

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYERI

HIGH COURT CONSTITUTIONAL PETITION NO. E008 OF 2025

ROAD SAFETY ASSOCIATION OF KENYA.....

PETITIONER

-VERSUS-

CABINET SECRETARY MINISTRY OF ROADS AND

TRANSPORT.....1ST

RESPONDENT

THE PRINCIPAL SECRETARY, STATE DEPARTMENT

FOR TRANSPORT2ND RESPONDENT

THE DIRECTOR GENERAL NATIONAL TRANSPORT AND

SAFETY AUTHORITY.....3RD RESPONDENT

THE HONOURABLE ATTORNEY GENERAL.....4TH

RESPONDENT

JUDGEMENT

1. The Petitioner herein **ROAD SAFETY ASSOCIATION OF KENYA** filed before this Court a Notice of Motion application dated **2nd July 2025**. Contemporaneously with that application

the Petitioner also filed the Petition also dated **2nd July 2025**. The Notice of Motion application sought for various interim orders pending the hearing and determination of the main Petition. As such the Notice of Motion is now spent and will not be addressed by this Court.

2. In their Petition the Petitioners sought the following orders;-

- “a. A declaration be and is hereby issued that the 1st and 2nd Respondent failed to offer adequate public participation and therefore failed the procedural fairness constitutional muster and as such contravened Articles 10, and 47 of the Constitution and is therefore null and void.**
- b. A declaration be and is hereby issued that the directive and/or order by the 1st Respondent contained in its letter dated 23rd June, 2025 directing the public to offer their views and failure to provide Regulatory Impact Statements is irrational, unreasonable, procedurally unfair and is issued *ultravires* in violation of the provisions of Sections 4, 5 and 6 of the Fair**

Administrative Actions Act and therefore contravenes Article 10 and 47 of the Constitution of Kenya, 2010 and is as such unconstitutional, null and void.

- c. An order of judicial review for an order of certiorari be and is hereby issued bringing into this Court and quashing the directive by the 1st Respondent contained in its letter dated 23rd July, 2025.”**
- d. An order of judicial Review for an Order of Certiorari be and is hereby issued to the Respondents to publish on their websites the Regulatory Impact Statements to be used for public participation by the Petitioner and other stakeholders.**
- e. An order of judicial review for and of prohibition be and is hereby granted prohibiting the 1st, 2nd and 3rd Respondent, whether by itself, its agents, proxies and servants, acting for and on its behalf whether jointly or severally from collecting**

views/comments, drafting Traffic Rules and Regulations, 2025 until thorough, adequate and sufficient public participation is done both to the petitioner, stakeholders and experts within the Republic of Kenya.

f. An order for compensation.

g. Costs of the Petition.”

3. The Petition was premised upon **Articles 2, 10, 19, 20, 21, 22, 27, 47, 48, 118, 165 (3) (b) and 258** of the **Constitution of Kenya 2010** and was supported by the Affidavit of even date sworn by **DAVID NJOROGE KIARIE**, the current chairman of the Petitioner.
4. The 3rd Respondent **DIRECTOR GENERAL NATIONAL TRANSPORT AND SAFETY AUTHORITY (NTSA)** opposed the petition through the Replying Affidavit dated **17th July 2025** sworn by **ENG. ANGELA WANJIRA** the Director of Motor Vehicles Inspection and safety Audits at the **NTSA**.
5. The petition was canvassed by way of written submissions. The Petitioner filed their written submissions dated **21st**

August 2025 whilst the 3rd Respondent relied on the written submissions dated **18th September 2025**.

BACKGROUND

6. On **18th June 2025** the 1st Respondent **CABINET SECRETARY MINISTRY OF ROADS & TRANSPORT** and the 2nd Respondent **PRINCIPAL SECRETARY STATE DEPARTMENT FOR TRANSPORT** issued a Gazette Notice No. **7856** of **18th June 2025** notifying the Public that Regulatory Impact Statements (**RIS**) in respect of the proposed Rules and Regulations for the **Traffic (Motor Vehicle Inspection) Rules 2025**, had been prepared. The public and all persons likely to be affected by the said Rules were invited to submit their views by way of public participation through memoranda and to comment through given e-mail addresses.
7. According to the Petitioner the e-mail addresses provided were non-existent and thus the Petitioner stakeholders and the general public were unable to send their views as requested. The Petitioner believed that the Respondents deliberately provided a wrong e-mail address so as to

prevent the public from giving their views. Further that by the time of filing this Petition the **RIS** had not been published on the website of the Ministry of Roads and Transport. That without publication of those **RIS** the intended public participation which was to end on **8th July 2025** would be rendered meaningless. The Petitioner believes that failure to publish the **RIS** for comment was a deliberate act done maliciously with the aim of shutting out stakeholders from participating in the enactment of the proposed Rules.

8. Lastly the petitioner complains that the 3rd Respondent failed to initiate civic education in respect of the proposed **Traffic (Motor Vehicle Inspection) Rules 2025**.

9. The Petitioner who is a key stake holder in the Transport industry

believes that itself and other stakeholders are likely to be prejudiced if the intended rules are enacted without their active participation. They seek orders to compel the Respondents to do a thorough public participation and to publish on their website the Regulatory Impact statements.

10. The Petitioner in its Petition alleged that its constitutional rights had been contravened in the manner enumerated below;-

- “a. Not allowing the petitioner, stakeholders, expert from participating in giving views/comments/memoranda in Traffic (Motor Vehicle and Inspection) Rules, 2025 Contrary to Section 10 and 118 of The Constitution of Kenya.**
- b. Specifically, the 1st and 2nd 3rd Respondent acted *ultravires* by failing to publish the Regulatory Impact Statements.**
- c. The 1st, 2nd and 3rd Respondent failed, refused or neglected to issue prior notice to the Petitioner or affording it an opportunity to be heard before taking any adverse action in contravention of article 47 of the Constitution and its enabling act in the Fair Administrative Actions Act.**
- d. The 1st, 2nd and 3rd Respondent issued irrational and unreasonable directives made upon**

considering irrelevant factors and ignoring relevant material.

- e. The 1st, 2nd and 3rd Respondent's impugned decision did not give reasons or justify adverse administrative action in breach of the principles of natural justice and in contravention of Article 47 of the Constitution of Kenya.**
 - f. The 1st Respondent acted in error of law and in jurisdictional error by usurpation of the powers of the mandated agencies by statutes.**
 - g. The 1st Respondent circumnavigated the laid down procedures for suspension of valid licences and permits in contravention of the provisions of Alcoholic Drinks Control Act, The Standards Act and the Excise Duty Act.”**
11. In its Replying Affidavit the 3rd Respondent denied any malice and denied having acted in breach of the Constitution. Whilst the 3rd Respondent acknowledged a transient technical issue regarding the inactive e-mail address which caused a delay in the submission of

documents following the notice of **18th June 2025**, it was averred that the said technical issue was rectified with the utmost expediency. That further to cure any potential prejudice and to ensure sanctity of the public participation process, the Respondents published a corrective notice on **8th July 2025** and extended the period for submission of public memoranda by a further **fourteen (14) days**.

12. The 3rd Respondent asserts that the Draft Regulatory Impact statement as well as the **Draft Traffic (Motor Vehicle Inspection Rules) 2025** were published and have been continuously accessible on the official website of the Ministry of Roads and Transport as well as on the Official Website of the 3rd Respondent. That in addition to digital access the said documents were available for collection physically by any stakeholder from the Ministry Headquarters.
13. The 3rd Respondent states that a protracted and extensive stakeholder engagement commenced early in **2023** and consultative forums were held across the country between **15th February 2023 to 14th March 2023**. That said public

participation forums were well attended and that a comprehensive report was prepared thereafter.

14. According to the 3rd Respondent the Petitioner's assertion that it ought to have been involved in the preparation of the Regulatory Impact Statement is a misapprehension of the law as the Act vests the duty of preparing an **RIS** solely on the regulatory making authority.
15. It was averred that the 1st Respondent complied fully with all statutory requirements by gazetting the proposed Rules and by subjecting the **RIS** to public participation and that no collaborative drafting was required.
16. Finally the Respondents contend that this Petition has failed to meet the established legal threshold and has merely been brought in an attempt to fetter the Respondent in the discharge of its statutory mandate. That this petition is misconceived devoid of merit and amounts to an abuse of the judicial process. They pray that the same be dismissed in its entirety.

ANALYSIS AND DETERMINATION

17. I have carefully considered the Petition before this court, the reply filed thereto, as well as the written submissions filed by both parties. The three questions which emerge for determination are;-

(i) Has the Petition met the threshold for a constitutional petition.

(ii) Were the Petitioner's rights infringed.

(iii) Is the Petitioner entitled to damages.

(i) Threshold for a Constitutional Petition

18. The threshold for a constitutional petition were set out in the case of **ANARITA NJERU -VS- REPUBLIC [1997] KLR**, where the Court held that:-

“We would however, again stress that if a person is seeking redress from the High Court on a matter which involves a reference to the Constitution, it is important (if only to ensure that justice is done to his case) that he should set out with a reasonable degree of precision that of which he complains, the provisions said to

be infringed, and the manner in which they are alleged to be infringed.....”

19. Similarly in **COMMUNICATIONS COMMISSION OF KENYA & OTHERS -VS- ROYAL MEDIA SERVICES LIMITED & 5 OTHERS**

[2014] eKLR the Court stated 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 principle plays a positive role as a foundation of conviction

and good faith, in engaging the constitutional process of dispute settlement.”

20. The court while considering the elements of a sustainable Constitutional Petition in **Grays Jepkemoi Kiplagat v Zakayo Chepkoga Cheruiyot [2021] eKLR** stated that:-

“It is indisputable that a constitutional petition to be sustainable as such must at a minimum satisfy a basic threshold. It must with some reasonable degree of precision identify the constitutional provisions that are alleged to have been violated or threatened to be violated and the manner of the violation and/or threatened violation. I do not suppose it is enough to merely cite constitutional provisions. There has to be some particulars of the alleged infringements to enable the respondents to be able to respond to and/or answer to the allegations or complainants.....Although I have in my foregoing discussion adverted to grounds (c) and (d) of the preliminary objection that there are no

Constitutional issues that warrant adjudication by the Court and that the Petition may very well constitute an abuse of the due process of the court, I need to observe that parties are increasingly filing matters that are essentially Civil matters and christening the same as Constitutional Petitions which is not proper. Where there is the alternative remedy of filing a suit in the ordinary civil Courts, a party ought to invoke the jurisdiction of the Constitutional Court.” [Own emphasis]

21. **Rule 4(1) of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms Practice and Procedure Rules 2013 (the Mutunga Rules) provides as follows:-**

“Where any right or fundamental freedom provided for in the constitution is allegedly denied, violated, or infringed, or threatened a person so affected or likely to be affected, may

make an application to the High Court in accordance to these rules.”

22. **Rule 10** of the “**Mutunga Rules**” governs the form that a constitutional petition should take **Rule 10(2)** of the said Rules specifically provides as follows:

“(2) The petitioner shall disclose the following -

- a) The petitioner’s name and address;**
- b) The facts relied upon;**
- c) The constitutional provision violated;**
- d) The nature of injury caused or likely to be caused to the petitioner or the person in whose name the petitioner has instituted the suit; or in a public interest case to the public, class of persons or community;**
- e) Details regarding any civil or criminal case, involving the petitioner or any of the petitioner, which is related to the matters in issue in the petition;**
- f) The petition shall be signed by the petitioner or the advocate of**

g) The petitioner; and

h) The relief sought by the petitioner.”

23. Guided by the above Rules I find that the Petitioner’s name and full address have been supplied as required. The petition clearly set out a factual background and the alleged contraventions of the constitution were enumerated in the petition. The petition was duly signed by counsel for the Petitioners and the reliefs being sought were clearly stated. I am satisfied that the Petition as presented does meet the required threshold for filing a constitutional petition.

(ii) Infringement of Rights

24. It is common ground that the Respondent did publish in the Kenya Gazette vide Notice No. **7856** of **18th June 2025** the Regulatory Impact statements. A copy of the gazette notice appears as Annexure “**DNK 1**”, to the Petition, whilst a copy of the said **RIS** is Annexure **DNK ‘2’**. Therefore the claim that the Respondent failed to publish the **RIS** is a blatant untruth.

25. In the case of **HASSAN ALI JOHO & Another -vs- SULEIMAN SAID SHAHBAL & 2 others [2013] eKLR**, the Court stated as follows;-

“The Kenya Gazette is an official newspaper of the government in which all official matters including official notices are published. The Gazette containing a written law or notice, or a copy of a written law or notice purporting to be printed by the Government Printer evidence in all courts and for all purposes whatsoever of the due making and tenor of the written law of notice.”

26. The Petitioner has alleged that no notice was given by the 1st Respondent to the Traffic Police Department who being the enforcer of the new laws are a critical stakeholder. Firstly is the Petitioner now purporting to hold brief for the Traffic police Department? How do they know that the Traffic Police Department had no notice of the **RIS**. I find that the above publication in the Kenya Gazette constituted adequate notice to all stakeholders including the Traffic Police Department.

27. The Petitioner claimed that this gazette notice infringed their Rights under **Articles 10 and 118** of the constitution which deal with on Public Participation. **Articles 10(1) and (2)** of the constitution provide as follows;-

“10(1) The national values and principles of governance in this Article bind all State organs, State officers, public officers and all persons whenever any of them -

- (a) applies or interprets this Constitution;**
- (b) enacts, applies or interprets any law; or**
- (c) makes or implements public policy decisions.**

(2) The national values and principles of governance include

(a) Patriotism, national unity, sharing and devolution

of power, the rule of law, democracy and participation of the people;

(b) Human dignity, equity, social justice, inclusiveness,

**equality, human rights, non-discrimination
and protection of the marginalised;**

**(c) good governance, integrity, transparency
and**

accountability; and

(d) Sustainable development.

28. **Article 118** states as follows:

Public access and participation.

118. (1) Parliament shall –

**(a) conduct its business in an open manner, and its
sittings**

**and those of its committees shall be open to the
public; and**

**(b) facilitate public participation and involvement in
the legislative and other business of Parliament and
its committees.**

**(2) Parliament may not exclude the public, or any
media, from any sitting unless in exceptional
circumstances the relevant Speaker has**

determined that there are justifiable reasons for the exclusion.

29. The Petitioner contended that the 3rd Respondent being a state

organ did not conduct public participation in compliance with

Article

10 and 118. Public participation is defined as a process leading to a joint effort by stakeholders, technical specialists, the authorities and the proponents who work together to produce better decisions than if they had acted independently.

30. Under the new constitutional dispensation in Kenya public participation is now a requirement in the formulation of any new legislation. This derives from the recognition that a healthy democracy requires the involvement of the public in government decision making that affects the public. This indeed is essence of participatory democracy.

31. In **Legal Advice Centre & 2 others v County Government of Mombasa & 4 Others (2018) eKLR**, the

Court of Appeal highlighted the importance of public participation in the law making process as follows:-

“The purpose of permitting public participation in the law-making process is to afford the public the opportunity to influence the decision of the law-makers. This requires the lawmakers to consider the representations made and thereafter make an informed decision. Law-makers must provide opportunities for the public to be involved in meaningful ways, to listen to their concerns, values, and preferences, and to consider these in shaping their decisions and policies. Were it to be otherwise, the duty to facilitate public participation would have no meaning.”

32. In **Mui Coal Basin Local Community & 15 others v Permanent Secretary Ministry of Energy & 17 others Machakos, [2015] eKLR** the **High Court** developed the following six principles to be taken into account whenever the application of the doctrine of public participation comes into issue:

First, it is incumbent upon the government agency or public official involved to fashion a programme of public participation that accords with the nature of the subject matter. It is the government agency or public official who is to craft the modalities of public participation but in so doing the government agency or public official must take into account both the quantity and quality of the governed to participate in their own governance. Yet the government agency enjoys some considerable measure of discretion in fashioning those modalities.

Second, public participation calls for innovation and malleability depending on the nature of the subject matter, culture, logistical constraints, and so forth. In other words, no single regime or programme of public participation can be prescribed and the Courts will not use any litmus test to determine if public participation has been achieved or not. The only test the Courts use is

one of effectiveness. A variety of mechanisms may be used to achieve public participation.

Thirdly, whatever programme of public participation is fashioned, it must include access to and dissemination of relevant information.

See Republic vs The Attorney General & Anotherex parte Hon. Francis Chachu Ganya (JR Misc. App. No. 374 of 2012). In relevant portion, the Court stated: Participation of the people necessarily requires that the information be availed to the members of the public whenever public policy decisions are intended and the public be afforded a forum in which they can adequately ventilate them.....

Fourth, public participation does not dictate that everyone must give their views on the issue at hand. To have such a standard would be to give a virtual veto power to each individual in the community to determine community collective affairs. A public participation programme, must

however, show intentional inclusivity and diversity. Any clear and intentional attempts to keep out bonafide stakeholders would render the public participation programme ineffective and illegal by definition. In determining inclusivity in the design of a public participation regime, the government agency or public official must take into account the subsidiarity principle: those most affected by a policy, legislation or action must have a bigger say in that policy, legislation or action must have a bigger say in that policy, legislation or action and their views must be more deliberately sought and taken into account.

Fifth, the right of public participation does not guarantee that each individual's views will be taken as controlling; the right is one to represent one's views - not a duty of the agency to accept the view given as dispositive. However, there is a duty for the government agency or public official involved to take into consideration, in good faith,

all the views received as part of public participation programme. The government agency or public official cannot merely be going through the motions or engaging in democratic theatre so as to tick the Constitutional box. Sixthly, the right of public participation is not meant to usurp the technical or democratic role of the office holders but to cross-fertilize and enrich their views with the views of those who will be most affected by the decision or policy at hand.

33. On the first ground, the 3rd respondent in its replying affidavit stated that it had the sole mandate to craft the Regulatory Impact statement and stated that said mandate was derived from **Section 5(1)** of the **Statutory Instruments Act**.

Section 5(1) reads as follows:-

- (1) Before a regulation-making authority makes**
a

statutory instrument, and in particular where the proposed statutory instrument is likely to - (a) have a direct, or a substantial indirect effect on business; or (b) restrict competition;

the regulation-making authority shall make appropriate consultations with persons who are likely to be affected by the proposed instrument. [Own emphasis]

34. From the wording of the above provision of law the 3rd Respondent is mandated to craft regulations/instruments but is also under a legal mandate to make ‘**appropriate consultations**’ in doing so. The use of the mandatory word “**shall**” means that the 3rd Respondent cannot craft regulations alone but must consult with persons likely to be affected. The petitioner being a major stakeholder in the transport industry is one such stakeholder whose input would be required by law.
35. However having so noted there is no legal requirement that the 1st Respondent reach out to any individual and/or

particular stake holders. All that the 1st Respondent was required to do was to notify the public and to facilitate the reception of memoranda from stakeholders and other interested parties. The 1st Respondent was not obliged to reach out to any particular stakeholder to invite their views. Therefore I find that the public Notice issue in the daily newspapers sufficed to fulfil the requirements of **Section 5(1)**.

36. The second question is whether the public participation exercise conducted by the 3rd respondent was adequate. The 3rd Respondent stated that public participation they conducted was both adequate and constitutionally compliant as the process had two stages - these were stage one (Qualitative and Formative) conducted in early **2023** and stage Two Confirmative culminating in the gazette notice dated **11th February 2023**. The 3rd Respondent annex to their Replying Affidavit dated **17th July 2025** the public notice issued inviting of stakeholders in various regions to attend the public participation forums (Annexure **AWO3**) as well as the attendance registers indicating participants at

both forums, as well as the final report compiled after the exercise (Annexures **AWO4** and **AWO5**). Based on the above, I am satisfied that the 3rd Respondent did comply with the legal requirement for Public participation.

37. Thirdly the Petitioner contended that the e-mail addresses supplied for communication with the Respondents were non-functional thus shutting out views of stakeholders. As a proof of this allegation the petitioner has annexed to the Petition a copy of the nonfunctioning e-mail (Annexure '**DNK 3**'). This exhibit emanates from an electronic source and as such is only admissible if it complies with **section 10(b)** of the **Evidence Act Cap 80 Laws of Kenya**, which provides as follows;

“106 B(1) Notwithstanding, anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied on optical or electromagnetic media produced by a computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied

in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein where direct evidence would be admissible”

38. Under **sub-section (4)**, where a party seeks to give evidence by virtue of **section 106B** he has, among other things, to tender a certificate dealing with any matters to which the conditions above relate. The certificate should further:

“a) identify the electronic record containing the statement and describing the manner in which it was produced; and

b) give such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer.”

39. In this case no such certificate accompanied the exhibit rendering the same inadmissible.

40. Further in response to this allegation the 3rd Respondent conceded

that there was indeed a transient problem with their digital platforms

but states that this problem was rectified with utmost expediency. That in order not to shut out and/or prejudice any stakeholder the period of submission of public memoranda was extended by **fourteen (14) days**. A copy of the Public Notice extending the period for submission of memoranda appears as Annexure '**AWO'1**'.

41. The petitioner alleged that the technical issues were deliberately engineered in order to maliciously shut out the public from giving their views. It is not unheard of for digital platforms to malfunction. No evidence has been adduced by the Petitioner to show that the malfunctioning of the digital platform was deliberately engineered. In any event the 3rd Respondent did take steps to mitigate the problem by

extending the period for submission of memoranda. As such I find no merit in this ground of the Petition and the same is hereby dismissed.

42. The petitioner alleged that the Respondents failed to take into account their views. It has not been shown that there were deliberate and/or intentional maneuvers by the 3rd Respondent to exclude the Petitioner from the Public participation exercise. I find no merit in this ground and the same is dismissed.

43. The right of public participation is not meant to usurp the technical or democratic role of the office holders but to cross-fertilize and enrich their views with the views of those who will be most affected by the decision or policy at hand. In the case of **John Kinyua Munyaka & 11 others v County Government of Kiambu & 3 others [2014] eKLR** the Court observed as follows:-

The concept of public participation was explained relatively comprehensively in several decisions cited by both counsel for the Petitioners and the

Respondents. These are the Doctors for life International versus Speaker of the National Assembly and Others (CC12/05) (supra) and the Minister for Health & Another versus New Clicks South Africa (Pty) Ltd & Others (2006) (2) SA 311 which was cited with approval in Nairobi Metropolitan PSV Saccos versus County of Nairobi Government (supra). The common denominator in all these decisions is that what matters in the ultimate is that a reasonable opportunity has been given to the members of the public and all interested parties to know about the issue and to have an adequate say. There is a caveat, however, that it cannot be expected of the legislature that a personal hearing will be given to every individual who claims to be affected by the laws of regulations that are being made. What is necessary is that the nature of the concerns of different sectors of the parties should be communicated to the law

maker and taken in formulating the final regulations.

44. The 1st Respondent had no obligation to give a personalized hearing to the petitioner nor has the 1st Respondent under duty obligation to take into account the views of the petitioner. I am satisfied that the public notices put out by the 1st Respondent provided sufficient notification to all stakeholders and interested parties including the petitioner. A public participation exercise open to all was conducted which public participation was in my view adequate.
45. I do agree with the 1st Respondents submission that the constitution does not provide a specific formula for public participation. That what is required is reasonableness and not perfection.
46. The petitioners appear to be suggesting that they were entitled to some sort of privileged accommodation which is not the case. I am satisfied that the petitioner like all other stake holders were granted adequate time and opportunity to submit their views on the proposed new legislation.

47. In the case of **BRITISH AMERICAN TOBACCO LTD -VS- CABINET SECRETARY OF HEALTH & 5 Others [2017]**

eKLR the Court of Appeal held that;

“What the appellant is really saying is that although they had their say, their views were not adequately considered. However, the fact that the views of the appellant and the interested parties did not carry the day was neither here nor there. All that the learned judge needed to establish was the fact that that step of involving the public and any other affected persons was taken. Given the facts that were before the learned judge, we have no reason to fault the learned judge for finding that the stakeholder meetings, discussions and communications constituted adequate public participation and consultation.”

48. The petitioner has dismissed that he documents provided by the 1st Respondent to show attendance at the public participation forums as **‘cooked figures’** and that no

meaningful engagement took place. No evidence has been supplied as proof of these allegations. No evidence has been adduced to prove that the figures provided by the 1st Respondent had been '**cooked**'. The Petitioner did not provide their own figures to show exactly how many persons/institutions attended the public participation. I reject these allegations as untrue.

49. Finally and in conclusion I find no merit in this Petition. The same is dismissed in its entirety. No orders on costs.

Dated in Nyeri this 10th day of April 2026.

.....
MAUREEN A. ODERO
JUDGE