



**Yongo v Kenya School of Law & another; Attorney General (Interested Party) (Judicial Review Miscellaneous Application E001 of 2026) [2026] KEHC 4582 (KLR) (Judicial Review) (8 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 4582 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
JUDICIAL REVIEW  
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E001 OF 2026  
RE ABURILI, J  
APRIL 8, 2026**

**BETWEEN**

**EDWARD OMONDI YONGO ..... APPLICANT**

**AND**

**KENYA SCHOOL OF LAW ..... 1<sup>ST</sup> RESPONDENT**

**COUNCIL OF LEGAL EDUCATION ..... 2<sup>ND</sup> RESPONDENT**

**AND**

**ATTORNEY GENERAL ..... INTERESTED PARTY**

**RULING**

1. This Ruling determines the 1<sup>st</sup> Respondent's Notice of Preliminary objection dated 6<sup>th</sup> March, 2026 predicated on the ground that this Honourable Court (not Tribunal, following an amendment on 9<sup>th</sup> March, 2026 by consent), lacks jurisdiction to hear and determine this matter on account of section 31 (1) of the [Legal Education Act](#), Cap 16B as read together with section 8 of the said Act.
2. The Preliminary objection as filed was in response to the Chamber Summons dated 1<sup>st</sup> January, 2026 filed by the applicant Edward Omondi Yongo through his counsel DRO Ngala & Partners seeking leave to apply for judicial review orders of certiorari to remove into this court and quash the letter from the 1<sup>st</sup> respondent dated 16<sup>th</sup> December, 2025 informing the exparte applicant of the decision by the respondents to deny the applicant admission into the Advocates Training Programme (ATP) at the Kenya School of Law.



3. The applicant also seeks leave to apply for judicial review orders of mandamus to compel the respondents to accept the applicant's application admission into the ATP at the Kenya School of Law in the current or next intake
4. Thirdly, the applicant seeks leave to apply for prohibition to prohibit the respondents from restraining the applicant, stopping or interfering with his attendance of regular classes or lessons and from getting all necessary materials or assistance during the said lessons and or sessions in the current intake.
5. He also prayed that the leave if granted do operate as stay of the decision communicated to him by the 1<sup>st</sup> respondent on 16<sup>th</sup> December, 2025.
6. The application is predicated on the grounds on the face of the chamber summons and the verifying affidavit sworn by the applicant on 1<sup>st</sup> January, 2026.
7. The applicant's case is that he studied law at DR. BABASHAHEB AMBEDKAR MARATHWDA University in India after completing his KCSE in Kenya in 1994 and scoring a C+ grade as shown by the copy of certificate, at Maranda High School.
8. That he applied to the 1<sup>st</sup> Respondent Kenya School of Law for admission and he received a regret letter dated 16<sup>th</sup> December, 2025 to the effect that the 2<sup>nd</sup> respondent herein Council OF Legal Education that the CLE must verify first.
9. That he was also advised in the said letter, to appeal and he filed an appeal which has not been responded to as at the time that he filed this application into court.
10. He claims that he commenced his LLB studies before the [Kenya School of Law Act](#), 2012 came into effect on 15<sup>th</sup> January 2013 hence he was entitled to be admitted using the criteria applicable as at the time before the Act was passed.
11. The preliminary objection was argued orally on 9/3/2026. Ms. Mbuthu counsel for the 1<sup>st</sup> respondent submitted, supported by the 2<sup>nd</sup> respondent's counsel, Ms Wahu that this court has no jurisdiction to hear and determine the dispute herein on account of Section 31(1) of the [Legal Education Act](#) and Section 8 of the said Act. She submitted that at the time when the applicant embarked on his Legal Education in 1995, it was the Council of Legal Education which would determine whether the applicant is qualified to pursue Legal Education. She relied on the case of Kevin K. Mwit & Others vs KSL & 2 Others [2015] eKLR and submitted that the applicant had not exhausted the avenues under the Act being, filing the dispute before the Council of Legal Education Tribunal.
12. Opposing the preliminary objection, Mr. Ngala Counsel for the applicant submitted that this court has jurisdiction to hear and determine the application. That the 1<sup>st</sup> Respondent had also filed a Replying affidavit sworn by Lawrence Ndirangu, its officer and that at paragraph 7 the case of Kevin K. Mwit is cited. He submitted that G.V. Odunga J gave directions of how Advocates seeking to be admitted to ATP should be treated and that the applicants were successful. Counsel submitted that the 1<sup>st</sup> Respondent is merely saying that the 2<sup>nd</sup> Respondent should have the final say yet the 2<sup>nd</sup> respondent was accorded a chance to file a response which it had not utilized to challenge the jurisdiction of this court.
13. Reliance was placed on the case of Jacob Omondi Obilo vs KSL, CLE & AG. (IP) [2019] eKLR Misc 108/2019 in which Mativo J is said to have given an elaborate provision of the law which is relevant, with the applicant being successful and the Respondents were directed to comply. He submitted that no authority had been cited to support the contention that this court has no jurisdiction. He prayed that the preliminary objection be dismissed with costs to the applicant.



14. In a rejoinder, Ms Mbuthu submitted that she had not delved into the merits of the dispute and that if the court dismisses their preliminary objection, they can rely on their Replying affidavit. She submitted that there are many cases on jurisdiction. She relied on unnamed several decisions of this court on jurisdiction citing the same section which they had cited. She referred to *Diana Ogeka vs KSL & Mogusu Gesare vs KSL* (with no citations) and submitted that the Tribunal handles all matters arising from [Legal Education Act](#) including admission criteria.

### **Analysis and Determination**

15. I have considered the preliminary objection on jurisdiction of this court to hear and determine these proceedings. The preliminary objection has been raised at the leave stage. The issue for determination is whether the threshold for a preliminary objection has been met and therefore whether this court has jurisdiction to hear and determine these proceedings.
16. In *Mukisa Biscuits Manufacturing Co. Ltd v. West End Distributors* [1969] EA 696, and as applied in many decisions where preliminary objections have been raised, including the case of *Hassan Ali Joho & Another v. Suleiman Said Shahbal & 2 Others*, Petition No. 10 of 2013, [2014] eKLR [paragraph 31] where the Supreme Court of Kenya stated as follows:

“To restate the relevant principle from the precedent-setting case, *Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors* (1969) EA 696:

‘a preliminary objection consists of a point of law which has been pleaded or which arises by clear implication out of pleadings and which if argued as a preliminary point may dispose of the suit. Examples are an objection to the jurisdiction of the court or a plea of limitation or a submission that the parties are bound by the contract giving rise to the suit to refer the dispute to arbitration ... 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’.”

17. In this case, the 1<sup>st</sup> respondent has raised a preliminary objection based on jurisdiction of this court to hear and determine these proceedings. It claims that under sections 8 and 31(1) of the [Legal Education Act](#), the dispute herein is purely between the applicant and the 2<sup>nd</sup> respondent and that the said dispute ought to have been referred to the Council of Legal education Tribunal and not to Court hence, the applicant is guilty of non-exhaustion of remedies.
18. It is worth noting that the 2<sup>nd</sup> respondent simply verbally supported the preliminary objection but filed no response to the chamber summons for leave.
19. It is true that a preliminary objection based on jurisdiction of the court is to be taken on face value to be of a pure point of law since jurisdiction of the court is what enables the court to adjudicate over disputes, without which, a court or tribunal acts in vain.
20. However, the 1<sup>st</sup> respondent argued the preliminary objection so casually that for this court to determine the merits of the preliminary objection, it has to go beyond what the parties submitted on and make a determination on its own motion. Whereas this court is not barred from determining the question of jurisdiction and on its own motion, I find that in the instant case, the material placed before me are inadequate to enable a determination on jurisdiction of this court to entertain the dispute.



Secondly, the fact that the 2nd respondent is the one to verify the applicant's qualifications does not in itself render the court devoid of jurisdiction.

21. Moreover, I have perused sections 8 and 31 (1) of the of [Legal Education Act](#) as relied on by the 1<sup>st</sup> respondent's counsel and I am unable to find that those provisions are relevant to the circumstances of this case where the applicant's complaint is that the Kenya School of Law declined to admit him for ATP and instead referred him to the Council of Legal Education for verification. The 1<sup>st</sup> Respondent Kenya School of Law also advised him to appeal and he appealed to Kenya School of Law, and not to the Council of Legal Education.
22. Section 8 of the [Legal Education Act](#) provides for the functions of the Council while section 31(1) of the [Legal education Act](#) provides for jurisdiction of the Tribunal. Section 32 on the other hand provides for appeals from decisions of the Council.
23. This is not to say that there may be no jurisdictional issues involved in this case but that the manner in which the preliminary objection was argued deprived this court of material to rely on to appreciate and fully determine the jurisdictional issue in limine.
24. Accordingly, I am not satisfied that the preliminary objection has any merit. In my view, the jurisdictional issues raised and poorly argued can still be considered in the application for leave which if fully argued, the court can make a reasoned determination on whether or not the applicant has a prima facie arguable case for in-depth consideration at the substantive stage.
25. This is so, considering that the applicant on the other hand argues that his law degree was obtained prior to the coming into effect of the 2012 [Kenya School of Law Act](#) and from the statutory and subsidiary legislation as well as judicial pronouncements that I have perused, including the Council of Legal Education (Kenya School of Law) Regulations, 2009, more specifically Regulation 4 and the First Schedule to the said Regulations, as explained by A. Makau J in Petition No. 286 OF 2019 Jemimah Nyambura Mwangi Versus Kenya School Of Law [2022]e KLR, citing the case of Kelvin Mwiti among other decisions, I decline to determine the chamber summons based on the inadequately argued preliminary objection and dismiss the preliminary objection with no orders as to costs.
26. Parties to appear before the presiding Judge for further directions on 13<sup>th</sup> April, 2026 on the expeditious disposal of the chamber summons for leave to apply.
27. I so order.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 8<sup>TH</sup> DAY OF APRIL, 2026**

**R.E. ABURILI**

**JUDGE**

