

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT KIAMBU**  
**CONSTITUTIONAL AND HUMAN RIGHTS DIVISION**  
**CONSTITUTION PETITION NUMBER E006 OF 2026**

**SIMON KARIU KIMAITA.....PETITIONER**

**VERSUS**

**THE TEACHERS SERVICE COMMISSION.....1<sup>ST</sup>**  
**RESPONDENT**

**THE NATIONAL ASSEMBLY.....2<sup>ND</sup>**  
**RESPONDENT**

**MISTRY OF EDUCATION.....3<sup>RD</sup>**  
**RESPONDENT**

**THE HON. ATTORNEY-GENERAL.....4<sup>TH</sup>**  
**RESPONDENT**

**RULING:**

1. On 16<sup>th</sup> April, 2026, counsel for the respective parties appeared before the Court for directions in respect of the Chamber Summons application dated 31st March, 2026, filed by the 1st Respondent/Applicant, the **Teachers Service Commission**, seeking the recusal of this Court from further hearing and determination of this matter.

2. From the record, it was evident that the Petitioner has opposed the said application and has already filed Grounds of Opposition dated 8th April, 2026 together with a Replying Affidavit sworn on 14th April, 2026. Similarly, Mr. Ochieng, learned counsel holding brief for Professor Ojienda on behalf of the Interested Parties indicated that they were also opposed the application and informed the Court that the Interested Parties have filed a Replying Affidavit as well as written submissions, both dated 8<sup>th</sup>, April 2026.
3. Mr. Isaac Ochieng, learned counsel appearing for the 1st Respondent/Applicant, raised an issue with and or objected to the participation of the Intended Interested Parties on the ground that no express or conclusive directions had been issued regarding their joinder. However, this Court does not consider it necessary to revisit that question to any great length at this stage in light of its ruling delivered on 13<sup>th</sup> March, 2026. In that ruling, the Court expressly permitted the intended interested parties to participate in the applications that were already pending. The court then issued directions on pending applications which are scheduled for delivery of the same for ruling /judgement for 5th May, 2026. Having taken that position, there is plainly no lawful or factual basis upon which the court can shut out the Intended Interested Party from responding to the present application by the 1<sup>st</sup> Respondent/Applicant or even expunge their pleading thereto. To hold otherwise would not only be

contrary to the earlier directions of the Court, but would also offend the principles of fairness, procedural propriety, and the right of every affected party in this matter.

4. Be that as it may, all counsel appearing before the Court appeared agreeable to the proposal that the application dated 31st March, 2026 be disposed of by way of written submissions. Whereas Counsel for the Applicant sought three (3) days within which to file and serve submissions, counsel for the Petitioner on the other hand sought twenty-one (21) days for the same purpose. In the circumstances, the Court was then called upon to issue appropriate directions that would balance the need for expeditious disposal of the application with the equally important duty to accord each party a fair and reasonable opportunity to fully present its case.
5. Having considered the positions taken by the counsel, the Court is of the view that the appropriate course is to issue timelines that are fair, reasonable, and capable of facilitating the orderly disposal of the application. In doing so, this Court is guided by the need to accord all parties a sufficient opportunity to file and serve their respective submissions, while at the same time ensuring that the matter proceeds without undue delay. The Court has also taken into account the fact that it is on transfer and that its diary cannot accommodate the matter within the timelines proposed by the 1st Respondent/Applicant. In the circumstances, the

Court is satisfied that a period of fourteen (14) days for each party to file and serve written submissions is just, proportionate, and administratively practicable.

6. Accordingly, the Court directs that the parties shall file and serve their written submissions on the Chamber Summons application dated 31st March, 2026 within fourteen (14) days of each other from the date hereof. For avoidance of doubt and for purposed of the said application, the following directions issue:

***a) The Applicant who is the Respondent herein shall file and serve further affidavit alongside written submissions within fourteen (14) days from the date hereof;***

***b) The Respondents, who include the Petitioner and 3<sup>rd</sup> party shall file and serve their respective submissions within fourteen (14) days of service.***

***c) In view of the change in circumstances in the matter, the ruling and or judgment scheduled for 5<sup>th</sup> May, 2025 be and is hereby stayed pending the hearing and determination of the application dated 31<sup>st</sup> March, 2026.***

***d) Mention on 19<sup>th</sup> May, 2026 for parties to confirm compliance and take direction on ruling date.***

***e) The interim orders herein to remain in force pending the determination of the entire petition.***

7. It is so ordered.

**RULING ON DIRECTIONS** delivered this **20<sup>TH</sup>** day of **APRIL, 2026.**

**HON. D. CHEPKWONY  
JUDGE**