

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
JUDICIAL REVIEW DIVISION
JUDICIAL REVIEW APPLICATION NO. E047 OF 2026

LYCY MINAYO LUGALIA.....1ST
APPLICANT

ANTONY NZAU MUSAU.....2ND APPLICANT

-VERSUS-

**CABINET SECRETARY, MINISTRY OF INFORMATION,
COMMUNICATION AND THE DIGITAL ECONOMY.....1ST**
RESPONDENT

**PRINCIPAL SECRETARY, MINISTRY OF INFORMATION
COMMUNICATION AND DIGITAL ECONOMY.....2ND RESPONDENT**

**THE SELECTION PANEL FOR THE NOMINATION OF THE
CHAIRMAN AND MEMBER OF THE MEDIA
COMPLAINTS COMMISSION.....3RD RESPONDENT**

ATTORNEY GENERAL.....4TH RESPONDENT

RULING

1. The application dated 25/2/2026 is not certified urgent.
2. I have perused the chamber summons dated 25/2/2026 the grounds, statutory statement and verifying affidavit together with annexures thereto.
3. I note that the applicant seeks for leave to apply for mandamus to compel the settlement of costs awarded in HCCHR PET E396 vide judgment rendered on 15/5/2025 against the Respondents.

4. That being the case, the applicant at this stage must demonstrate a prima facie arguable case.
5. In application of this nature, the applicant must establish that mandamus is the only remedy available in law; that there is a statutory duty imposed on the Respondents to settle decree and that provisions of **Section 21 of the Government Proceedings Act** are fully complied with. Under the section, the applicant must have obtained a decree and certificate of order against the government, served it upon the Attorney General in the case of litigation with the national government and demanded settlement by the accounting officer, keeping in mind the timelines provided for under the Act.
6. In this case, it is not in dispute that mandamus is the only remedy for enforcement of a decree against the Government and that there is no other remedy.
7. It is also not in dispute that the 2nd Respondent Permanent Secretary is the Accounting Officer of the 1st Respondent Ministry hence, the person statutorily bound to settle decree.
8. However, in this case, being one for recovery of costs, there is no decree and certificate of order for costs against the Government in terms of the taxed costs, which the 2nd Respondent can act upon.

9. The applicant has only filed certificate of costs dated 7/8/2025 and certified on 15/1/2026, as the document which is sought to be enforced vide these Judicial Review Proceedings. The other documents are the judgment, decree and certificate of order against the Government in the primary petition judgment.
10. However, this court is not being asked to enforce a decree dismissing the petition. It is being asked to grant leave so as to apply for enforcement of settlement of the assessed costs.
11. For this court to grant leave to apply for mandamus, it must be satisfied that the procedure provided for under Section 21 of the Government Proceedings Act, including service of decree and certificate of order for costs against the Government is effected upon the accounting officer and demand for settlement made as stipulated under the said Section 21 of Cap 40 Laws of Kenya. There is no compliance with the said provisions in these proceedings.
12. I find the application to be premature and incompetent. It is not arguable. The chamber summons dated 25/2/2026 is struck out with no orders as to costs.
13. The applicant to fully comply with provisions of **Section 21 of the Government Proceedings Act** before filing of an application.

14.This file is closed.

Dated, Signed and Delivered at Nairobi this 27th Day of February, 2026

R.E. ABURILI

JUDGE

ORIGINAL