



Gekonge v Cabinet Secretary, Ministry of Education & 4 others (Judicial Review Application E008 of 2024) [2024] KEELRC 13518 (KLR) (20 December 2024) (Ruling)

Neutral citation: [2024] KEELRC 13518 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KERICHO
JUDICIAL REVIEW APPLICATION E008 OF 2024**

J RIKA, J

DECEMBER 20, 2024

BETWEEN

VINCENT GEKONGE APPLICANT

AND

CABINET SECRETARY, MINISTRY OF EDUCATION 1ST RESPONDENT

PUBLIC SERVICE COMMISSION 2ND RESPONDENT

COUNCIL OF BOMET UNIVERSITY COLLEGE 3RD RESPONDENT

PROFESSOR CHARLES KIPKIRUI MUTAI 4TH RESPONDENT

HON. ATTORNEY-GENERAL 5TH RESPONDENT

RULING

1. The Applicant is a Public Interest Litigant.
2. He brings this application, dated 17th December 2024, under certificate of urgency, concerned about recent governance issues at the Bomet University College, and specifically, about the appointment of the 4th Respondent as Principal of the College.
3. He states that the appointment did not meet the standards of appointment into public office, under *the Constitution* of Kenya, and *Public Service Commission Act*.
4. He relies on his affidavit and grounds set out in the face of the application.

The Court Finds and Orders: -

5. The application filed by the Applicant, dated 17th December 2024, is certified urgent.



6. Leave is granted to the Applicant to apply for orders of certiorari and mandamus, in terms of prayer 2 and 3 of the application.
7. Leave so granted shall not operate as an order of stay and restraint, of the 4th Respondent from assuming office, or operate as an order of reinstatement of the status quo, obtaining before the 4th Respondent was appointed.
8. Leave is similarly granted to the Applicant to apply for declaratory, prohibitory and certiorari orders, in terms of prayers 5, 6 and 7 of the application.
9. Leave so granted shall not operate as an order of reinstatement of the immediate former acting Principal, or restraint upon the 4th Respondent from performing the duties of the Principal, Bomet University.
10. To grant the prayer that leave in any event, operates as stay of appointment of the 4th Respondent, would infringe the contractual, statutory and constitutional rights of the 4th Respondent, without having heard him.
11. An order of stay of appointment of the 4th Respondent, and the reinstatement of the immediate former Principal, would violate Rule 53 of the E&LRC [Procedure] Rules, 2024, which is that, the Court shall not grant an ex-parte order, that reinstates into employment, an Employee whose services have been terminated.
12. The prayer on stay of the decision appointing the 4th Respondent as Principal, or seeking to restrain him from discharging the duties of that office, ought to be heard in the substantive application, in the presence of all the Parties.
13. The substantive application to be filed and served upon all the Respondents within 21 days.
14. The Respondents may file their respective responses to the substantive application, within 14 days each, from the date of service.
15. Mention on 19th February 2025.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY THIS 20TH DAY OF DECEMBER 2024.

**JAMES RIKA
JUDGE**

