



**M'Ibere t/a Motel bar and Restaurant v County Government of Isiolo &
2 others (Constitutional Petition E005 of 2025) [2026] KEHC 439 (KLR)
(Constitutional and Judicial Review) (22 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 439 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ISIOLO
CONSTITUTIONAL AND JUDICIAL REVIEW
CONSTITUTIONAL PETITION E005 OF 2025
SC CHIRCHIR, J
JANUARY 22, 2026
IN THE MATTER OF ARTICLES 1, 2, 3, 10, 19, 20, 22,
23, 27, 40, 47, 258 AND 260 OF THE CONSTITUTION
OF KENYA, 2010
AND
IN THE MATTER OF ALLEGED CONTRAVENTION OF
FUNDAMENTAL RIGHTS AND FREEDOMS SECURED
AND GUARANTEED UNDER ARTICLE 27, 35, 40, 46,
47, AND 50 OF THE CONSTITUTION OF KENYA 2010
AND
IN THE MATTER OF VIOLATION TO SECTION 12(1)(A)
OF ALCOHOLIC DRINKS CONTROL ACT NO. 4 OF
2010
AND
IN THE MATTER OF ISIOLO COUNTY ALCOHOLIC
DRINKS CONTROL ACT, 2010
AND
IN THE MATTER OF THE ALCOHOLIC DRINKS
CONTROL ACT, 2014
AND
IN THE MATTER OF FOOD, DRUGS AND CHEMICAL**



SUBSTANCE ACT
AND
IN THE MATTER OF THE FAIR ADMINISTRATIVE
ACTION ACT

BETWEEN

NATALI M'IBERE T/A MOTEL BAR AND RESTAURANT PETITIONER

AND

COUNTY GOVERNMENT OF ISIOLO 1ST RESPONDENT

**ISIOLO NORTH SUB COUNTY ALCOHOLIC DRINKS REGULATION
COMMITTEE 2ND RESPONDENT**

DCC ISIOLO NORTH SUB COUNTY 3RD RESPONDENT

RULING

1. The petitioners' Notice of motion dated 03/07/2025 seeks for an order restraining the Respondents from closing the Petitioner's business premises, or threatening the Petitioners and his workers with arbitrary arrest pending the hearing and determination of the Petition. The Petitioner had earlier sought a temporary injunction pending the hearing of the present Application and which prayer was granted on 28/7/2025. The Application is supported by the grounds appearing on the face of the Application, and the attached Affidavit of the petitioner sworn on 3rd July, 2025.
2. It is the petitioners' case that on 02/07/25 the 3rd Respondent, in the company of the officials of the 1st and 2nd Respondents, invaded the Petitioners business premises and ordered it closed indefinitely. The premises house a motel, Bar and Restaurant. It is stated that the business has been running in the same premises for the last 30 years.
3. The Applicant states that the order for closure was given despite the fact that the Applicant had procured all the applicable permits which include: a single business permit in the year 2025, Fire Safety Certificate and food, drugs and chemical/ substance licence for the year 2024.
4. The Petitioner states that he was not given any reason for the intended closure; that the business is situated at the town Centre, and not a Residential Area. He argues that the closure was therefore in breach of Article 47 of *fair Administrative action Act* (FAAA) and Article 27 of *the Constitution*.
5. There was no response from the Respondents despite evidence of service.

Determination

6. Article 47 of *the Constitution* provides as follows "Every person has the right to administrative action that is expeditious, efficient, Lawful reasonable and procedurally fair". The above provision is reiterated and expounded under Section 4(1) to (6) of FAAA. The entire Section reads .
 - (1) Right to Fair Action: Every person is entitled to administrative action that is expeditious, efficient, lawful, reasonable, and procedurally fair.



- (2) Right to Reasons: Any administrative action taken against a person must be accompanied by written reasons.
 - (3) Adverse Effect Obligations: If an action may negatively impact a person's rights or freedoms, the administrator must provide several things, including prior notice, an opportunity to be heard, notice of review rights, and reasons for the action as per Section 6. They must also inform the person of their rights regarding legal representation, cross-examination, and access to relevant information.
 - (4) Opportunity to Participate: The administrator is required to give the affected person a chance to attend proceedings, be heard, cross-examine those providing opposing evidence, and request adjournments for a fair hearing.
 - (5) Legal Representation: This section does not restrict a person's right to legal representation in judicial or quasi-judicial settings.
 - (6) Different Procedures: Administrators can follow alternative written procedures if they align with the fair administrative principles outlined in Article 47 of *the Constitution*.
7. The threatened closure of the Applicant's business premises was an Administrative action within the context of the aforesaid article of *the constitution* and FAAA. Consequently, the intended action could only be taken with full compliance with the above legal provisions. Applicant states that no reasons were given for the intended closure; that he took himself to the Respondents in an attempt to inquire of the possible reasons for the threatened closure but none was forthcoming.
 8. In terms of Section 4 of FAAA aforesaid the Respondents were required to comply with interalia with giving reasons for the Administrative action the intended closure and a prior Notice. Indeed, it was not for the Applicant to go the offices of the respondents in "search" for reasons.
 9. The Respondent have not responded to or sought to refute the Applicants allegations The court is therefore entitled to rely on what the Applicant has told the court. The court has no reason to disbelieve him.
 10. There is also evidence that the Applicant has complied with all the licensing requirements, and the said licence were issued by none other than 1st and 2nd respondents.
 11. The order to close and the alleged harassment of the Petitioner's employer falls afoul Article 47 of *the Constitution* and Section 4 of FAAA. The Application is therefore warranted.
 12. Consequently, the court hereby issues orders as follows:
 - a). That, pending the hearing and determination of the Petition herein, the Respondents, by themselves, their officials, or any person or servant or Agent acting under or at their behest are hereby restrained from closing the Petitioner's business premises situate on plot No. 7 at Isiolo Town or/ and from intimidating or threatening the petitioner or and his workers with arbitrary arrest, in relation to the running of the Businesses on the same plot.

DATED, SIGNED AND DELIVERED AT ISIOLO, THIS 22ND DAY OF JANUARY, 2026.

S. CHIRCHIR

JUDGE

In the Presence of:-

Roba/Kalelo -Court Assistant.

