



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATION COURT**  
**AT NAIROBI**  
**PETITION 107 OF 2019**

*(Before Hon. Lady Justice Maureen Onyango)*

**I**

**IN THE MATTER OF: ARTICLES 165(3)(d), (6), 47(1), (3), 23(1 AND 3), 22(1) 3(d), 20(1 ),  
(2), 19(3)(b), 3(b), 3(a), 10 AND 232 OF THE CONSTITUTION OF KENYA, 2010**

**AND**

**I**

**IN THE MATTER OF: VIOLATION/INFRINGEMENT OF  
FUNDAMENTAL RIGHTS OF THE PETITIONER**

**AND**

**IN THE MATTER OF: THE CONSTITUTION OF KENYA (PROTECTION OF  
RIGHTS AND FREEDOMS) PRACTICE AND PROCEDURE RULES 2013**

**AND**

**IN THE MATTER OF: BILL OF RIGHTS; RIGHT TO FAIR AND EQUAL  
TREATMENT, FAIR LABOUR RELATIONS, FAIR ADMINISTRATIVE**

**ACTION PURSUANT TO ARTICLES 20, 21, 22, 23,24, 27, 41, 47,**

**232, 236 OF THE CONSTITUTION OF KENYA, 2010**

**AND**

**IN THE MATTER OF: THE EMPLOYMENT ACT, 2007**

**AND**

**IN THE MATTER OF: EPZA HUMAN RESOURCE AND PROCEDURES MANUAL, 2017**

**BETWEEN**

**JONATHAN CHEPKWONY.....PETITIONER/APPLICANT**

**VERSUS**

**GEORGE MAKATETO, THE ACTING CHIEF EXECUTIVE OFFICER,**

**EXPORT PROCESSING ZONE AUTHORITY.....1<sup>ST</sup> RESPONDENT**

**EXPORT PROCESSING ZONE AUTHORITY.....2<sup>ND</sup> RESPONDENT**

**THE EXPORT PROCESSING**

**ZONE AUTHORITY BOARD.....3<sup>RD</sup> RESPONDENT**

**RULING**

The 2<sup>nd</sup> Respondent issued with a Notice to Show Cause letter dated 28<sup>th</sup> May 2019 to the Applicant which also interdicted him on half pay pending investigation. The Applicant responded to the same denying the allegations. He attended a disciplinary hearing on 11<sup>th</sup> June 2019 but the meeting was rescheduled to a later date so that he could be furnished with specific allegations to enable him respond appropriately.

He was issued with an amended Notice to Show Cause letter dated 13<sup>th</sup> June 2019 and responded to the allegations vide his letter of 19<sup>th</sup> June 2019. In his letter, he pointed out that the particulars he had asked for were still missing. On the same date, his Advocates wrote a demand letter to the Chief Executive Officer, the 1<sup>st</sup> respondent, requesting for the documents that were relied upon to interdict the applicant. The letter was not responded to.

The Petitioner being aggrieved, filed the Application on 24<sup>th</sup> June 2019 herein seeking the following orders:

- a. Spent.
- b. That pending the hearing and determination of the Petitioner/Applicant's instant application, conservatory orders of injunction and prohibition do issue restraining the Respondents jointly and severally, their agents, servants, functionaries, members and/or officers from proceeding with the internal process referred to as Disciplinary Hearing scheduled for 24<sup>th</sup> June 2019 at 2:00 pm or any other date as may be scheduled thereafter.
- c. That pending the regularization of the basis and process of the purported allegations and disciplinary process, the disciplinary letter slapped on the Petitioner/Applicant be nullified and the Petitioner allowed access to his place of work, office and duties undeterred.
- d. That pending the hearing and determination of this Petition, conservatory orders of injunction and prohibition do issue restraining the Respondents jointly and severally, their agents, servants, functionaries, members and/or officers from proceeding with internal process referred to as Disciplinary hearing action against the Petitioner/Applicant.
- e. That costs of this Application be provided for.

The Application is based on the grounds that the Applicant was served with a list of unparticularized allegations and summoned to a disciplinary hearing scheduled for 24<sup>th</sup> June 2019 and that the Respondents have ignored his requests for particulars.

The Applicant states that he is of the position that the scheduled hearing has breached his rights under Articles 25(c), 47 and 50 of the Constitution. It is his case that he has been unjustifiably interdicted with the sole aim of removing him from employment without any legal justification.

The Applicant stands to suffer grave and irreparable career loss and prejudice if the Respondent's decision is implemented, which decision will have negative financial implications.

The Application is supported by the Applicant's Affidavit which is based on the grounds on the face of the motion.

The Respondents have opposed the Application vide the Replying Affidavit of the 1<sup>st</sup> Respondent. It is their case that the Application is frivolous, vexatious, unmerited and an abuse of the Court process since it is premature and discloses no reasonable cause of action against them. Further, that the Applicants have no legal basis to institute the Petition pursuant to Section 8(1) of the Export Processing Zones Act.

The Affiant deposes that the Application has been overtaken by events because the disciplinary hearing took place on 24<sup>th</sup> June 2019. Further, that the interdiction letter was issued in accordance with the laid down provisions of the 2<sup>nd</sup> Respondent's HR Policy and Procedural Manual of 2017. As such, this Court would be interfering with the 2<sup>nd</sup> Respondent's prerogative powers in managing its business by granting orders 3 and 4 of the Applicant's Application.

The Affiant deposes that at the meeting held on 11<sup>th</sup> June 2019, the Applicant and his counsel submitted to the Committee's jurisdiction. However, they requested for an adjournment of the proceedings to another date to give the Committee ample time to supply them with the particulars of the allegations for purposes of submitting an adequate response.

The Applicant was thereafter issued with another Show Cause letter with detailed particulars of the allegations, which he duly responded to. The Applicant was invited for a disciplinary hearing where he and his counsel attended. The disciplinary process has since been concluded and recommendations sent to the 2<sup>nd</sup> Respondent's Board for further guidance and the Applicant duly notified of the same.

It is the Respondents position that the Application is full of generalities and mere apprehensions and does not prove specifically how his right to fair administrative action has been violated. They maintain that the Applicant was given a fair hearing.

It is the Respondents' case that the Application is aimed at circumventing the internal disciplinary process. They argue that the Applicant will not be prejudiced if the disciplinary process was allowed to proceed to its logical conclusion as he is still earning half of his salary.

The Applicant filed a rejoinder to the Replying Affidavit wherein he deposed that he only attended the disciplinary proceedings on the 11<sup>th</sup> June 2019 to raise the issue of lack of particulars because the invitation letter had indicated that the proceedings would still proceed and a decision made if he failed to attend. He maintains that the request for particulars was meant to facilitate a fair process and not frustrate the 2<sup>nd</sup> Respondent's Committee/Board proceedings.

The Application was heard in open Court where both parties argued their case.

Mr. Mose, counsel for the Applicant, submitted that the particulars were not supplied because either they were going to be against the Committee's position or were inexistent. He also submitted that the timing of the Application was apt because this Court has the jurisdiction to ensure integrity of the internal process.

It was his submission that the Applicant has satisfied the set parameters for the issuance of an order of injunction or conservatory order. To reinforce his arguments, counsel relied on the cases of **Samson Ole Kisirkoi vs. Masai Mara University & 3 Others [2018] eKLR** and **Francis Mwendwa Titus vs. Kenya Pipeline Company Limited [2019] eKLR**.

On his part, Mr. Odongo counsel for the Respondents submitted that the Applicant had not established a *prima facie* case to warrant the issuance of the orders sought. That the Applicant has not demonstrated that there are exceptional circumstances or any danger that would warrant the issuance of the orders sought.

He further submitted that the Applicant was accorded a fair hearing according to the principles set out in Article 50 of the Constitution. He maintained that Courts should not interfere in the employer's internal processes until it has run its course as doing so would be tantamount to stifling the managerial prerogative.

## **Determination**

The role of the courts in internal disciplinary proceedings have been stated in many decisions some of which have been referred to by the parties. The general rule is that the courts should not interfere in internal disciplinary processes except in exceptional circumstances which may include but not limited to a situation where there is clear violation of the law or the employer's disciplinary procedure, or where the disciplinary procedure is being used by the employer to remove an employee from employment for no valid reason or for reasons not connected with the employee's conduct or performance.

To cite but a few of the cases in which the court determined similar matters, in the case of **Evans Rees and Others -V- Richard Alfred Crane [1994] 2WLR** as cited in **Nancy Makokha Baraza V Judicial Service Commission and 9 Others [2012] eKLR** the court stated -

*"In most types of investigation there is in early stages a point at which action of some sort must be taken and must be taken firmly in order to set the wheels of investigation in motion. Natural justice will seldom if ever at that stage demand that the investigator should act judicially in the sense of having to hear both sides. No one's livelihood or reputation is in danger...."*

*Where an act or proposal is only the first step in a sequence of measures which may culminate in a decision detrimental to a person's interest, the courts will generally decline to accede to that person's submission that he is entitled to be heard in opposition to this initial act, particularly if he is entitled to be heard at a later state ... There are... no words which are of universal application to every kind of inquiry and every kind of domestic tribunal. The requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject matter that is being dealt with, and so forth."*

In **Cause No. 1200/12 Prof Gitile Naituli -V- University Council, Multimedia University of Kenya** the Court observed that: *"the prerogative of the employee in managing its business and administration of its staff should not be unduly stifled by judicial intervention through issue of provisional injunctive measures such as those sought by the Claimant. The Employment Act and the Industrial Court Act seek to protect the weakness of the two parties in an employment relationship, not to deprive the employer of the management prerogative altogether."*

The court in **Nairobi ELRC No. 1607 of 2016 Rose Kiragu V TSC [2016] eKLR** declined to interfere with the internal disciplinary process of the employer. Further in **Cause No. 2244 of 2014 Nixon Bugo -V- The Alliance For A Green Revolution In Africa** the court observed as follows -

*"Courts of law should be very slow to interfere in the internal disciplinary process at work place unless it is manifestly clear that the action by the Employer derogates materially from the internal disciplinary process and the law."*

The only circumstances when the court will interfere is in exceptional circumstances where great injustice might result or where justice might

not by any other means be attained.

In the instant case the applicant received a notice to show cause which states as follows –

“CONF/EPZA/078/

May 28, 2019

Jonathan Chepkwony

Export Processing Zones Authority

Dear Mr. Chepkwony,

RE: SHOW CAUSE

The 191<sup>st</sup> EPZA Board meeting on 25<sup>th</sup> April 2019 appointed “Adhoc” Committee of the Board with a view of finding out the discontent of the staff members emanating from disturbing behaviour exhibited by the former Acting Head of Legal Services. The “Adhoc” Committee thereby interviewed several staff members from the top management to junior staff and subsequently presented their report to a Special EPZA Board Meeting held on 21<sup>st</sup> May 2019. From the report of the “Adhoc” Committee to the Board, it noted that you are tardy in performing your duties and special assignments and specifically that you are–

1. Insubordination.
2. Failure to protect loss of authority and investor's property on several occasions.
3. Inability to safeguard safety and security of staff amounting to gross incompetence
4. Failure to provide proper and adequate security advisory services in a timely manner.
5. Threats and intimidation of staff assigned in your Department.

Based on the above, you are therefore required to showcase why disciplinary action should not be taken against you on account of not meeting the required standards of performance, timeliness and integrity. Your response should reach the undersigned on or before 7<sup>th</sup> June 2019.

In view of the above and in accordance with the EPZA Human Resource Policy and Procedures Manual, you are hereby interdicted pending investigation on the aforementioned matter.

During the interdiction period you will be entitled to half (½) basic salary with full allowances and medical benefits. Upon receipt of this letter you are required to handover your duties with immediate effect to Mr. Didious Atyang.

SIGNED

George Makateto

Ag. Chief Executive Officer”

He responded to the same by letter dated 4<sup>th</sup> June 2019 in which he denied the charges.

On 6<sup>th</sup> June 2019, he received a letter inviting him for a disciplinary hearing on 11<sup>th</sup> June 2019. The letter reads as follows –

“CONF/EPZA/078/HR

6<sup>th</sup> June 2019

Jonathan Chepkwony

P. O. Box 50563 - 00200

NAIROBI

Dear Mr. Chepkwony

DISCIPLINARY PROCEEDINGS

Reference is made to our letter dated CONF/EPZA/078 dated 28<sup>th</sup> May 2019 on the above subject matter and your response on 4<sup>th</sup> June 2019.

This is to invite for a hearing on Tuesday, 11<sup>th</sup> June 2019 at 12.00 noon at the EPZA Headquarters, 3<sup>rd</sup> floor boardroom.

Yours sincerely,

SIGNED

George Makateto

Ag. Chief Executive Officer”

The Applicant attended the disciplinary hearing in the company of his

lawyer. At the disciplinary hearing the Applicant through his lawyer requested to be supplied with particulars of the allegations together with documents and information that initiated the charges. Instead of being supplied with the particulars, he was issued with another notice to show cause, letter dated 13<sup>th</sup> June 2019, which contained more detailed particulars than the earlier letter. The show cause letter dated 13<sup>th</sup> June 2019 is reproduced below:

“CONF/EPZA/284/

June 13<sup>th</sup> 2019

Jonathan Chepkwony

Export Processing Zones Authority

Dear,

RE: . . . SHOW CAUSE

Further to our show cause letter dated 28<sup>th</sup> May, 2019 and the disciplinary hearing that you attended with your legal Council on 11<sup>th</sup> June 2019 on the above mentioned matter, you requested through your legal Counsel that the Board Disciplinary Committee reschedules the hearing to later date in order for you to be provided with specific allegations so that you are able to respond accordingly. Your prayers were granted. Specifically, the allegations are as mentioned hereunder: -

1. Failure to protect loss of authority's and investor's property on several occasions. Amongst the notable incidences was the theft and the loss of property of Hela intimates Africa EPZ Limited sometimes last year. Particulars of the incidence which you are fully aware of and properly informed. As the Head of Security, the theft has not been accounted for to date. You negated your custodial obligation of ensuring that the property of investors and Authority are well safeguarded.

2. Inability to safeguard safety and security of staff within their working environment which is tantamount to gross incompetence.

At the height of dispute between the Authority and MAVWASCO on the water infrastructure some unknown persons early in the morning barricaded the Headquarters building and forcefully prevented some top management officials from taking over their daily duties which amounted to serious security lapse within the EPZA zone. Your response and action on the said action was wanting.

3. Insubordination

Acting against the interest of top management by colluding with institutions and/or persons advancing the interest against the Authority.

4. Failure to provide proper, adequate security and advisory services in a timely, professional manner.

Note, of serious concern is the numerous illegal water and sewerage connections within EPZA infrastructure which have totally affected the operations and interest of the entire Authority. As the Head of Security, you have totally or deliberately failed to execute your mandate within the parameters of your duties.

5. Threats and intimidation of security staff assigned in your Department

There were several Security staff assigned to your Department who are notably Unionizable Staff Leaders who you intimidated through unnecessary transfers. Consequently, the former Procurement Manager; Beatrice Njenga filed a complaint against you for manhandling her when her services were terminated. EPZA Security daily Occurrence Book which contained the allegations has since vanished mysteriously whilst in your formal custody. This amounts to dishonesty and an act of bad faith against the security and interest of other EPZA employees.

This is to remind you that to respond to the allegations aforementioned by 19<sup>th</sup> June 2019 as was agreed in the meeting on 11<sup>th</sup> June 2019.

George Makateto

Ag. Chief Executive Officer

Cc. Paul Gicheru

Chairman Board of Directors EPZA”

The Claimant responded to the show cause letter on 19<sup>th</sup> June 2019 giving detailed responses to the allegations raised therein, which he denied. In his response he again sought the following particulars:

- (i) “A copy of the Ad Hoc Committee report presented to the EPZA Special Board meeting held on the 21<sup>st</sup> May 2019.
- (ii) Copies of Witness statements/Complaints attendant to the Adhoc Committee report
- (iii) Copies of Minutes of the disciplinary proceedings/session of 11<sup>th</sup> June 2019
- (iv) Copies of my appraisal report forms for the period 2015, 2016, 2017 and 2018”

The Claimant’s advocate also wrote a letter to the Respondent in which he pointed out that:-

“MN/EPZA/001            CONF/EPZA/078/HR            19<sup>th</sup> June 2019

The Ag. Chief Executive Officer

Export Processing Zones Authority Nairobi

Dear Sir,

RE: SHOW CAUSE LETTER

Your letter dated 13<sup>th</sup> June 2019 refers.

The said letter just like the first one of 4<sup>th</sup> June 2019 did not have cogent particularized and methodically presented allegations. Our client’s response to the same is enclosed herewith for your perusal.

We are conscious of the meeting scheduled for the 24<sup>th</sup> June 2019, and thus request that you kindly avail to us /our client particulars stated hereunder:-

- (i) A copy of the Ad Hoc Committee report presented to the EPZA Special Board meeting held on the 21<sup>st</sup> May 2019.
- (ii) Copies of Witness statements/Complaints attendant to the Adhoc Committee report
- (iii) Copies of Minutes of the disciplinary proceedings/session of 11<sup>th</sup> June 2019
- (iv) Copies of my appraisal report forms for the period 2015, 2016, 2017 & 2018
- (v) Any other document/exhibit or extract intended to be relied on by your Committee.

We shall appreciate your response by close of business on 21<sup>st</sup> June 2019; so that the anchor and fulcrum of fair administrative action contemplated under Article 47 of the Constitution of Kenya 2010 is observed and upheld.

Yours Faithfully,

SIGNED

MOSES NYAMBEGA AND CO. ADVOCATES

Cc. Paul Gicheru

Chairman Board of Directors EPZA”

Client”

On 20<sup>th</sup> June 2019, the claimant received another invitation to a disciplinary hearing on another invitation to a disciplinary hearing on 24<sup>th</sup>

June 2015. The letter stated that if he failed to attend the Committee “*shall proceed and execute the matter to finality without further indulgence to yourself as per the Human Resource Manual Policy Procedures.*”

Nonetheless the applicant attended the disciplinary hearing of 24<sup>th</sup> June 2019 with his Lawyer, where again he sought the particulars that had still not supplied to him.

It is upon receiving this letter that the applicant approached the court with the petition herein and the instant application on 24<sup>th</sup> June 2019.

By letter dated 28<sup>th</sup> June 2019, the Respondent invited the Applicant to a disciplinary hearing on 8<sup>th</sup> July 2019. The letter again states at the second paragraph thereof that:-

*“Kindly note that failure to attend, the Human Resource and Administration Board Committee shall proceed and execute the matter to finality without further indulgence to yourself as per the Human Resource Policy and Procedures Manual.”*

The court declined to grant conservatory orders at ex parte stage on 24<sup>th</sup> June 2019 and fixed the application for hearing inter partes on 11<sup>th</sup> July 2019.

The applicant again filed another application under certificate of urgency on 5<sup>th</sup> July 2019 after he received the letter inviting him for disciplinary hearing on 8<sup>th</sup> July 2019, seeking conservatory orders but the court fixed the same for hearing on 11<sup>th</sup> July 2019, again declining to grant conservatory orders.

The applicant again attended the disciplinary hearing of 8<sup>th</sup> July 2019 with his lawyer. The minutes of the disciplinary hearing are annexed to the Respondent’s Replying affidavit at Annexure GM1.

At the meeting the Applicant through his counsel again sought to be provided with more particulars of the allegations against him. Minutes 3 and 4 of the disciplinary meeting are reproduced below –

*“MIN/3/24/06/19 REQUEST FROM EMPLOYEE*

*The employee through his legal counsel requested management to provide more particulars of the allegations. The Chair informed members that whatever will be presented to the Board Committee will be authenticated before the Committee makes its recommendations on the matter to the Main Board.*

*MIN/4/24/06/19 WAY FORWARD*

*(a) Within seven (7) days, Mr. Chepkwony to consider other options available to him if he need not want to consider with the disciplinary case.*

*(b) Parties to file written submissions by 3<sup>rd</sup> July 2019 and thereafter hearing to proceed on 8<sup>th</sup> July 2019 at 10 am.”*

The Applicant in his affidavit in support of this application stated that from the period he had worked for the Respondent between January 2015 and 28<sup>th</sup> May 2019, he had rendered diligent and meticulous service and had not been warned, admonished, censored or disciplined. He further stated that the intention of the new Board of Management was to remove and replace all Managers brought into office by the former Board and that he was being pursued for improper motive and extraneous considerations.

In his further affidavit in reply to Respondent’s Replying affidavit, he states that the allegations against him are fabricated and without particulars. He states that his performance appraisals for the past 3 years have rated him as having exceeded expectations in his performance and productivity. He annexed copies of appraisals for 2016, which rated him at 122.5% out of 100%, which means “*Far Exceeds Expectations*”. The specific comments of his appraiser was that:

*“Jonathan has helped secure the EPZA facilities and staff, including those of innovators. He has continued to play a key role in achieving objectives of EPZA.”*

He was recommended to annual increments and re-alignment with the new approved salary structure.

From this background, the show cause letter appears to have sprung out of nowhere. How did the “*ad hoc committee of the board finding out the discontent of staff members emanating from a disturbing behaviour exhibited by the former Acting Head of Legal Services*” come up with charges in the show cause letter against the Applicant? Was the Applicant among the staff interviewed by other Committee? Why was he interdicted on such unsubstantiated allegations as contained in the letter of show cause and interdiction before he was asked to explain the same? Had a decision already been made to remove him so that the show cause and interdiction were meant to facilitate an already predetermined outcome?

The fact that the show cause letter was re-issued after the Applicant complained of lack of particulars is an admission by the Respondents that the petitioner’s complainants were genuine.

In the application the Applicant seeks orders stopping the disciplinary hearing of 24<sup>th</sup> June 2019. This prayer has been overtaken by events as the hearing already took place.

The Applicant further seeks orders nullifying the interdiction letter.

This is a substantive prayer that can only be granted at the conclusion of the hearing.

The third prayer is for conservatory orders of injunction and prohibition restraining the Respondents from proceeding with the disciplinary hearing against the petitioner.

The principles for granting an injunction are those set out in the case of **Giela vs. Cassman Brown [1975] EA 358** as follows:

- a. *“The applicant must establish a prima facie case with a probability of success;*
- b. *The applicant must demonstrate that he will suffer irreparable harm which cannot be adequately compensated by an award of damages; and*
- c. *If the court is in doubt it should decide the application on the balance of convenience.*

The Court of Appeal in **Mrao -V- First American Limited and 2 Others (2003) K.L.R.** defined a prima facie case to mean –

*“..... A case which on the material presented to court, a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter...”*

From the unexplained notice to show cause letter and sudden change in his circumstances, applicant has demonstrated that his fears that the Respondents may be using the disciplinary process to remove him from office for reasons other than the grounds of misconduct set out in his notice to show cause and interdiction letter are well founded.

In the words of Justice Madan Ag. CJ, Aganyanya and Gicheru JJ. in **Githunguri v. Republic Criminal Appeal No. 271 of 1985 [1986] KLR** at page 16:

*“Anything which is the subject of perception or consciousness is a fact. The definition of fact (in the Evidence Act) does not restrict a fact to something which can be exhibited as a material object. The word proof seems to properly mean anything which serves, either immediately or immediately to convince the mind of the truth or falsehood of a fact or proposition. Absolute certainty amounting to demonstrations is seldom to be held in the affairs of life and we are frequently obliged to rely on degrees of probability which fall very short of it indeed.”*

I find that the applicant has established a *prima facie* case with probability of success that there may have been a predetermined decision to remove him from office and that the disciplinary process is but a façade. I am further satisfied find that should the orders herein not be granted he stands to lose his job unfairly.

On the question of interference with disciplinary process, as I have demonstrated above, the Applicant has demonstrated that there is likelihood that the charges against him are intended to remove him from office for reasons other than gross misconduct. He has also demonstrated that he sought certain information and documents which have not been supplied to him. This is aptly demonstrated by the remarks in the minutes of the disciplinary hearing held on 24<sup>th</sup> June 2019 under the “*way forward*” that “*within seven (7) days, Mr. Chepkwony to consider other options available to him if he need not want to consider (sic) with disciplinary case.*” (Emphasis Added).

There is no clearer expression of the intentions of the Respondents and the cause of the Applicant’s fears, than in those words in the minutes.

The letter dated 9<sup>th</sup> July 2019 addressed to the applicant informing him that the Human Resource and Administration Board Committee held an evaluation meeting on 9<sup>th</sup> July 2019 and have concluded the disciplinary process and forwarded its recommendations to the Board is further a clear demonstration that the respondents are intent on proceeding with the process without supplying the applicant with the information he requested and without giving him a hearing.

For the foregoing reasons, I am satisfied that the applicant has met the threshold for grant of the orders sought and I make orders that–

1. Pending hearing and determination of the petition herein the Respondents are jointly and severally restrained from proceeding with the internal disciplinary process against the Applicant.
2. The costs of the application shall be in the cause.
3. In view of the urgency of this matter, the parties are directed to take directions on the hearing of the petition immediately.

**DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 2<sup>ND</sup> DAY OF AUGUST 2019**

**MAUREEN ONYANGO**

**JUDGE**