



**Awino v Mohamed & another; Kenya Civil Aviation Authority
(Interested Party) (Petition E441 of 2023) [2026] KEHC 3950 (KLR)
(Constitutional and Human Rights) (26 March 2026) (Ruling)**

Neutral citation: [2026] KEHC 3950 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS
PETITION E441 OF 2023
LN MUGAMBI, J
MARCH 26, 2026**

BETWEEN

FRANCIS AWINO PETITIONER

AND

MUHUMED ABDI MOHAMED 1ST RESPONDENT

SKYWARD EXPRESS PLC 2ND RESPONDENT

AND

KENYA CIVIL AVIATION AUTHORITY INTERESTED PARTY

RULING

1. The Petition dated 9th November 2023 alleges that the Respondents have failed to comply with planes minimum flight safety standards and lack the competence to operate aviation air business hence the need for revocation of their licenses.
2. Further, that the Respondents have been charging exorbitant ticket prices in comparison with similar carriers on the same flight route.
3. In addition, the Petitioner seeks to hold the Interested Party accountable in view of its oversight obligations in the aviation sector.
4. The Respondents filed a Notice of Preliminary Objection dated 30th November 2023 in opposition to the Petitioner's Petition citing the following grounds:
 - i. The Court has no jurisdiction to entertain the Petitioner's Petition dated 9th November, 2023 as no proper constitutional petition has been lodged before this Court.



- ii. By dint of Section 69 of the *Civil Aviation Act* No. 21 of 2013, this Court is divested of jurisdiction as the Petitioner has not exhausted the dispute resolution mechanism within the framework of the *Civil Aviation Act* No. 21 of 2013.
- iii. By dint of Section 22 of the *Access to Information Act* No. 31 of 2016, this Court is divested of jurisdiction as the Petitioner has not exhausted the access to information mechanism as set out in the *Access to Information Act* No. 31 of 2016.
- iv. There are no constitutional issues founding any justiciable claims before the Court.
- v. The Petition is bad in law.
- vi. The 1st and 2nd Respondents seek that the Petition dated 9th November 2023 ought to be struck out and dismissed with costs to the 1st and 2nd Respondents.

Respondents' Submissions

5. The Respondents through Kakai Mugalo and Company Advocates, filed submissions dated 21st May 2024 in support of its Preliminary Objection. Counsel narrowed down to two issues:
 - a. whether this Court lacks jurisdiction to entertain the Petition due to the doctrine of exhaustion, and
 - b. whether the petition raises any constitutional issue.
6. Counsel submitted that the Petitioner in filing this suit in the first instance failed to exhaust the available mechanism laid down in Section 69 of the *Civil Aviation Act*. This provision creates the National Civil Aviation Administrative Review Tribunal which is mandated to determine matters of the same nature as the ones raised in this Petition. On this basis, Counsel argued that the Petition is premature.
7. In like manner, Counsel submitted that the Petitioner has not exhausted the mechanism provided under the *Access to Information Act* under Section 22 and 23. Counsel pointed out that the Petitioner in the Petition seeks information from the Respondents and Interested Party which he did not request for as provided in the Act. To buttress this point reliance was placed in *Savraj Singh Chana v Diamond Trust Bank (Kenya) Limited & another* [2020] eKLR where it was held that:

“The exhaustion principle does not actually take away the constitutional jurisdiction of this Court. What it simply does is to provide the parties with a faster and more efficient mechanism for the resolution of their disputes. The courts will step in later if any party is aggrieved by the decision of the statutory body mandated to resolve the dispute...The legislators in their wisdom and that wisdom has not been challenged, deemed it necessary that any issue concerning denial of information should first be addressed by the Commission of Administrative Justice.”
8. Furthermore, it was argued that the Petitioner did not demonstrate that he lodged a complaint with the respondents or the Interested Party, and failed to receive a response. Counsel stressed that while this Court has jurisdiction to deal with constitutional matters, where a clear procedure has been set out, that procedure must first be exhausted. In this case, Counsel argued that the Petitioner was seeking to turn the Court into an investigative agency while overlooking the established agencies that are mandated to investigate such complaints and make a decision. Counsel as such, urged the Court not to accept this invitation.



9. Reliance was placed in *William Odhiambo Ramogi & 3 others v Attorney General & 4 others; Muslims for Human Rights & 2 others (Interested Parties)* (2020) eKLR where it was held as follows:

“The question of exhaustion of administrative remedies arises when a litigant aggrieved by an agency’s action, seeks redress from a Court of law on an action without pursuing available remedies he/ore the agency itself. The exhaustion doctrine serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is, first of all, diligent in the protection of his own interest within the mechanisms in place for resolution outside the Courts.”
10. Further reliance was placed on the *Speaker of National Assembly v Karume* [1992] KLR 21 and *Ndiara Enterprises Ltd v Nairobi City County Government* (2018)eKLR.
11. Turning to the second issue, Counsel submitted that the Petition only outlines the Articles of *the Constitution* it is anchored on, however does not have any averments as to how these provisions have been violated. Additionally, Counsel argued that the Petition does not demonstrate any denial, violation, infringement or threat to a fundamental right or freedom. Equally that the prayers sought in the Petition are within the investigative ambit of the Interested Party and it is within its mandate to exercise its discretion in tandem with Section 69 of the *Civil Aviation Act*. Counsel submitted as such that the Petition as framed is contrary to Rule 10(1) and (2) of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules.
12. To buttress this point reliance was placed in *Communications Commission of Kenya & 5 others v Royal Media Services Ltd & 5 others* [2014] KESC 53 (KLR) where it was held that:

“Although Article 22(1) of *the Constitution* gives every person the right to initiate proceedings claiming that a fundamental right or freedom has been denied, violated or infringed or threatened, a party invoking this Article has to show the rights said to be infringed, as well as the basis of his or her grievance. This principle emerges clearly from the High Court decision in *Anarita Karimi Njeru v. Republic*, (1979) KLR 154: the necessity of a link between the aggrieved party, the provisions of *the Constitution* alleged to have been contravened, and the manifestation of contravention or infringement. Such a principle plays a positive role, as a foundation of conviction and good faith, in engaging the constitutional process of dispute settlement.”

Petitioner’s submissions

13. On 14th July 2025, the Petitioner opposed the Notice of Preliminary Objection through his submissions. The Petitioner outlined the following issues:
 - a. whether this Court has jurisdiction to hear and determine the Petition,
 - b. whether the doctrine of exhaustion and its exceptions are applicable in this suit
 - c. whether the Petition raises justiciable constitutional issues, and
 - d. whether the objection is merited.
14. The Petitioner submitted that Article 165(3) (b) of *the Constitution* confers upon the High Court jurisdiction to determine any question whether a right or fundamental freedom in the Bill of Rights has been denied, violated, infringed, or threatened, a fact that was affirmed by the Supreme Court in



Mary Wambui Munene v Peter Gichuki Kingara & 6 others [2014] eKLR and Royal Media Services Ltd v Attorney General & 6 Others [2015] eKLR, which were cited in support.

15. The Petitioner submitted that while the Respondents argued that he ought to have exhausted the mechanism set out under Section 69 of the *Civil Aviation Act*, he emphasized that the exhaustion doctrine is not absolute. The Petitioner argued that the Petition raises serious allegations of unsafe aviation practices, consumer exploitation, and regulatory failure, matters which transcend mere administrative grievances and require constitutional interpretation and remedies. According to the Petitioner, the Civil Aviation Tribunal cannot issue constitutional remedies under Articles 23 and 165 of *the Constitution*, hence he is in the right forum.
16. Reliance was placed in William Odhiambo Ramogi (*supra*) where it was held that:

“Where a suit primarily seeks to enforce constitutional rights and is not merely framed in Bill of Rights language, the exhaustion doctrine does not apply.”
17. Further reliance was placed on Fleur Investments Ltd v Commissioner of Domestic Taxes [2018] eKLR and Republic v IEBC ex parte NASA [2017] eKLR.
18. On the second issue, the Petitioner argued that the Petition indeed raises constitutional issues on violations of inter alia Article 27, 46 and 73 of *the Constitution* on breach of leadership and integrity by the 1st Respondent, threats to public safety due to unsafe aircraft, violation of consumer rights through unfair pricing and hazardous services and regulatory inaction by the Interested Party. As such, the Petitioner reasoned that the Petition is not speculative and raises sound grievances.
19. The Petitioner stressed that the Court in Trusted Society of Human Rights Alliance v Attorney General & 2 others [2012] eKLR affirmed that Chapter Six obligations are binding and actionable. Comparable reliance was placed in Wanjiru Gikonyo v National Assembly of Kenya [2016]eKLR and Anarita Karimi Njeru [*supra*].
20. The Petitioner argued that the Respondents’ argument on lack of compliance with Rule 10 of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules is untenable as Courts have consistently held that procedural deviations should not defeat substantive justice as seen in Charles Apudo Obare v Clerk, County Assembly of Siaya [2020] eKLR. In conclusion, the Petitioner argued that the Preliminary Objection is misconceived and only aimed at derailing justice.

Interested Party’s Case

21. This party’s response and submissions are not in the Court file or Court Online Platform (CTS).

Analysis and Determination

22. It is my considered opinion that the single issue that arises for determination is:

Whether the Respondents Preliminary Objection is merited.

23. As a starting point, is the question of threshold required in raising a Preliminary Objection for if it falls short of fundamental characteristics, the Court must reject it. The Court of Appeal in Mukisa



Biscuit Manufacturing Co. Ltd vs West End Distributors Ltd [1969] EA 696 set out the attributes of a Preliminary Objection as follows:

“...a preliminary objection consists of a pure point of law which has been pleaded, or which arises by clear implication out of pleadings, and which if argued as a preliminary objection may dispose of the suit.”

24. The Court went further to note that

“A preliminary objection is in the nature of what used to be a demurrer. It raises a pure point of law which is argued on the assumption that all the facts pleaded by the other side are correct. It cannot be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion. The improper raising of preliminary objections does nothing but unnecessarily increase costs and, on occasion, confuse the issues, and this improper practice should stop.”

25. Further, the Court in *Oraro vs. Mbaja* [2005] 1 KLR on the nature of preliminary objections observed that:

“A preliminary objection is now well identified as and declared to be a point of law which must not be blurred with factual details liable to be contested and in any event, to be proved through the process of evidence. Any assertion which claims to be a preliminary objection and yet it bears factual aspects calling for proof or seeks to adduce evidence for its authentication is not, as a matter of legal principle, a true preliminary objection which the court should allow to proceed. Where a court needs to investigate facts, a matter cannot be raised as a preliminary objection anything that purports to be a preliminary objection must not deal with disputed facts and it must not itself derive its foundation from factual information which stands to be tested by normal rules of evidence.”

26. The preliminary objection challenges the jurisdiction of the Court. It is solely based on the facts pleaded by the Petitioner as the Respondent has not introduced any contrary facts. If the Court agrees that it has no jurisdiction, that alone would terminate the proceedings entirely as the Court cannot delve into the merits of the case if it confirms the absence of jurisdiction.

27. I am therefore satisfied the Preliminary Objection herein satisfies all the threshold required in raising a Preliminary Objection.

28. I now turn to answer the core question, that is whether this Court has the requisite jurisdiction to entertain this Petition.

29. The Respondent submitted that the instant Petition is prematurely before this Court as it raises issues which by dint of Section 69 of the *Civil Aviation Act* are within the adjudicatory authority of the National Civil Aviation Administrative Review Tribunal.

30. The Petitioner countered that although there is a mechanism provided for under Section 69 of the *Civil Aviation Act*, the exhaustion doctrine is not absolute. He contended that the Petition raises serious allegations of unsafe aviation practices, consumer exploitation, and regulatory failure, matters which transcend mere administrative grievances and require constitutional interpretation and remedies. He submitted that the Civil Aviation Tribunal cannot issue constitutional remedies under Articles 23 and 165 of *the Constitution*, hence the Petition is in the right forum.



31. The Supreme Court in *Waity vs Independent Electoral & Boundaries Commission and Three Others* [2019] KESC 54 (KLR) elaborated the doctrine of exhaustion of remedies as follows:

“(63) Where *the Constitution* or the law, consciously confers jurisdiction to resolve a dispute, on an organ other than a court of law, it is imperative that such dispute resolution mechanism, be exhausted before approaching the latter. Were it not so, parties would bide their time, overlooking the recognized forums, and later springing a complaint at the courts. Such a scenario would be a clear recipe for forum shopping, an undertaking that must never be allowed to fester in the administration of justice. We are fortified in this regard, by the persuasive authority by the Court of Appeal, in *Geoffrey Muthinja Kabiru & 2 Others*; [2015] eKLR; wherein the Appellate Court observed:

“It is imperative that where a dispute resolution mechanism exists outside the Courts, the same be exhausted before the jurisdiction of the Courts be invoked. Courts ought to be fora of last resort and not the first port of call the moment a storm brews... The exhaustion doctrine is a sound one and serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is first of all diligent in the protection of his own interest within the mechanisms in place for resolution outside the Courts.”

32. Equally, the Supreme Court in *Mumba & 7 others (Sued on their own behalf and on behalf of predecessors and or successors in title in their capacities as the Registered Trustees of Kenya Ports Authority Pensions Scheme) v Munyao & 148 others (Suing on their own behalf and on behalf of the Plaintiffs and other Members/Beneficiaries of the Kenya Ports Authority Pensions Scheme)* [2019] KESC 83 (KLR) stated as follows:

“...We hold that if indeed the appellant had any dispute with the RBA, he ought to have followed the route prescribed by the RBA, before proceeding to the High Court. We hold like the court below, and for the reasons we have given, that the appellant’s petition lacked merit and was for dismissal.”

(118) In the pursuit of such sound legal principles, it is our disposition that disputes disguised and pleaded with the erroneous intention of attracting the jurisdiction of superior courts is not a substitute for known legal procedures. Even where superior courts had jurisdiction to determine profound questions of law, first opportunity had to be given to relevant persons, bodies, tribunals or any other quasi-judicial authorities and organs to deal with the dispute as provided for in the relevant parent statute.

(119) Such a deferred jurisdiction and the postponement of judicial intervention and reliefs until the mandated statutory or constitutional bodies take action rests, not alone on the disinclination of the judiciary to interfere with the exercise of the statutory or any administrative powers, but on the fact of a legal presumption that no harm can result if the decision maker acts upon a claim or grievance. Such formulation underlies the analogous cases, frequently cited for the exhaustion doctrine, in which the court refuses to enjoin an administrative official from performing his statutory duties on the ground that until he has acted the complainant can show no more than an apprehension that he will perform his duty wrongly, a fear that courts will not allay. Such cases may be



expressed in the formula that judicial intervention is premature in the absence of administrative action.”

33. Nevertheless, it not in all instances that the doctrine of exhaustion will apply. There are exceptional cases as was held by the Court of Appeal in Fleur Investments Limited [supra]:

“22. For this proposition the appellant called in aid this Court’s finding in the case of Speaker of National Assembly vs Njenga Karume (1990-1994) EA 546 where the Court expressed itself in relevant part as follows:-

“...where there was an alternative remedy and especially where parliament has provided a statutory procedure, it is only in exceptional circumstances that an order for judicial review would be granted, and that in determining whether an exception should be made and judicial review granted, it was necessary for the court to look carefully to the suitability of the statutory appeal in the context of the particular case and ask itself what, in the context of the statutory powers, was the real issue to be determined and whether the statutory appeal procedure was suitable to determine it...”

23. ... Whereas courts of Law are enjoined to defer to specialised Tribunals and other Alternative Dispute Resolution Statutory bodies created by Parliament to resolve certain specific disputes, the court cannot, being a bastion of Justice, sit back and watch such institutions ride roughshod on the rights of citizens who seek refuge under *the Constitution* and other legislations for protection. The court is perfectly in order to intervene where there is clear abuse of discretion by such bodies, where arbitrariness, malice, capriciousness and disrespect of the Rules of natural justice are manifest. Persons charged with statutory powers and duties ought to exercise the same reasonably and fairly.”

34. The Court also in Krystaline Salt Ltd v Kenya Revenue Authority [2019] KEHC 6939 (KLR) on this issue opined as follows:

“...this court interprets exceptional circumstances to mean circumstances that are out of the ordinary and that render it inappropriate for the court to require an applicant first to pursue the available internal remedies. The circumstances must in other words be such as to require the immediate intervention of the court rather than to resort to the applicable internal remedy.”

35. The core of this Petition is the Petitioners contention that the Respondents lack the requisite competence to operate an aviation business and further challenge the Interested Party’s for the alleged failure to exercise the oversight responsibility over the aviation sector. Accordingly, the Petitioners seeks the following reliefs:

- i. An order of declaration declaring that the Respondents’ actions are in violation of *the Constitution* and other legislation.
- ii. An order of specific performance demanding the Respondents to provide a list of their aircrafts and their operator licenses.
- iii. An order of mandamus directed to the Interested Party to scrutinize and confirm that the Respondents’ aircrafts are duly registered, inspected, maintained, insured and issued with certificate of airworthiness in accordance with the Civil Aviation Laws and Regulations.



- iv. An order revoking, the Respondents flight licenses and other certificates if it is confirmed by the Interested Party that the Respondents aircraft are not airworthy.
 - v. The Court be pleased to exercise its powers under Article 23(3) of *the Constitution*, to issue any other appropriate relief.
 - vi. An order that the Respondent do pay the costs of the Petition.
36. The preamble to the *Civil Aviation Act*, 2013 declares itself as an ‘Act of Parliament to repeal the *Civil Aviation Act*, to provide for the control, regulation and orderly development of civil aviation in Kenya; and for connected purposes.’
37. Section 66 establishes the National Civil Aviation Administrative Review Tribunal, and sets out its jurisdiction under Section 69 as follows:
- The Tribunal shall have the jurisdiction to hear and determine complaints or appeals arising from—
- a. any refusal to grant a licence, a certificate or any other authorization by the Authority or transfer of a licence under this Act or regulations made thereunder;
 - b. the imposition of any condition, limitation or restriction on a licence under this Act or regulations made thereunder;
 - c. any revocation, suspension or variation of a licence under this Act or regulations made thereunder;
 - d. any amount of money which is required to be paid as a fee under this Act or regulations made thereunder;
 - e. the imposition of any order or direction by the Authority under this Act or regulations made thereunder;
 - f. consumer protection compliance and enforcement activities related to areas such as right violations, unfair and deceptive practices and unfair competition by air carriers and travel agents, deceptive airline advertising including fare, on-time performance, schedule, code sharing, and violations of rules concerning denied boarding compensation, ticket refunds, baggage liability requirements, flight delays and charter flights or
 - g. any exercise of powers to make decisions, but not powers in respect of staff employment, granted to the Director-General or the Authority under this Act or regulations made thereunder.
38. The Act as well provides the awards the Tribunal can issue under Section 72. Where a party is dissatisfied with the Tribunal’s decision, it has a right to appeal to the High Court under Section 77 and further to the Court of Appeal under Section 78 of the Act.
39. A perusal of the pleadings herein reveal that while the Petitioner questions the Respondents conduct in running of its aviation business and the safety concerns that arise from it. The Petitioner equally did not lodge any complaint with the National Civil Aviation Administrative Review Tribunal in that regard. He thus avoided the primary mechanism that is provided in the *Civil Aviation Act* to handle such grievances.
40. As very clearly articulated in the judicial precedents cited in the foregoing, the Petitioner was required to exhaust the statutory mechanism created for adjudication of such grievances before invoking the



Constitutional jurisdiction of this Court. The issues raised ought to have been litigated before National Civil Aviation Administrative Review Tribunal and only find its way to this Court by way of appeal.

41. There was another limb in the grievances raised by the Petitioner. He sought supply of information, in the form of an order requiring the Respondent to provide list of aircraft and their operator licenses.

42. Access to Information is regulated by [*Access to Information Act*](#).

Section 4 of the Act provides as follows:

Right to information

(1) Subject to this Act and any other written law, every citizen has the right of access to information held by—

a. the State; and

b. another person and where that information is required for the exercise or protection of any right or fundamental freedom.

(2) Subject to this Act, every citizen's right to access information is not affected by—

a. any reason the person gives for seeking access; or

SUBPARA b.

the public entity's belief as to what are the person's reasons for seeking access.

43. To access information, Section 8 and 9 guides as follows:

8. Application for access

a. An application to access information shall be made in writing in English or Kiswahili and the applicant shall provide details and sufficient particulars for the public officer or any other official to understand what information is being requested.

b. Where an applicant is unable to make a written request for access to information in accordance with subsection (1) because of illiteracy or disability, the information officer shall take the necessary steps to ensure that the applicant makes a request in manner that meets their needs.

c. The information officer shall reduce to writing, in a prescribed form the request made under subsection (2) and the information officer shall then furnish the applicant with a copy of the written request.

d. A public entity may prescribe a form for making an application to access information, but any such form shall not be such as to unreasonably delay requests or place an undue burden upon applicants and no application may be rejected on the ground only that the applicant has not used the prescribed form.

9. Processing of application

a. Subject to section 10, a public officer shall make a decision on an application as soon as possible, but in any event, within twenty-one days of receipt of the application

b. Where the information sought concerns the life or liberty of a person, the information officer shall provide the information within forty-eight hours of the receipt of the application.



- c. The information officer to whom a request is made under subsection (2) may extend the period for response on a single occasion for a period of not more than fourteen days if—
 - i. the request is for a large amount of information or requires a search through a large amount of information and meeting the stipulated time would unreasonably interfere with the activities of the information holder; or
 - ii. consultations are necessary so as to comply with the request and the consultations cannot be reasonably completed within the stipulated time.
- d. As soon as the information access officer has made a decision as to whether to provide access to information, he or she shall immediately communicate the decision to the requester, indicating—
 - i. whether or not the public entity or private body holds the information sought;
 - ii. whether the request for information is approved;
 - iii. if the request is declined the reasons for making that decision, including the basis for deciding that the information sought is exempt, unless the reasons themselves would be exempt information; and
 - iv. if the request is declined, a statement about how the requester may appeal to the Commission;
- e. A public officer referred to in subsection (1) may seek the assistance of any other public officer as the first mentioned public officer considers necessary for the proper discharge of his or her duties and such other public officer shall render the required assistance.
- f. Where the applicant does not receive a response to an application within the period stated in subsection (1), the application shall be deemed to have been rejected.

44. Where the sought information is not granted Section 14 of the Act elaborates on what should be done:

Review of decisions by the Commission

- (1) Subject to subsection (2), an applicant may apply in writing to the Commission requesting a review of any of the following decisions of a public entity or private body in relation to a request for access to information—
 - a. a decision refusing to grant access to the information applied for;
 - b. a decision granting access to information in edited form;
 - c. a decision purporting to grant access, but not actually granting the access in accordance with an application;
 - d. a decision to defer providing the access to information;
 - e. a decision relating to imposition of a fee or the amount of the fee;
 - f. a decision relating to the remission of a prescribed application fee;
 - g. a decision to grant access to information only to a specified person; or



- h. a decision refusing to correct, update or annotate a record of personal information in accordance with an application made under Section 13.
 - (2) An application under subsection (1) shall be made within thirty days, or such further period as the Commission may allow, from the day on which the decision is notified to the applicant.
- 45. The powers of the Commission on Administrative Justice(CAJ) are outlined under Section 23 as follows:
 - (1) In the performance of its functions under this Act, the Commission shall have the power to—
 - a. issue summonses or other orders requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission;
 - b. question any person in respect of any subject matter under investigation before the Commission; and
 - c. require any person to disclose any information within such person's knowledge relevant to any investigation by the Commission.
 - (2) The Commission may, if satisfied that there has been an infringement of the provisions of this Act, order—
 - a. the release of any information withheld unlawfully;
 - b. a recommendation for the payment of compensation; or
 - c. any other lawful remedy or redress.
 - (3) A person who is not satisfied with an order made by the Commission under subsection (2) may appeal to the High Court within twenty-one days from the date the order was made.
 - (4) An order of the Commission under subsection (2) may be filed in the High Court by any party thereto in such manner as the Commission may, in regulations made in consultation with the Chief Justice, prescribe and such party shall give written notice of the filing of the order to all other parties within thirty days of the date of the filing of the order.
 - a. If no appeal is filed under subsection (3), the party in favour of whom the order is made by the Commission may apply ex-parte by summons for leave to enforce such order as a decree, and the order may be executed in the same manner as an order of the High Court to the like effect.
 - b. Public entities and relevant private bodies shall provide to the Commission such reports as required by the Act.
 - c. The Commission shall, in consultation with the public, develop and publicize guidelines detailing the reporting requirements including the manner, means and timeframes that apply to public entities and relevant private bodies.
- 46. The Commission may request any further information from the public entity or the relevant private body to facilitate and enhance monitoring at any time and may issue an order compelling the provision of such further information.
- 47. The Petitioner has not demonstrated that he first sought the information from the Respondent as required by the [Access to Information Act](#) nor is there any evidence that he involved the Commission on



Administration of Justice in his quest to get this information that he now wants this Court to order the Respondent to provide. Again, he skipped the primary mechanisms and jumped into this Court by invoking its constitutional jurisdiction.

48. He has not established any exceptional circumstances or insufficiency of statutory mechanisms to warrant invoking the constitutional jurisdiction of this Court.
49. The upshot is that the Court finds that the Petition offends the doctrine of exhaustion of remedies and thus strikes it out.
50. I make no orders as to costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 26TH MARCH, 2026.

.....

L N MUGAMBI

JUDGE

