



**Masara v Commission on Administrative Justice; Cabinet Secretary Ministry of Education & another (Interested Parties) (Judicial Review Application E033 of 2026) [2026] KEHC 1340 (KLR) (Judicial Review) (11 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1340 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
JUDICIAL REVIEW  
JUDICIAL REVIEW APPLICATION E033 OF 2026  
RE ABURILI, J  
FEBRUARY 11, 2026**

**BETWEEN**

**INNOCENT MASARA ..... APPLICANT**

**AND**

**THE CHAIR COMMISSION ON ADMINISTRATIVE JUSTICE . RESPONDENT**

**AND**

**CABINET SECRETARY MINISTRY OF EDUCATION ..... INTERESTED PARTY**

**PRINCIPAL NGARA GIRLS HIGH SCHOOL ..... INTERESTED PARTY**

**RULING**

1. The chamber summons dated 9/2/2026 was initially filed before the Civil Division of the High Court vide HCC Misc E131/2026 and was transferred to this court on 10/2/2026.
2. I have perused the chamber summons and the accompanying documents and statutory statement.
3. In my view, the application is not urgent to warrant certification. It is therefore not certified as urgent.
4. On whether leave to apply is merited the threshold for leave to apply under Order 53 Rule (1) of the Civil Procedure Rules is whether the applicant has an arguable case for further investigations at the substantive stage.
5. An arguable case is not necessarily one that must succeed but that there are legal issues raised which are capable of a determination one way or the other. The intended application should not be frivolous or statute barred. The Court must also have jurisdiction to hear and determine the matters raised.



6. The issues raised in the chamber summons include the alleged overstepping of the mandate by the Commission on Administrative Justice as well as whether the complaint giving rise to the Commission on Administrative Justice's intervention in School administration borders on maladministration of the 2<sup>nd</sup> Interested Party, taking into account the rights and interests of the child as guaranteed in Article 53 of *the Constitution* and the Children's Act.
7. That being the case, I find that this is a proper case for leave to be granted to the applicant to put forward his case and for the Respondent constitutional commission to file a response and to hear from the Interested Parties on the matter.
8. I grant leave to the applicant to file and serve the substantive motion within 7 days of today.
9. This being a matter involving children in a school, upon filing & service of the substantive motion, and in order to fast-track the hearing of the dispute, the Respondent and Interested Parties shall have 7 days of the date of service to file and serve their responses.
10. I have noted the defect in the description of the applicant in the heading/citation and observe that the defect is not fatal as it can be cured in the main motion by the applicant ensuring that he is properly named as the exparte applicant while the Republic is the Applicant.
11. On whether leave so granted should operate as stay of the contents, proceedings and decision in the Respondent's letters of 26/1/2026 and 3/2/2026, I find this prayer not merited for reasons that the court cannot stay contents of a letter or letters, there being no proceedings or decisions made or reached against the 2<sup>nd</sup> Interested Party or which are prejudicial to any party. There is also no material to suggest that the intended proceedings shall be rendered nugatory, if successful, unless and order sought is granted. I therefore decline to grant any stay sought.
12. As the applicant filed a Miscellaneous application, this file is closed. The main motion shall be filed in a substantive Judicial Review file properly cited.
13. I make no orders as to costs.
14. This file is closed.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 11<sup>TH</sup> DAY OF FEBRUARY, 2026**

**R.E. ABURILI**

**JUDGE**

