

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MISCELLANEOUS CIVIL APPLICATION NO. E001 OF 2026

EDWARD OMONDI YONGO.....
APPLICANT

VERSUS

KENYA SCHOOL OF LAW.....1ST
RESPONDENT

COUNCIL OF LEGAL EDUCATION.....2ND
RESPONDENT

AND

ATTORNEY GENERAL.....INTERESTED
PARTY

RULING

1. Before me is an *ex parte* chamber summons, dated 1st January 2026, seeking leave to apply for the Judicial Review orders of *certiorari*, *mandamus* and prohibition, with respect to admission into the Advocates Training Programme. The *ex parte* applicant has also filed the statutory statement, and an affidavit to verify it, both dated 1st January 2026.
2. The background is set out in the grounds on the face of the application, as well as in the said affidavit. The *ex parte* applicant holds a 1994 KCSE certificate, which enabled his admission to Dr. Babasaheb Ambedkar Marathwada University, from where he attained an LLB qualification in 2000. He sought admission to the Advocates Training Programme, but the application elicited no response. He cites *ultra vires* and unfairness, procedural impropriety and constructive rejection of his application.
3. He has attached relevant documentation to support his application. One of the documents is a letter, dated 16th December 2025, from the 1st respondent, which advises that

his application was not successful, and encourages him to appeal.

4. The *ex parte* application was placed before the Judge, on 5th January 2026, and it was directed that the same be served.
5. Upon service, the 1st respondent filed a replying affidavit and a notice of preliminary objection, both dated 6th March 2026. The tenor of the 2 was that there was no jurisdiction, on the part of the 1st respondent, to hear and determine the matter, of the application for admission to the Advocates Training Programme, on account of section 13(1) of the Legal Education Act, Cap 16B, Laws of Kenya, as read with section 8 of the same Act.
6. A ruling was delivered, on 8th April 2026, dismissing the preliminary objection, on the basis that the chamber summons could not be determined, based on an inadequately argued preliminary objection, and the matter was allocated a date for mention, for directions on the disposal of the chamber summons.
7. The matter was placed before me, on 13th April 2026, and I allocated it a date, for ruling, to dispose of the *ex parte* chamber summons, dated 1st January 2026.
8. The commencement of Judicial Review proceedings is preceded by the filing of an *ex parte* chamber summons, for leave to initiate the proceedings, according to Order 53 rule 1(1) of the Civil Procedure Rules. Upon grant of the leave, a substantive Motion is then filed. Of course, the principal pleading is the statutory statement, and the Motion is merely filed to enable prosecution of the case set out in the statutory statement. According to Order 53 rule 4(1), upon the grant of leave, the *ex parte* applicant, while filing the substantive Motion, is not required to file fresh pleadings and affidavits, but should rely on those filed at leave stage,

under Order 53 rule 1(2)(a)(b). Why? Because the case, by the *ex parte* applicant, is in the statement and the affidavit verifying it, and not the Motion.

9. The *ex parte* chamber summons is not for canvassing *inter partes*, because it is *ex parte*. It is for consideration by the Judge without hearing the parties. That is why, under Order 53 rule 1(2), the application for leave is made *ex parte*, to the Judge in chambers. But, under Order 53 rule (4), the Judge may require *inter partes* hearing of the application for leave, before grant of leave, “where the circumstances so require.”

10. Service of the *ex parte* application was ordered on 5th January 2026, but I have seen no indication, in that order, of the circumstances which required disposal of that application *inter partes*. The said *ex parte* application was, nevertheless, handled *inter partes*, for oral arguments were taken on 9th March 2026, and a ruling was delivered on 8th April 2026, dismissing the challenge to it. I have read and considered the statutory statement and the affidavit verifying it. I am satisfied that the same disclose a justiciable cause, to warrant grant of the leave sought.

11. The *ex parte* applicant invites me to order that the grant of leave, if at all, do operate as stay of the decision contained in the letter, dated 16th December 2025. Should I grant that order? I do not think so.

12. The *ex parte* applicant has not been admitted to the Advocates Training Programme. In fact, his admission application has been rejected, hence the initiation of these proceedings. To order stay, in the manner framed, in prayer 6 of the *ex parte* chamber summons, would be to constructively admit the *ex parte* applicant to the programme. It would amount to determining this matter before hearing it. In any case, the letter, of 16th December 2025, does no more than to reject the admission application,

it does not require the doing of anything, that would be capable of being stayed. Essentially, therefore, there is nothing to stay.

13. The final orders are that the *ex parte* application, dated 1st January 2026, is hereby allowed, in terms of prayers 3, 4 and 5. The *ex parte* applicant has 21 days to file the substantive Motion, in a separate Judicial Review cause. The grant of leave herein shall not operate as stay of the letter of 16th December 2025, for the reasons given above. This matter shall be mentioned on 27th May 2026, for compliance and further directions. Orders accordingly.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN
CHAMBERS, AT MILIMANI, NAIROBI, ON THIS 27TH DAY
OF APRIL 2026.**

**WM MUSYOKA
JUDGE**

Mr. Abdirahman, Court Assistant.

Advocates

Mr. Ogoti, instructed by DRO Ngala & Partners, Advocates for the *ex parte* applicant.

Ms. Mbuthu, Advocate for the 1st respondent.