



**Republic v Kenya Universities Staff Union; Osogo & another (Exparte Applicants)  
(Judicial Review E040 of 2023) [2024] KEELRC 1061 (KLR) (25 April 2024) (Ruling)**

Neutral citation: [2024] KEELRC 1061 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
JUDICIAL REVIEW E040 OF 2023**

**MN NDUMA, J  
APRIL 25, 2024**

**BETWEEN**

**REPUBLIC ..... APPLICANT**

**AND**

**KENYA UNIVERSITIES STAFF UNION ..... RESPONDENT**

**AND**

**AGGREY KEYA OSOGO ..... EXPARTE APPLICANT**

**JOSECK OLUKUSI ALWALA ..... EXPARTE APPLICANT**

**RULING**

1. The applicant in the application dated 2nd December 2023 seeks an order in the following terms:

1. Spent
2. Spent
3. That this honourable court do issue a temporary injunction restraining the implementation of the cessation of union membership and official of KUSU issued by the respondents vide the communique dated the 20<sup>th</sup> of November 2023 cited Cessation As Union Member & Official Of Kusu: Aggrey Keya Osogo P/f 0317 And Joseck Olukusi Alwala P/F 0318 pending the hearing and determination of this judicial review proceedings.
4. That costs of the application be provided for
5. That this honourable court be pleased to grant the Ex Parte applicants leave to apply for an order of certiorari to bring into this honourable court for the purpose of being quashed, the decision of the Kenya University Staff Union to revoke the Ex-parte applicant’s membership to the union pursuant to the Annual Delegates Conference decision communicated vide the



letters dated 20<sup>th</sup> November 2023 cited Cessation As Union Member & Official Of Kusu: Aggrey Keya Osogo P/f 0317 And Joseck Olukusi Alwala P/F 0318

6. That this honourable court be pleased to grant leave to the applicant to apply for an order of Mandamus directing that the respondent immediately reinstate the Ex-parte applicant as members of the respondent union and recognize them as members and officials of the union with immediate effect.
2. The application is premised on grounds 1 to 10 set out in the notice of motion and buttressed in the supporting affidavit of Aggrey Keya Osogo. The application is opposed vide replying affidavit of Dr. Charles Mukhwana.
3. The advocate for the applicant, Mr. Mukonyi on 12/3/2024, told the court when the matter came for directions that the exparte applicant only seeks grant of prayers 5 and 6 of the notice of motion and then the parties be given directions to file submissions in the main JR application.
4. The court has in particular considered that particular submission by counsel for the applicant and has found no impediment in granting the exparte applicant leave to apply for an order of certiorari and mandamus in terms of prayers 5 and 6 of the notice of motion to allow the court to consider the merit or demerit of the suit brought by the exparte applicant.
5. The court has determined that it would not be economical use of court's time to proceed to consider issuance of temporary injunction sought under prayer 3 of the notice of motion before the substantive Judicial Review application has been filed and direction given to file submissions in respect of the substantive motion.
6. Furthermore, the court was made aware of Kakamega cause No. E011 of 2023 between the exparte applicant herein and the respondent which matter was transferred by Hon. Lady Justice Keli J. vide an order dated 1/3/2024 directing the said matter be transferred to Nairobi ELRC in the interest of justice. The matter was due to be mentioned together with this matter on 8/4/2024 but that did not materialize.
7. Accordingly, leave is granted to the exparte applicant to file substantive motion in terms of prayers 5 and 6 of the notice of motion. This application is dispensed with therefore in respect of other prayers sought.

**DATED AT NAIROBI THIS 25<sup>TH</sup> DAY OF APRIL, 2024**

**MATHEWS NDERI NDUMA**

**JUDGE**

Appearance:

Mr. Mukonyi for exparte applicant

Ms. Kibit for respondent

Mr. Kemboi, Court Assistant

