



Kenya Private Universities Workers Union v St Paul's University (Cause 147 of 2020) [2025] KEELRC 1408 (KLR) (15 May 2025) (Judgment)

Neutral citation: [2025] KEELRC 1408 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 147 OF 2020**

S RADIDO, J

MAY 15, 2025

BETWEEN

KENYA PRIVATE UNIVERSITITES WORKERS UNION CLAIMANT

AND

ST PAUL'S UNIVERSITY RESPONDENT

JUDGMENT

1. The Kenya Private Universities Workers Union (the Union) sued St Paul's University (the Respondent) on 10 March 2020, and it stated the Issue in Dispute as:

The Respondent has not been in agreement to allow the Claimant herein to access both her members and potential members, to deduct and remit union dues and victimisation of the Claimant's members on account of trade union affiliation/activities since 2016.

2. The remedies sought by the Union were:
 - i. That the Honourable Court deem fit and find the action of the Respondent of refusal to allow the Claimant union to either access her members or potential members to be null and void thus ordering the Respondent to allow the Claimant union official to access her premises by meeting her members and other potential members as stipulated in our laws.
 - ii. That the Respondent be ordered to comply with section 48 of the *Labour Relations Act, 2007* by way of deducting union dues and remitting the same in the Claimant's union gazetted account.
 - iii. That the Respondent and or her agents be restrained from victimising, coercing and or terminating services of the Claimant members on ground of trade union activities/affiliation.
 - iv. That the Respondent be bound to sign a recognition agreement and enter into negotiation for a collective bargaining agreement with the Claimant.



- v. That among any other relief which this Honourable Court may deem fit to grant.
- vi. That the cost of this suit be met by the Respondent.
3. On 8 October 2024, the Respondent made an oral application seeking leave to file a Response out of time, but the Court declined to grant the leave.
4. The Court directed that the Cause proceed to formal proof, and the hearing proceeded on 26 March 2025.
5. The General Secretary of the Union testified and was cross-examined.
6. The Union's submissions were filed on 14 May 2025 by the firm of Chisengo & Co. Advocates (should have been filed and served before 18 April 2025) and the Respondent on 8 May 2025.
7. The firm of Chisengo & Co. Advocates never came on record formally since there is no Notice of Appointment of Advocate, and the Court expunges the submissions it filed from the record.
8. The Court has considered the pleadings, evidence and submissions.

Access to the University

9. The Union is a registered entity and enjoys certain Constitutional and legal rights.
10. Section 56 of the *Labour Relations Act* contemplates an employer granting a trade union access to its premises to pursue the trade union's lawful activities.
11. Such lawful activities include the recruitment of members and members' education.
12. The testimony of the Union's General Secretary that officials of the Respondent had frustrated his efforts to pursue the lawful activities remained unrebutted (letters seeking access and permission to meet the employees were produced in Court).
13. The Court, therefore, finds that the Respondent breached the Union's right to organise and those of the employees to associate.

Union dues

14. The Union asserted that it had recruited some 30 employees of the Respondent out of a potential 100 employees. According to the Form S placed before the Court, the recruitment was in 2020 and 2022, a few years ago.
15. The *Constitution* guarantees the right of employees to association and to the Union, a right to organise.
16. In terms of section 48 of the *Labour Relations Act*, an employer is under an obligation to deduct from the wages of such an employee union dues and remit to the gazetted bank account of the Union. An employee's authorisation to deduct union dues is signified by signing the Form S (check-off form).
17. The Union produced in Court Form S, which it forwarded to the Respondent. If the employees who acknowledged membership of the Union are still in employment, the Respondent has a duty to deduct and remit union dues to the Union.



Victimisation

18. The Union alleged that the Respondent had victimised and threatened its employees who had joined the Union.
19. The Union did not give particulars of the victimisation or threats but the Court reiterates that an employee has the freedom to associate including joining a trade union and that act should not be used to victimise the employee.

Recognition agreement

20. The Union did not demonstrate that it had met the threshold for grant of recognition by the Respondent as envisaged under section 54 of the *Labour Relations Act*.

Conclusion and Orders

21. In light of the above, the Court finds and declares that:
 - i. The decision of the Respondent to deny access to the Claimant to pursue lawful trade union activities was unlawful.
 - ii. The decision of the Respondent not to comply with section 48 of the *Labour Relations Act* was unlawful.
22. The Court orders:
 - i. The Respondent to grant the Claimant access to its premises to pursue its lawful activities as a trade union.
 - ii. The Respondent to commence deduction of union dues for employees who signed the Form S and are still in its employment.
23. The Union did not file submissions. There is an anticipated social partnership between the parties. Each party, therefore to meet its own costs.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 15TH DAY OF MAY 2025.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Claimant Mr Chisengo, Industrial Relations Officer

For Respondent Ms Njoki instructed by Kembi-Gitura & Co. Advocates

Court Assistant Wangu

