



County Government of Kiambu v Kenya Medical Practitioners, Pharmacists and Dentists Union (Cause E466 of 2025) [2025] KEELRC 1656 (KLR) (3 June 2025) (Ruling)

Neutral citation: [2025] KEELRC 1656 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E466 OF 2025**

S RADIDO, J

JUNE 3, 2025

BETWEEN

COUNTY GOVERNMENT OF KIAMBU CLAIMANT

AND

KENYA MEDICAL PRACTITIONERS, PHARMACISTS AND DENTISTS UNION RESPONDENT

RULING

1. The Kenya Medical Practitioners, Pharmacists and Dentists Union (the Union) issued a Notice of Industrial Action dated 5 May 2025 to the County Secretary, County Government of Kiambu (the County Government).
2. The Notice referred to various engagements between the parties and gave notice that unless the 10 listed persistent and unresolved issues were resolved within 21 days, the Union members would withdraw their services.
3. The Notice was copied to the Cabinet Secretaries, Ministries of Health and Labour. The Cabinet Secretary, Labour appointed a Conciliator on 12 May 2025.
4. The Notice listed 10 issues, to wit:
 - i. Persistent delays in salary disbursements.
 - ii. Delayed promotions and denial of career progression opportunities.
 - iii. Delay in remittance of SHA (Social Health Authority) payments beyond the 9th of every month, thereby subjecting doctors to a lack of medical cover for extended periods repeatedly.
 - iv. Lack of consistent medical insurance cover for those doctors hired by the County Government.



- v. Unprocedural transfer of doctors contravening the Public Service Commission Human Resource Policy adopted by Kiambu County in June 2019.
 - vi. Non-compliance with the 40-hour work week resulting in burnouts.
 - vii. Failure to deduct and remit union dues for the past 7 months in contravention of sections 48 and 49 of the [Labour Relations Act](#), 2007.
 - viii. Introduction of an unclear chaotic supervisory management structure with instances of certain doctors reporting to municipal managers.
 - ix. Political bullying and intimidation of doctors publicly and privately, with some politicians calling doctors thieves for political convenience.
 - x. Disregard of Public Service Commission Schemes of Service that guides doctors' job description, expected roles and responsibilities and KPMDC requirements, such as in Thika Level 5 Hospital.
5. On the same day, the advocate for the County Government wrote to the Union contending that the intended industrial action was not protected under section 76(b) of the [Labour Relations Act](#). The response also indicated that most of the grievances raised by the Union had been addressed. The letter asked the Union to withdraw the Notice.
6. The Union did not withdraw the Notice and on 23 May 2025, the County Government moved the Court seeking a declaration that the industrial action contravened section 81 of the [Labour Relations Act](#) and orders stopping the industrial action and directing the parties to engage in dialogue.
7. Filed at the same time was a Motion seeking orders:
- i. ...
 - ii. That this Honourable Court declares the strike notice issued by the Respondent and dated 5th May 2025, unlawful and therefore unprotected.
 - iii. Spent
 - iv. That this Honourable Court do hereby issue a permanent order prohibiting the members of the Respondent, their employees, agents, servants, assigns and/or anybody else claiming under them and all doctors employed by the Claimant from proceeding, participating, inciting or taking part in any way in a strike, go slow or any industrial action or engaging or taking part in any conduct, activity or meetings in contemplation of or towards preparation for a strike in the County Government of Kiambu pending the hearing and determination of the main suit.
 - v. That this Honourable Court declares that the Respondent is an essential service category pursuant to section 82(1) of the [Labour Relations Act](#), prohibited from participating in industrial action whose outcome is death of patients in hospitals and other grave consequences.
 - vi. That the Honourable Court be pleased to issue directions on conciliation as a matter of urgency and to suspend the Notice of Industrial action dated 5th May 2025 as the process of conciliation proceeds.
 - vii. That the Officer Commanding Station (OCS) Kiambu Police Station be and is hereby directed to assist in the enforcement of these orders.



- viii. That any other relief that this Honourable Court may deem just and fit to award under the circumstances.
- ix. That the costs of this application be in the cause.
8. The primary grounds in support of the Motion were that the Strike Notice was unlawful because it disregarded sections 78(1) and (f) and 81(3) of the *Labour Relations Act*; the members of the Union provided essential services and withdrawal of labour would lead to collapse of the health sector in the County and massive deaths; Conciliation had not been concluded and there was no Certificate of Unresolved dispute; the intended strike was actuated by bad faith, and if the Court did not intervene, irreparable harm would be caused to the public.
9. When the Motion was placed before the Court, ex-parte, the Court declined to issue any preservative orders, and the County Government was directed to serve.
10. On the return date of 27 May 2025, the Union requested time to file and serve a response to the Motion, and it filed a replying affidavit on 29 May 2025.
11. In the affidavit, the Union's Branch Secretary, Central Branch deponed that the County Government had made a public announcement on 28 May 2025 stating that the striking doctors had been terminated from employment; the County Government had moved to Court only on the day the strike notice was to be effective; the parties had executed a Return to Work Formula resolving the Issues in contention on 8 May 2024 but the County Government had failed to implement the Terms of the Agreement; the Union sued the County Government in Nairobi Petition No. E174 of 2024, Kenya Medical Practitioners, Pharmacists & Dentists Union v County Government of Kiambu & Ar to enforce terms of the Agreement; the parties were sent to Conciliation but the County Government failed to attend conciliation meetings on 4 November 2024 and 20 November 2024; despite not implementing the terms of the Agreement, the County Government had issued show cause letters to the Union members on 27 September 2024; when conciliation failed, Court proceeded to find the County Government in breach of contract in its judgment; most of the Issues now in contention had been resolved in Nairobi Petition No. E032 of 2024 but the County Government had failed to comply with the judgment and a contempt application was pending; the industrial action was in compliance with the guidelines set out in Joseph Otieno Oruoch v Kenya Medical Practitioners, Pharmacists and Dentists Union & Ar (2021) KEELRC 1147 (KLR) as the Union members were providing minimum services; the Court was seized of another dispute on payment of salaries being Nairobi Cause No. E570 of 2023, Dr Samson Robert Misango v Human Resource Manager, Kiambu County & Ors where another contempt application was pending; the County Government had failed to promote the Union members as agreed; there had been persistent delays in remitting contributions to the Social Health Authority and MUA; the County Government failed to pay transfer allowances or comply with the Human Resource Policy; the County Government had failed to pay overtime allowance as set out in the parties Collective Bargaining Agreement; the County Government had not remitted union dues for about 7 months amounting to about Kshs 6,300,000/- and that the County Government had not met a case for the grant of prayers in the Motion.
12. The Court took oral submissions from the parties on 29 May 2025 and reserved Ruling to today.
13. The Court has considered the Motion, affidavits and submissions.
14. The Court must state at the outset that it cannot issue any of the declaratory orders sought by the County Government at an interlocutory stage before the strength and merits of the parties' respective cases have been placed under a legal microscope.



15. Further, the County Government did not demonstrate any exceptional circumstances (see *Scania Credit Solutions (Pty) Ltd v Hodan Wholesale Ltd (2021) KEHC 11 (KLR)*).
16. The right to strike is anchored in Article 41(2)(d) of *the Constitution*. But it is not an absolute right and can be limited as envisaged under Article 24 of *the Constitution*.
17. The limitations are found in Part X and more particularly sections 76 and 78 of the *Labour Relations Act*.
18. Section 76 of the Act sets out the scenarios where a strike can be considered a protected strike. The strike must concern terms and conditions of service or a recognition agreement, and at least 7 days' notice must be given by the trade union to the other party and the Cabinet Secretary, Labour.
19. The Union herein gave a 21-day strike notice, and the concerns raised included persistent salary delays, remittance of statutory deductions, promotions, medical insurance cover, non-remittance of union dues and overtime work.
20. Section 78 of the *Labour Relations Act* prohibits a person from participating in a strike if the subject matter of the dispute has been referred to the Court or arbitration, or the parties are engaged in the provision of essential services.
21. The subject of the strike action called by the Union has been the subject of previous conciliation and Court action and live legal proceedings as borne out by the record placed before this Court through affidavits.
22. The members of the Union herein are involved in the provision of essential services and, on the face of it are prohibited from participating in a strike.
23. The Union issued a Notice on Minimum Service Program on 19 May 2025. The Notice must have been predicated in the judgment of a 3 Judge bench of this Court in the Oruoch case.
24. The Union gave the County Government 21 days' notice, but the County Government only moved to Court on 23 May 2025, just on the eve of the industrial action date.
25. The relationship between the Union and County Government of Kiambu has not been harmonious at all.
26. On 8 May 2024, the Council of Governors on behalf of the County Governments (including the County Government of Kiambu), entered into a Return to Work Agreement with the Kenya Medical Practitioners, Pharmacists and Dentists Union.
27. The terms of the Agreement included provision of medical insurance cover within 90 days; remittance of statutory deductions within 30 days; conclusion of promotion and re-designation of doctors by 1 September 2024, and remittance of union dues on time.
28. The County Government did not fully implement the terms of the Agreement, and the Union reported a trade dispute to the County Labour Officer on 28 October 2024.
29. The County Labour Officer indicated in his report dated 28 November 2024 that the County Government did not cooperate with his office in the conciliation process.
30. At the same time, the Union filed Nairobi ELRC Petition No. E174 of 2024, Kenya Medical Practitioners, Pharmacists and Dentists Union v County Government of Kiambu & Ar, alleging violations of its members' rights and failure to fulfil its obligations (including payment of August and September 2024 salaries).



31. In a judgment delivered on 19 May 2025, the Court found on admission that the County Government was in breach of its obligations and directed it to pay all outstanding salary arrears.
32. Under these circumstances, should the Court prohibit the members of the Union from participating in the strike called through the Notice of 5 May 2025?
33. The right to strike belongs to the realm of workers' fundamental rights, but it is not absolute. A strike is a legitimate tool for workers to promote and defend their economic and social interests. Ordinarily, it is a weapon of last resort meant to put pressure on the employer to redress perceived wrongs.
34. Strikes more often than not are disruptive. The County Government of Kiambu has stated that public health services within the county have been severely affected because the members of the Union are not offering minimal service.
35. The Union released a Notice providing details of available minimum service.
36. The strike called by the Union related to occupational concerns in that the County Government has persistently failed to look into or comply with agreements meant to improve the work environment.
37. The County Government of Kiambu has not exhibited good faith in its relationship with the Union. It did not cooperate with the Conciliator. A perusal of the record of the Causes listed in the affidavits show that the County Government has not been attending Court sessions.
38. It is not the duty of the Court to hazard a guess as to why the County is perennially involved in industrial tussles with its doctors and not the majority of the other Counties.
39. It is true that part of the resources used to fund the devolved health function are disbursed from the National Government. If there are delays in the disbursements, it would affect nearly all the 47 Counties.
40. There appears to be something amiss in the management of the health function in the County Government of Kiambu. The management must address the concerns raised by the Union in the utmost good faith.
41. The Management ought to face the Union at the table and agree on the best way to ameliorate any difficulties because the Courts cannot micromanage them in their relationship. The Ministry of Labour under the County Labour Officer, Kiambu, offered the parties a table to use in negotiations. The parties must return to that table.

Orders

42. Flowing from the above, the Court declines to issue any of the orders pleaded in the Motion. The Motion is dismissed with no order on costs because of the ongoing social partnership between the parties.
43. Despite dismissing the Motion, the Court directs the senior-most officials of the County Government of Kiambu and the Kenya Medical Practitioners, Pharmacists and Dentists Union to appear before the County Labour Officer, Kiambu to today, 3 June 2025, at 2.00 pm to negotiate an end to the strike.
44. The parties to report progress to the Court on 11 June 2025.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 3RD DAY OF JUNE 2025.

RADIDO STEPHEN, MCI Arb



JUDGE

Appearances

For Claimant Wetangula, Adan & Co. Advocates

For Respondent Wafula, Washika & Associates Advocates

Court Assistant Kemboi

