



Kenya Union of Roads Contractors and Civil Engineering Workers v China Road and Bridges Corporation (Cause E376 of 2024) [2025] KEELRC 1000 (KLR) (27 March 2025) (Judgment)

Neutral citation: [2025] KEELRC 1000 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E376 OF 2024
S RADIDO, J
MARCH 27, 2025**

**BETWEEN
KENYA UNION OF ROADS CONTRACTORS AND CIVIL ENGINEERING
WORKERS CLAIMANT
AND
CHINA ROAD AND BRIDGES CORPORATION RESPONDENT**

JUDGMENT

1. The Kenya Union of Road Contractors & Civil Engineering Workers (the Union) sued China Road & Bridge Corporation (the Respondent) on 17 May 2024, and it stated the Issue in Dispute as:
Denial of Access to Employer’s site.
2. The remedies sought by the Union were:
 - i. That a declaration that the action and or inaction by the Respondent denial (sic) access to the Claimant is a violation of the law and Constitution.
 - ii. That the Honourable Court be pleased to issue an order to restrain the Respondent not to refuse the Claimant/applicant to access the premises of the Respondent.
 - iii. That the Honourable Court issue an order directing the Respondent to allow the workers and Union officials to talk and participate in activities of trade union as specified in section 4 of the [Labour Relations Act](#), 2007 and Article 41 of the [Constitution](#).
 - iv. That the Honourable Court be pleased to order and direct the Respondent to allow its employees to have freedom of association by joining the Union of their choice as enshrined in the [Constitution](#) Article 36 and 41(c).
 - v. Costs of the Claim be provided for.



3. Filed together with the Statement of Claim was a Motion under a certificate of urgency seeking interim relief.
4. When the Motion was placed before the Court on 21 May 2024, the Court dismissed the Motion because there was no evidence that the Union had reported a trade dispute to the Ministry of Labour.
5. According to an affidavit of service filed on 10 July 2024, a Human Resource Manager with the Respondent was served with the Motion but declined to sign a copy of the same.
6. On 30 October 2024, the file was placed before the Court for directions. The General Secretary of the Union informed the Court that despite service, the Respondent had not filed a Response. And that an affidavit of service had been filed.
7. The Court looked at the record and directed the Union to report a trade dispute to the Cabinet Secretary, Labour ahead of further proceedings on 15 January 2025.
8. On 15 January 2025, the Union informed the Court that it had reported a dispute to the Ministry of Labour and that it had filed a conciliation report the previous day.
9. The Court directed the Union's representative to call the Respondent. Later, the representative informed the Court that he had sent a message to a Mr Owino but he did not respond. The Court fixed the Cause for formal proof on 17 February 2025.
10. The Union called its General Secretary and he testified under oath. The Union filed its submissions on 4 March 2025.
11. The Court has considered the record, pleadings, evidence and submissions.
12. In a report dated 14 January 2025, the Conciliator reported that the Respondent had ignored to cooperate with him during the conciliation process.
13. There is evidence on record that the Union wrote to the Respondent on 15 April 2024 and 25 April 2024 seeking permission to access the Respondent's premises to talk with the workers but there was no response.
14. In the exercise of its rights to organise under Article 41 of the *Constitution*, section 56 of the *Labour Relations Act* obligates an employer to grant access to a trade union in pursuit of the lawful activities of the Union. Such lawful activities include recruitment.
15. The Respondent herein has declined to allow the Union to exercise its rights and no reasons have been placed before the Court.
16. It appears that the Respondent was involved in the construction of a stadium at the material time. The Union did not disclose whether the project has been completed or not or whether the workers sought to be recruited are still on site.

Orders

17. In light of the above the Court orders:
 - i. A declaration is hereby issued that the Respondent's failure to grant the Union access to its premises in exercise of its right to organise is a violation of Article 41 of the *Constitution* and Section 56 of the *Labour Relations Act*.



- ii. The Respondent is hereby ordered to grant the Union and a Labour Officer designated by the Commissioner for Labour access to its site at Talanta Stadium Ngong Road within the next 45 days to exercise its right to organise.

18. Costs in the cause.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIVASHA ON THIS 27TH DAY OF MARCH 2025.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Claimant Mr Osicho, General Secretary

Respondent did not participate

Court Assistant Wangu

