



**Gichanga v Secretary, Teachers Service Commission (Application  
7 of 2020) [2021] KESC 64 (KLR) (5 March 2021) (Ruling)**

*Jimnah Mwangi Gichanga v Secretary, Teachers Service Commission [2021] eKLR*

Neutral citation: [2021] KESC 64 (KLR)

**REPUBLIC OF KENYA  
IN THE SUPREME COURT OF KENYA**

**APPLICATION 7 OF 2020**

**PM MWILU, AG.CJ & AG. P, MK IBRAHIM, SC  
WANJALA, NS NDUNGU & I LENAOLA, SCJJ**

**MARCH 5, 2021**

**BETWEEN**

**JIMNAH MWANGI GICHANGA ..... APPLICANT**

**AND**

**SECRETARY, TEACHERS SERVICE COMMISSION ..... RESPONDENT**

*(Being an application for review of the Ruling and Order of this Court (Ibrahim, Ojwang, Wanjala, Njoki & Lenaola, SCJJ) in Application No. 3 of 2019 delivered on 11th December 2019)*

**Supreme Court had the jurisdiction to review its own decisions**

*The applicant sought a review of the court's ruling and orders dated December 11, 2019 which dismissed the applicant's application for extension of time to file a notice of appeal and an appeal out of time. The court held that the Supreme Court had the jurisdiction to review its own decisions.*

Reported by Chelimo Eunice

**Jurisdiction** – review - jurisdiction of the Supreme Court to review its judgments, orders and rulings –claim seeking orders for the Supreme Court to review its ruling and orders dismissing an application for extension of time to file a notice of appeal and an appeal out of time - Supreme Court Rules, 2020, rules 3(25) and 28(5); Supreme Court Rules, 2012 (repealed), rule 20(4).

**Brief facts**

The applicant sought a review of the court's ruling and orders dated December 11, 2019 which dismissed the applicant's application for extension of time to file a notice of appeal and an appeal out of time. The applicant argued that the court failed to consider the delay in obtaining the proceedings from the Court of Appeal and that the matter was of general public importance. The respondent opposed the application for review contending that the applicant had not established grounds to warrant the review of the court's ruling and that the applicant had not shown any exceptional circumstances to enable the court to review its ruling.



## **Issues**

Whether the Supreme Court had the jurisdiction to review its own decisions.

## **Held**

1. The Supreme Court had the jurisdiction to consider an application for review of its decisions as provided under rules 3(25) and 28(5) of the Supreme Court Rules, 2020, and as previously provided in rule 20(4) of the Supreme Court Rules, 2012 (repealed).
2. The applicant's application did not satisfy the court's principles on the issue of review of its decisions. The applicant did not provide sufficient and cogent reasons for the court to consider and depart from its earlier decision dated December 11, 2019.

*Application dismissed with no orders as to costs.*

## **Citations**

### **Statutes**

None referred to

### **Advocates**

None mentioned

## **RULING**

1. Upon perusing the Notice of Motion by the Applicant dated 24th March 2020 and filed on 30th April 2020, which application is brought pursuant to the provisions of Rule 23 of the Supreme Court Rules, 2012 (repealed) and in which the Applicant seeks a review of the Ruling and orders of this Court dated 11th December 2019; and
2. Upon perusing the affidavit in support of the application sworn on 24th March 2020 AND wherein the deponent contends that this Court in rendering its decision dismissing the Applicant's application for extension of time to file a notice of appeal and an appeal out of time failed to consider the delay in obtaining the proceedings from the Court of Appeal and that the matter is of general public importance; and
3. Upon further considering the written submissions by the Applicant dated 9th July 2020 and filed on 13th July 2020, and amended submissions dated 24th June 2020 and filed on 25th June 2020; and
4. Further, Upon considering the replying affidavit of the Respondent sworn on 30th June 2020 and filed on 2nd July 2020 in which, in opposing the application for review, contends that the Applicant has not established grounds to warrant the review of the Ruling of this Court, and furthermore, that the Applicant has not shown any exceptional circumstances to enable this Court review its earlier Ruling, and, that the application is vexatious, frivolous and a waste of this Court's judicial resources; and
5. Upon considering the Respondent's submissions dated 30th June 2020 and filed on 2nd July 2020 in opposition to the Petitioner's application; and
6. Having considered the application, the supporting affidavit and the submissions in support thereof, and the replying affidavit and the submissions in response and in opposition to the instant application, by a unanimous decision of this Bench, we find that;
  - a. This Court has the jurisdiction to consider an application for review of its decisions as provided under Rules 3(25) and 28(5) of the Supreme Court Rules, 2020, and as previously provided in Rule 20(4) of the Supreme Court Rules, 2012 (repealed);



- b. The application dated 24th March 2020 and filed on 30th April 2020 in which the Applicant contends that the jurisdiction of this Court should be invoked to review its earlier decision dated 11th December 2019 dismissing the application for extension of time to file an appeal out of time to this Court does not satisfy the principles set out by this Court on the issue of review of its decisions as enunciated in *Jasbir Singh Rai & 3 others v. Tarlochan Singh Rai & 4 others* SC Petition (App.) No. 4 of 2012; [2013] eKLR and *Fredrick Otieno Outa v. Jared Odoyo Okello & 3 others* SC Petition No. 6 of 2014; [2017] eKLR; and
  - c. The Applicant did not provide sufficient and cogent reasons for this Court to consider and depart from its earlier decision dated 11th December 2019 (*Ibrahim, Ojwang, Wanjala, Njoki & Lenaola SCJJ*);
7. In the circumstances, we now make orders as follows;
- a. The Notice of Motion application by the Applicant dated 24th March 2020 and filed on 30th April 2020 is hereby dismissed;
  - b. There shall be no orders as to costs.
8. Orders accordingly.

**DATED AND ISSUED AT NAIROBI THIS 5TH DAY OF MARCH, 2021.**

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**Ag CHIEF JUSTICE & JUSTICE Ag. PRESIDENT OF THE SUPREME COURT**

**P. M. MWILU**

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**M. K. IBRAHIM**

**JUSTICE OF THE SUPREME COURT**

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**S. C. WANJALA**

**JUSTICE OF THE SUPREME COURT**

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**NJOKI NDUNGU**

**JUSTICE OF THE SUPREME COURT**

.....

**I. LENAOLA**

**JUSTICE OF THE SUPREME COURT**

I certify that this is a true copy of the original

**REGISTRAR,**

**SUPREME COURT OF KENYA**

