



**Okoiti v The Board, Export Processing Zones Authority & 3 others; Otieno (Interested Party) (Petition E133 of 2021) [2022] KEELRC 3771 (KLR) (29 July 2022) (Judgment)**

Neutral citation: [2022] KEELRC 3771 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
PETITION E133 OF 2021**

**J RIKA, J**

**JULY 29, 2022**

**N THE MATTER OF: ARTICLES 3[1], 22, 23, 48, 50 [1], 162 [2] [A],  
165 [5] 258 AND 259 [1] OF THE CONSTITUTION OF KENYA 2010;**

**AND;**

**IN THE MATTER OF: THE ALLEGED VIOLATION OF ARTICLES  
1,2,3, 4[2], 10, 19, 20,21, 22, 24, 27, 4[1] 47,73, 75, 121, 153 [4] [A],  
232, AND 259 [1] OF THE CONSTITUTION OF KENYA 2010;**

**AND;**

**IN THE MATTER OF: THE CONSTITUTIONAL AND LEGAL VALIDITY OF THE  
DECISION BY THE CABINET SECRETARY, INDUSTRIALIZATION, TRADE AND  
ENTERPRISE, TO STOP THE APPOINTMENT BY THE BOARD OF THE NEW CHIEF  
EXECUTIVE OFFICER FOR THE EXPORT PROCESSING ZONES AUTHORITY;**

**AND;**

**IN THE MATTER OF: THE DOCTRINES OF  
LEGITIMATE EXPECTATION AND VOID AB INITIO**

**BETWEEN**

**OKIYA OMTATA OKOITI ..... PETITIONER**

**AND**

**BOARD, EXPORT PROCESSING ZONES AUTHORITY ..... 1<sup>ST</sup> RESPONDENT**

**CABINET SECRETARY, INDUSTRIALIZATION, TRADE AND ENTERPRISE  
DEVELOPMENT ..... 2<sup>ND</sup> RESPONDENT**

**ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT**

**HENRY OBINO ..... 4<sup>TH</sup> RESPONDENT**

**AND**



**The power to hire and fire the chief executive officers of State corporations resides in the Boards of State corporations and not with the Cabinet Secretary**

*The instant petition revolved around the appointment of the chief executive officer (CEO) of the Export Processing Zones Authority. The court held that the power to hire and fire the CEOs of State corporations resided in the Boards of State corporations and not with the Cabinet Secretary.*

Reported by Kakai Toili

**Labour Law** - employment - appointment of State corporations Chief Executive Officers (CEOs) - role of cabinet secretaries - role of cabinet secretaries vis a vis the roles of boards of State corporations - whether a cabinet secretary could disregard the recommendation of the Board of a State corporation on the appointment of the State corporation's CEO - whether Cabinet Secretaries could audit the recruitment process of State corporations - whether a person could act as an acting chief executive officer in a State corporation for a period of over 30 days - whether the (*Mwongozo Code*) was a legally binding instrument in State corporations governance - , 2017, section 34(3) and (5)(b);, *Cap 488, section 2, 5(3);, 1990, section 7(1) and 18.*

**Brief facts**

The tenure of the last substantive Chief Executive Officer (CEO) of the Export Processing Zones Authority (the Authority) ended on September 20, 2018. There had been no substantive CEO appointed since. The Cabinet Secretary under whose docket the Authority resided had been tinkering with the Authority for about 4 years by seconding various officers from her ministry to act as the CEO. The 4<sup>th</sup> respondent was appointed as CEO in an acting capacity, in that manner.

The Board of the Authority (the Board) undertook a recruitment exercise for the CEO position and recommended the appointment of the interested party. The Cabinet Secretary faulted the recruitment exercise from the very beginning and stated that at the time the interview was conducted, she had constituted an audit team which unearthed irregularities in the exercise. The Cabinet Secretary claimed that the Board usurped and subjugated her role in appointment of the CEO. The Cabinet Secretary declined the recommendation of the Board and extended the term of the 4<sup>th</sup> respondent.

The petitioner sought among others a declaration that the extension of the tenure of the 4<sup>th</sup> respondent's service as the acting CEO of the Authority was invalid; a declaration that the Cabinet Secretary could not overrule the Board on appointment of the CEO; and an order compelling the Cabinet Secretary to appoint the interested party as CEO of the Authority, in accordance with the recommendation of the Board.

**Issues**

- i. What was the role of cabinet secretaries in the appointment of Chief Executive Officers of State corporations?
- ii. Whether a person could be an acting Chief Executive Officer in a State corporation for over 30 days.
- iii. Whether the (*Mwongozo Code*) was a legally binding instrument in State corporations governance.
- iv. Whether a cabinet secretary could disregard the recommendation of the board of a State corporation on the appointment of the State corporation's Chief Executive Officer.
- v. Whether cabinet secretaries could audit the recruitment process of State corporations?

**Held**

1. The court had jurisdiction in the instant matter. The Authority was a public entity and any member of the public had capacity to petition the court under article 22 of the of Kenya, 2010 (Constitution) on issues relating to the Authority's governance. The appointment of the CEO was central to the corporate governance of the Authority. The submission that the petition was a private interest litigation disguised as a public interest litigation, was misapprehended.



2. Section 34(3) of the , No 10 of 2017 (Act), placed minimum period in an acting capacity at 30 days and the ceiling at 6 months. Extension of the 4<sup>th</sup> respondent's acting role as the CEO was expressly in contravention of that law and therefore void *ab initio*. Section 34(5)(b) of the Act stated that an acting appointment should not be made to undermine the expeditious appointment or deployment of a competent person to the public office concerned. The prolonged extension of the 4<sup>th</sup> respondent's acting role seemed to have been made to undermine the appointment of a substantive CEO. It was illegal and void.
3. The State corporation exercised its legal mandate through the Board, not through the Cabinet Secretary in the parent ministry. Section 2 of the , cap 488 the laws of Kenya, defined chief executive as the person appointed and employed as such under section 5(3) of the , or the person for the time being, exercising the executive powers of a State corporation.
4. Section 5(3) of the , mandated the Authority to engage and employ such number of staff, including the CEO. The Authority, through its Board, was the employer. The Cabinet Secretary was not the employer. The role of the Cabinet Secretary was specified. It was to approve, in consultation with the State Corporations Advisory Committee, the terms and conditions of service of staff who included the CEO, employed by the Board.
5. The primary Act, on establishment and governance of State corporations, was the . The primary instrument on governance of State corporations was the (*Mwongozo* Code) which aligned the governance of State corporations to the .
6. The *Mwongozo* Code had been found to apply in State corporations governance and had gained the force of law. Its application had been upheld in decisions of the courts. The President issued Executive Order No 7 of 2015 for implementation of the . Although not a piece of legislation, the had gained acceptance through the decisions of the courts, as a legally binding instrument in State corporations governance. It had been argued that the had a statutory underpinning in section 3 of the , which mandated the President to formulate regulations to streamline governance in State corporations.
7. Section 7(1) of the (EPZ Act), stated that the Minister/ Cabinet Secretary, could appoint the CEO, on recommendation of the Authority. The cabinet secretary should have reverted to the and the , if the , created doubt in her mind on who actually employed the CEOs of State corporations.
8. There was no room for the Cabinet Secretary to disregard the recommendation made by the Board, justifying her decision on section 7(1) of the . The recommendations of the Board were mandatory. They were intended to be so, under the and the . They overrode any objections a cabinet secretary could harbour, on the appointment of State corporations CEOs. In light of the and the on appointment of CEO, the Cabinet Secretary had to act on the recommendation of the Board, and appoint.
9. The Cabinet Secretary went way out of line, in commissioning an audit of the recruitment process. There was no law authorizing cabinet secretaries to audit State corporations. The created the office of the Inspector-General under section 18, who could conduct special investigations of any State corporation, on request of the State Corporations Advisory Committee or the Controller and Auditor-General. If the Cabinet Secretary found it necessary to audit the recruitment process, she ought to have gone through the State Corporations Advisory Committee or the Inspector- General.
10. Cabinet secretaries had to move away from thinking that State corporations were departments within their ministries. The and the , recognized that there was corporate autonomy in State corporations, intended to develop State corporations into more serviceable public corporation devices. That autonomy was exercisable through the Boards. Cabinet Secretaries should not encroach on that autonomy.
11. The , the and the provided for inclusion of the permanent/ principal secretary in the boards of State corporations. The Principal Secretary Industrialization, Trade and Enterprise was a member of the Board and ought to have been in the Board meeting where the interested party was recruited as the CEO. Any reservations on the process from the ministry ought to have been expressed in that meeting,



through the ministry's representative. The record indicated all other Board members attended the meeting. They appointed the interested party. Resolutions passed were collectively adopted. They were binding on everyone represented in the Board, including the ministry.

12. The power to hire and fire the CEOs of State corporations, resided in the boards of State corporations, not with the cabinet secretary. The Cabinet Secretary should endorse the appointment of the interested party as the CEO of the Authority.
13. The interested party went through a competitive recruitment process, in a publicly advertised process. He emerged the best candidate. It was in gross violation of his constitutional rights under articles 41 and 232 of the, to bar him from being formally appointed, after he had been legally hired by the Board. He also had legitimate and reasonable expectation that he would be offered a contract on recruitment by the Board, and would serve upon the terms of such contract. The Authority had been without a substantive CEO from 2018 which was regrettable for that economically strategic State corporation. The tussle between the Board and the Cabinet Secretary was unnecessary and largely occasioned by the Cabinet Secretary's mis-perception of her role in the governance of the Authority.

*Petition allowed with no order on the costs.*

### **Orders**

- i. *The reappointment of the 4<sup>th</sup> respondent as the acting CEO of the Authority was declared invalid, null and void ab initio.*
- ii. *It was declared that the Cabinet Secretary could not overrule the Board, on appointment of the CEO of the Authority.*
- iii. *The Cabinet Secretary's letter Ref MOI/CS/1/30 Vol III / [13] dated August 11, 2021, purporting to reappoint the 4<sup>th</sup> respondent to the position of acting CEO for a further period of 3 months, with effect from August 13, 2021 was quashed.*
- iv. *The Cabinet Secretary was to immediately gazette the appointment of the interested party as the new substantive CEO of the Authority.*

### **Citations**

#### **Cases**

1. Birir, Richard Bwogo v Narok County Government & 2 others (Petition 1 of 2014; [2014] eKLR) — Explained
2. Chikamai, Ben & another v Peter Macithi Muigai & 2 others (Civil Appeal 313 of 2018; [2020] KECA 625 (KLR)) — Explained
3. Kimosop v Kerio Valley Development Authority (Employment and Labour Relations Cause 54 of 2019; [2022] KEELRC 14646 (KLR)) — Explained
4. Mugendi, Daniel N v Kenyatta University & 3 others (Civil Appeal 6 of 2012; [2013] KECA 41 (KLR)) — Explained
5. Okoiti v Attorney General; Njenga (Interested Party) (Petition E101 of 2020; [2022] KEELRC 2 (KLR)) — Explained
6. Suleiman, Abdikadir v County Government of Isiolo & another (Cause 76 of 2015; [2016] KEELRC 243 (KLR)) — Explained
7. Trusted Society of Human Rights Alliance v Nakuru Water and Sanitation Services Company & another (Petition 5 of 2013; [2013] eKLR) — Explained

#### **Statutes**

1. Constitution of Kenya, 2010 — Article 22, 41, 47, 232 — Interpreted
2. Export Processing Zones Act (cap 517) — Section 7(1) — Interpreted
3. Public Service Commission Act, 2017 (Act No 10 of 2017) — Section 34 (3), (5)(b) — Interpreted
4. State Corporations Act (cap 446) — Section 2, 5(3) — Interpreted

#### **Texts**



1. Government of Kenya, (State Corporations Advisory Committee) (2015), Mwongozo, the code of Governance for State Corporations (Government Printer; Executive Order No 7 of 2015)

### **Advocates**

*Wekesa & Simiyu Advocates* for the 1st Respondent

*Ngeri, Omiti & Bush, Advocates* for 2nd, 3rd and 4th Respondents

*Ngeri, Omiti & Bush, Advocates* for the Interested Party

## **JUDGMENT**

1. The petition herein revolves around the appointment of the CEO of the Export Processing Zones Authority. It is a dispute, which at heart, pits a Cabinet Secretary against the Board of a State corporation falling under her docket.
2. The tenure of the last substantive CEO of the Authority, Fanuel Odede Kidenda, ended about 4 years ago, on September 20, 2018.
3. There has been no substantive CEO appointed since, but the Cabinet Secretary under whose docket the Authority resides, has been tinkering with the Authority for about 4 years, by seconding various officers from her Ministry, to act as the CEO. The 4<sup>th</sup> respondent, Henry Obino was appointed as CEO in an acting capacity, in this manner.
4. The Board undertook a recruitment exercise for the CEO position, conducting interviews on August 31, 2021.
5. It recommended the appointment of the best candidate, the interested party herein, Ezekiel Owuor Otieno.
6. The Cabinet Secretary faulted the recruitment exercise from the very beginning, and states that at the time the interview was conducted, she had constituted an audit team, which unearthed irregularities in the exercise.
7. The Cabinet Secretary holds the view that the Board usurped and subjugated her role in appointment of the CEO, as prescribed by the *Export Processing Zones Authority Act*, cap 517, the laws of Kenya.
8. She declined the recommendation of the Board, and extended the term of the acting CEO, the 4<sup>th</sup> respondent herein, Henry Obino, to enable regularization of the appointment of the substantive CEO.
9. It is against this background that the petitioner, who describes himself as a human rights defender, and Executive Director of Kenyans for Justice and Development Trust, filed this petition dated August 19, 2021.
10. He prays for the following orders: -
  - a. Declaration that the extension of the tenure of the 4<sup>th</sup> respondent's service as the acting CEO of the Authority, is invalid, null and void ab initio.
  - b. Declaration that the Cabinet Secretary cannot overrule the Board on appointment of the CEO.
  - c. Quashing of the Cabinet Secretary's letter dated August 11, 2021, which extended the appointment of the 4<sup>th</sup> respondent as CEO of the Authority in an acting capacity.
  - d. Compelling the Cabinet Secretary to appoint the interested party as CEO of the Authority, in accordance with the recommendation of the Board.



- e. Respondents to pay the costs of this petition.
  - f. Any other suitable orders.
11. The petition is founded on the grounds apparent on the face of the petition, affidavits of the petitioner sworn on August 19, 2021 and September 21, 2021. The grounds are as summarized by the court above.
  12. The 1<sup>st</sup> respondent relies on the replying affidavit of its Chairman Paul Gicheru, sworn on August 30, 2021. Its position is that it does not attack the Cabinet Secretary's statutory role in recruitment of the CEO, but only seeks to give effect to its recommendation. No relief is sought by the petitioner against the 1<sup>st</sup> respondent, because the 1<sup>st</sup> respondent has not acted in breach of any law.
  13. The 2<sup>nd</sup> respondent, Hon Cabinet Secretary Betty Maina, relies on her affidavit, sworn on September 6, 2021. She expresses the position of the 3<sup>rd</sup> and 4<sup>th</sup> respondents as well. This position is similarly summarized above. She extended the tenure of Henry Obino by 3 months, to avoid a vacuum and paralyzation of the Authority's business. She terms the petition as a camouflaged private interest claim. It has nothing to do with public interest. It advances private interest. She acted in accordance with the [\*Export Processing Zones Authority Act\*](#) and the [\*Constitution of Kenya\*](#). She also challenges the jurisdiction of the court, holding that the petition is not an employer-employee dispute.
  14. The interested party filed submissions dated November 30, 2021. He associates himself fully with the legal and factual submissions made by the petitioner. There is no evidence that the petition is driven by private interest. He was informed by the 1<sup>st</sup> respondent that he was the successful candidate in the CEO interview. He legitimately expected to be appointed. He states that his rights under articles 41, 47 and 232, among other articles of the [\*Constitution\*](#), were violated.
  15. The extension of Henry Obino's role as acting CEO, was set aside by the court, through provisional measures granted on August 19, 2021, pending the hearing and determination of this appeal.
  16. Parties agreed to have the petition disposed of through their pleadings, affidavits, documents and submissions. They confirmed filing of submissions, at the last mention before the court, on March 29, 2022.
  17. The issues as understood by the court are: -
    - a. Whether the E&LRC has jurisdiction in this Petition;
    - b. Whether the Cabinet Secretary's extension of the 4<sup>th</sup> respondents acting appointment as the CEO, is void ab initio;
    - c. Whether the Cabinet Secretary validly rejected the appointment of the interested party as CEO, as recruited and recommended by the Board;
    - d. Whether the Cabinet Secretary should be compelled to endorse the appointment of the interested party as the substantive CEO; and,
    - e. Whether the respondents should bear the costs of this petition.



**The Court Finds: -**

18. Jurisdiction. This issue has conclusively been answered in the affirmative, in a catena of decisions of superior courts. They include:

*Trusted Society of Human Rights Alliance v Nakuru Water and Sanitation Services Company & anor* [2013] eKLR;

*Abdikadir Suleiman v County Government of Isiolo & another* [2016] eKLR; *USIU v AG* [2012] eKLR;

*Daniel N Mugendi v Kenyatta University & 3 others* [2013] eKLR;

*Okoiti v AG* [2022] KEELRC 2 [KLR]; and

*Richard Bwogo Birir v Narok County Government* [2014] eKLR.

The court reaffirms its jurisdiction.

19. The court does not find fault, with the petitioner's capacity to present the petition. The EPZ Authority is a public entity, and any member of the public, has capacity to petition the court under article 22 of the *Constitution*, on issues relating to the Authority's governance. The appointment of the CEO is central to the corporate governance of the Authority. The submission by the 2<sup>nd</sup> respondent that the petition is a private interest litigation, disguised as a public interest litigation, is misapprehended.
20. Extension of CEO's tenure in acting capacity. The 1<sup>st</sup> respondent's replying affidavit, sworn by the Board Chairman Paul Gicheru, states at paragraph 9, that the 4<sup>th</sup> respondent, had at the time of the swearing of the affidavit, been in an acting capacity for 1 year.
21. The Cabinet Secretary gave the 4<sup>th</sup> respondent an extension of 3 months as CEO in an acting capacity, which would stretch the 4<sup>th</sup> respondent's acting appointment beyond 1 year.
22. Section 34[3] of the *Public Service Commission Act*, No 10 of 2017, places minimum period in an acting capacity at 30 days, and the ceiling at 6 months. Extension of the 4<sup>th</sup> respondent's acting role as the CEO was expressly in contravention of this law, and therefore void *ab initio*.
23. Section 34 [5] [b] of the *PSC Act*, states that acting appointment, shall not be made to undermine the expeditious appointment, or deployment of a competent person, to the public office concerned. The prolonged extension of the 4<sup>th</sup> Respondent's acting role, seems to have been made to undermine the appointment of a substantive CEO. It was illegal and void *ab initio*.
24. Power to appoint the CEO. There have been various legal interpretations of the law on who, between the Cabinet Secretary and the Board of a State Corporation, appoints the CEO.
25. The *Code of Governance for State Corporations*, christened 'Mwongozo,' is clear on who retains the power to appoint the CEO of a State corporation.
26. Clause 1.2 1[k] of the *Code*, states that the Board should
- "hire the CEO on such terms and conditions of service, as may be approved by the relevant government organs, and approve appointment of senior management staff."
27. Clause 1.18 1 restates that the Board, should appoint and remove the CEO; and ensure the CEO is recruited through a competitive process.



28. The State Corporation exercises its legal mandate through the Board, not through the Cabinet Secretary in the parent Ministry.
29. Section 2 of the *State Corporations Act*, cap 488 the laws of Kenya, defines ‘Chief Executive’ as the person appointed and employed as such under section 5[3], or the person for the time being, exercising the executive powers of a State corporation.
30. Section 5[3] of the *Act*, mandates the Authority to engage and employ such number of staff, including the Chief Executive Officer. The Authority, through its Board, is the employer. The Cabinet Secretary is not the Employer. The role of the Cabinet Secretary is specified. It is to approve, in consultation with the State Corporations Advisory Committee, the terms and conditions of service of staff who include the Chief Executive Officer, employed by the Board.
31. The primary Act, on establishment and governance of State Corporations, is the *State Corporations Act*. The primary instrument on governance of State Corporations, is the [Code](#), which aligns the governance of State Corporations to the [Constitution of Kenya](#).
32. The [Code](#) has been found to apply in State Corporations governance, and has gained the force of law. Its application has been upheld in decisions of the courts, among them, Court of Appeal in [Ben Chikamai & another v Peter Macithi Muigai & 2 others](#) [ 2020] eKLR and more recently, E&LRC decision in [David Kipchumba Kimosop v Kerio Valley Development Authority](#) [2022] eKLR. The President issued Executive Order No 7 for implementation of the [Code](#). Although not a piece of legislation, the [Code](#) has gained acceptance through the decisions of the courts, as a legally binding instrument in State Corporations governance. It has been argued that the [Code](#) has a statutory underpinning in section 3 of the *State Corporations Act*, which mandates the President to formulate regulations to streamline governance in State Corporations.
33. Section 7 [1] of the [EPZ Authority Act](#), states that the Minister/ Cabinet Secretary, may appoint the Chief Executive Officer, on recommendation of the Authority. In the view of the court, the Cabinet Secretary should have reverted to the *State Corporations Act* and the [Code](#), if the [EPZ Authority Act](#), created doubt in her mind on who actually employs the CEOs of State Corporations.
34. In the understanding of the court, there is no room for the Cabinet Secretary, to disregard the recommendation made by the Board, justifying her decision on section 7 [1] of the [EPZ Authority Act](#). The recommendations of the Board are mandatory. They are intended to be so, under the *State Corporations Act* and the [Code](#). They override any objections a Cabinet Secretary may harbour, on the appointment of State Corporations CEOs. In light of the *State Corporations Act* and the [Mwongozo Code](#) on appointment of CEO, the Cabinet Secretary must act on the recommendation of the Board, and appoint.
35. The Cabinet Secretary went way out of line, in commissioning an audit of the recruitment process. There is no law authorizing Cabinet Secretaries to audit State Corporations. The *State Corporations Act* creates the office of the Inspector-General under section 18, who may conduct special investigations of any State Corporation, on request of the State Corporations Advisory Committee or the Controller and Auditor-General. If the Cabinet Secretary found it necessary to audit the recruitment process, she ought to have gone through the State Corporations Advisory Committee or the Inspector-General. Cabinet Secretaries must move away from thinking that State Corporations are departments within their Ministries. The *State Corporations Act* and the Code, recognize that there is corporate autonomy in State Corporations, intended to develop State Corporations into more serviceable public corporation devices. This autonomy is exercisable through the Boards. Cabinet Secretaries must not encroach on this autonomy.



36. The *State Corporations Act*, the EPZ Authority Act and Mwongozo provide for inclusion of the Permanent / Principal Secretary in the Boards of State Corporations. The Principal Secretary Industrialization, Trade and Enterprise is a member of the EPZ Authority Board, and ought to have been in the Board meeting where the Interested Party was recruited as the CEO. Any reservations on the process from the Ministry, ought to have been expressed in that meeting, through the Ministry's representative. The record indicates all other Board Members attended the meeting. They appointed the interested party. Resolutions passed were collectively adopted. They were binding on everyone represented in the Board, including the Ministry.
37. The power to hire and fire the CEOs of State Corporations, resides in the Boards of State Corporations, not with the Cabinet Secretary.
38. Whether the Cabinet Secretary should be compelled to appoint the interested party. The findings of the court above can only lead to the conclusion that the Cabinet Secretary should endorse the appointment the interested party as the CEO of the EPZ Authority.
39. The interested party went through a competitive recruitment process, in a publicly advertised process. He emerged the best candidate. It is in gross violation of his Constitutional rights under articles 41 and 232 of the *Constitution*, to bar him from being formally appointed, after he has been legally hired by the Board. He also had legitimate and reasonable expectation that he would be offered a contract on recruitment by the Board, and would serve upon the terms of such contract. The EPZ Authority has been without a substantive CEO from 2018, which is regrettable, for this economically strategic State Corporation. The tussle between the Board and the Cabinet Secretary was unnecessary, and largely occasioned by the Cabinet Secretary's misperception of her role, in the governance of the Authority.
40. The court is persuaded that the petition has merit. The interested party must assume the Office of CEO of the EPZ Authority. The petition is allowed with no order on the costs. In Sum, it is ordered: -
  - a. It is declared that the reappointment of the 4<sup>th</sup> respondent, Henry Obino, as the Acting CEO of the EPZ Authority is invalid, null and void *ab initio*.
  - b. It is declared that the Cabinet Secretary cannot overrule the Board, on appointment of the CEO of the EPZ Authority.
  - c. The Cabinet Secretary's letter Ref MOI/CS/1/30 Vol III / [13] dated August 11, 2021, purporting to reappoint Henry Obino to the position of acting CEO for a further period of 3 months, with effect from August 13, 2021 is hereby quashed.
  - d. The Cabinet Secretary shall immediately gazette the appointment of the interested party, Ezekiel Owuor Otieno as the new substantive CEO of the EPZ Authority.
  - e. No order on the costs.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT CHAKA, UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 29<sup>TH</sup> DAY OF JULY 2022.**

**JAMES RIKA**  
**JUDGE**

