



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT KISUMU
PETITION NUMBER 69 OF 2018

BETWEEN

GEORGE OLILO MITO.....PETITIONER

VERSUS

- 1. JOYCE ODUOR NYANJOM**
- 2. KISUMU NATIONAL POLYTECHNIC**
- 3. THE COUNCIL KISUMU POLYTECHNIC**
- 4. THE CABINET SECRETARY MINISTRY OF EDUCATION**
- 5. THE ATTORNEY- GENERALRESPONDENTS**

RULING

1. The Petitioner filed his Petition on 13th November 2018. The Petition is accompanied by an Application by way of Notice of Motion, seeking conservatory orders stopping, preventing, the 1st Respondent, Joyce Oduor Nyanjom, from continuing to act, operate, manage, administer and carry out herself as the Principal of the 2nd Respondent.
2. The Application is supported by the Affidavit of the Petitioner, sworn on 13th November 2018. It is brought under the Constitution of Kenya [Protection of Rights and Fundamental Freedoms] Practice and Procedure Rules, 2013.
3. It was argued briefly by the Petitioner's Counsel in open Court, on 14th November 2018.

The Court Finds:-

4. The Affidavit filed by the Petitioner does not contain sufficient information to merit the conservatory orders sought.
5. The Petitioner has not disclosed who, or what, he is, in relation to the Respondents. He states if conservatory orders are not made, he would suffer substantial loss. He does not say in what way.
6. The Affidavit is not clear. Paragraph 2 for instance states it is common knowledge that the 1st Respondent, and other Principals, retired between May 2017 and November. It is not stated November of which year. There are no letters of retirement exhibited. There is no document capturing the terms and conditions of service of the 1st Respondent. The Petition is based on the position that 1st Respondent's term has expired, and there is a conspiracy to extend 1st Respondent's term irregularly. It is not shown when she was appointed, on what terms, and when she was supposed to leave. The Court is not able to make a view, based on what the Petitioner calls 'common knowledge.' Details ought to be supplied to the Court.
7. The grant of conservatory orders *ex parte*, and without full information about the dispute and the disputants, would likely affect contractual obligations, without having heard the Parties to the contract of employment. IT IS ORDERED:-

a. The Petitioner shall file a Supplementary Affidavit within 7 days supplying the Court with more information and documents.

b. The Petition shall be mentioned before Hon. Justice Nduma Nderi, on 6th December 2018 for further orders.

Dated and delivered at Kisumu this 16th day of November, 2018

James Rika

Judge