FAIRNESS AND LEGITIMATE
EXPECTATION;
AND
ALL OTHER ENABLING AND RELEVANT PROVISIONS OF
LAW
BETWEEN
KEVIN MUTSEMBI..... PETITIONER
-VERSUS-

HENRY COLLINS OYUU,

RULING – ELRC KK CONST. PET E001 OF 2026

SECRETARY GENERAL

KENYA NATIONAL UNION OF TEACHERS

(KNUT).....1ST RESPONDENT

GEOFFREY MULINYA MUSIDIA,

EXECUTIVE SECRETARY (KNUT)

KAKAMEGA SOUTH BRANCH.....2ND RESPONDENT

KENYA NATIONAL UNION OF

TEACHERS (KNUT)

KAKAMEGA SOUTH BRANCH.....3RD RESPONDENT

(BEFORE HON. JUSTICE DAVID NDERITU)

RULING

The court notes that the applicant was suspended from the union on 29th May, 2025. He did not take any action to have the suspension lifted until when he wrote the letter of 5th December 2025.

Again, when the respondents failed to act on the said letter of 5th December 2025 the applicant took no further action to have the suspension lifted.

All along the applicant had the option to come to court and pray for the court to issue appropriate order lifting the suspension. He did not do so. Whether the suspension is lawful or unlawful is an issue to be canvassed

and determined but as of now the applicant is suspended and not allowed to take part in the activities of the union either as an official or a member.

Although the respondents have not appeared in court to state their position, the court takes the view that the applicant has been indolent and failed to take action since May 2025 when he was suspended.

Equity aids the vigilant and the application is filed in bad faith to stop an election that is slated for tomorrow, 31st January 2026.

Further, the court notes that the matter was filed at ELRC Nairobi yet the order transferring the same to this court has not been attached. The court finds and holds that there are no grounds established for the court to issue the interim orders sought.

The applicant is free to amend the application and, if need be, file appropriate application(s) if he so deems fit.

The matter shall be mentioned on 5th February 2026 for the applicant to inform the court what direction he wishes to go with the matter.

A mention notice be issued and served upon the respondents.

DAVID NDERITU, JUDGE
30/01/2026

Court – No order as to costs.

DAVID NDERITU, JUDGE
30/01/2026