



Kenya School of Law v Kennedy; Council for Legal Education (Interested Party) (Civil Appeal E1693 of 2022) [2025] KEHC 9249 (KLR) (Civ) (27 June 2025) (Judgment)

Neutral citation: [2025] KEHC 9249 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL E1693 OF 2022

AN ONGERI, J

JUNE 27, 2025

BETWEEN

KENYA SCHOOL OF LAW APPELLANT

AND

SHEILA KERUBO KENNEDY RESPONDENT

AND

COUNCIL FOR LEGAL EDUCATION INTERESTED PARTY

(Being an appeal from the Judgment of the Legal Education Tribunal Appeal No. E072 of 2022 delivered on 5th August 2022)

JUDGMENT

1. The Legal Education Appeals Tribunal sitting at Nairobi delivered a judgment against the decision of Dr. H. K. Mutai – the Director Kenya School of Law declining to admit the Respondent to the Kenya School of Law for reasons that she did not score grade B in English and Kiswahili which is the stipulated grade in those two subjects.
2. The Respondent had attained a C+ in KCSE with grades B- in English and Kiswahili and she had a Diploma in Law from Mount Kenya University where she also graduated with Bachelor of Laws degree (LLB) with a second class honours – lower division.
3. The Legal Education Appeals Tribunal set aside the decision of the Kenya School of Law Director and issued an order compelling the Kenya School of Law to admit the Respondent.
4. The Appellant, the Kenya School of Law has appealed against the said decision on the following grounds:-



- a. The Respondent herein erred in law and in fact by denying the Appellant admission to the Advocates Training Programme based on their Kenya Certificate of secondary Education (KCSE) results despite being qualified under Section 1(a) of Schedule 2 of the *Kenya School of Law Act*, 2012.
- b. The Appellant is currently missing out on the Advocates Training Programme at the Respondent's institution, whose lessons began on the 30th day of March 2022.
- c. That the Appellant herein will stand a disadvantage of failing to comply with the attendance requirements necessary to sit for the ATP Examinations at the end of the school year, normally administered by the Interested Party herein.
- d. That the Appellant herein is an undergraduate from the Mount Kenya University School of Law, with Bachelor of Laws Degree attained in 2019.
- e. That prior to her LL.B studies, the Appellant attended a Diploma Course at the Mount Kenya University from 2013 to 2014.
- f. That the Appellant applied to join the Advocate Training Programme 2020/2021 in the year 2019.
- g. That the Respondent erred in law and in fact in denying the Appellant admission by addressing a rejection letter to the Appellant herein, informing her that her ATP application was not successful.
- h. That the reasons for the Respondent's decision to deny the Appellant admission to the Advocates Training Programme are that the Appellant had a grade B minus in English and B minus in Kiswahili language which is below the stipulated grade of B plain.
- i. The Appellant thereafter sought an appeal of decision issued on 17th December 2019; where the Respondent issued its decision vide a letter dated 8th January 2020.
- j. The Respondent stated that the reason for the appeal's failure was that as per the applicable law i.e. the KSL Act 2012 the Diploma in Law Certificate cannot be considered for admission to the ATP Programme.
- k. That as a result, the Appellant has been out of school for more than 2 years.
- l. That the Appellant was later FALSELY instructed by the Respondent that she would only get an admission letter once the Court of Appeal Petition No. E472 of 2021 (Kenya School of Law and Others =Versus= Richard Akomo Otene and 32 Others) is concluded.
- m. That the Respondent misrepresented to the Appellant that the Court of Appeal decision was likely to have a positive outcome or in one way or another influence their admission to the Respondent institution; therefore the Appellant, acting on the Respondent's misrepresentation failed to file their appeal and documents on time.
- n. That on advice of her advocates on record, the Appellant therein decided to move the Honourable Tribunal at the earliest in pursuit of his right to education; as she was indeed convinced that the Court of Appeal decision would not have a bearing on the Honourable Tribunal's proceedings or prevent her from pursuing her right to education.



- o. That if this Honourable Court fails to grant the reliefs sought herein, the Appellant shall stand greatly prejudiced and infringe on her rights as envisaged under Articles 43 and 47 of the Constitution of Kenya 2010.
5. The parties filed written submissions as follows:- the appellant submitted that despite the Legal Education Act being explicit in Section 31 in setting the limit of the tribunal's jurisdiction as being limited to matters relating to the Legal Education Act only.
6. That the Tribunal erred in law by exceeding its jurisdiction by hearing and determining a dispute arising from the interpretation and application of the admission criteria to the Advocates Training Programme which is exclusively provided for in Section 16 of the Kenya School of Law Act, 2012.
7. The appellant argued that according to section 31 (1) of Legal Education Act is therefore limited to matters that relate to the Legal Education Act 2012.
8. That it is thus clear that the Act does not expressly confer upon the Tribunal any power to adjudicate matters that are outside the scope of the Legal Education Act and the effect of this limitation of jurisdiction is to render the Tribunal's role in this matter void.
9. The process of and admission to the Appellant's Advocate Training Programme is exclusively governed by the provisions of section 16 and 17 of the Kenya School of Law 2012.
10. The appellant submitted that the question of admission criteria to the ATP has been conclusively determined by the court of appeal in Nrb Civil Appeal No. E472 of 2021 Kenya School of Law v. Richard Otene Okomo and 41 Others which determined that the interpretations of academic qualifications must be taken into account regardless of the University.
11. The appellant argued that the Tribunal failed to consider the absurdity that two applicants to the ATP who have the exact same qualifications would be subject to two different standards and measures depending on whether they obtained their LLB degree in Kenya or a foreign university.
12. The respondent alternatively submitted that it is beyond clear that a court or tribunal can only exercise jurisdictional powers vested in it by law.
13. That the Legal Education Appeal Tribunal in this case was empowered by the Legal Education Act 2012. Section 31 (1) states explicitly that the Legal Education Appeal Tribunal can inquire into a matter brought to it by any party on any matter relating to the Legal Education Act 2012.
14. That Kenya School of Law being a legal education and training provider, is regulated by the Council of Legal Education. As a result, it is subject of the Legal Education Act 2012.
15. The respondent argued that the tribunal rightfully entertained the matter since one of the grounds of the respondent in her appeal to the tribunal was that she was eligible for admission, invoking academic progression which was provided for in Section 8 (3) (c) of the Legal Education Act.
16. That the respondent possesses unquestionable academic credentials. The qualifications are not just impressive but are more than enough to earn one a place at the Kenya School of Law for Advocate Training Programme.
17. The appellants averment that the respondent is unfit for admission is completely unfounded and misconceived.



18. The respondent argued that the averment by the appellant that provisions of one of the Acts of Parliament does not apply to it is incorrect and a deliberate misinterpretation of the law aimed at blocking the respondent from achieving her academic goals.
19. Further, that the tribunal found correctly that the respondent qualifies for admission in the Kenya School of Law. Section 8 (3) of the [Legal Education Act](#) states that the council of Legal Education, the regulatory and supervisory body on legal education, shall formulate a system for recognizing prior learning and experience in law to facilitate progression in legal education from lower to higher levels of learning.
20. This provision was not put in place by legislators as superfluous and second class law to be applied by legal institutions in a discretionary fashion. In addition the respondent also qualifies for admission to ATP under the [Kenya School of Law Act](#) which in its Second Schedule (Paragraph 1 a) provides that one who qualifies for admission if they have passed examinations of an accredited university hence becoming eligible for conferment of the Bachelor of Laws Degree.
21. The respondent contended that the legislators deliberately used the conjunction “or” after Paragraph 1 (a) which is without a doubt intended to give rise to an alternative set of requirements meant to apply to a different category in Paragraph 1 (b) aside from the category satisfying the set of requirements in the former. Parliament, being a competent legislative wing of government, meant to make a provision on academic requirements to be applied alternatively; so that one who fails to meet the requirements under 1 (b) shall still be eligible for admission if they satisfy 1 (a) and vice versa.
22. That if Parliament intended that one must satisfy requirements under 1 (a) and 1 (b) (i), (ii), (iii), they would certainly have used the conjunction “and” after 1 (a) and not “or”.
23. This being a second appeal this court can only entertain it on a point of law.
24. The issues for determination in this second appeal are as follows:-
 - i. Whether the Kenya School of Law was right in declining to admit the Respondent to the institution.
 - ii. Whether the Legal Education Appeal Tribunal has the mandate to direct the Kenya School of Law to admit students.
 - iii. Who pays the costs of this appeal?
25. I have considered the submissions in this appeal and I find that the Tribunal exceeded its jurisdiction by adjudicating on a matter that falls squarely under the [Kenya School of Law Act](#) rather than the [Legal Education Act](#).
26. As established in the Court of Appeal precedent Kenya School of Law v Richard Otene Okomo & 41 Others [2021] eKLR, the admission criteria for the Advocates Training Programme is governed exclusively by Sections 16 and 17 of the [Kenya School of Law Act](#) 2012.
27. The Tribunal's mandate under Section 31(1) of the [Legal Education Act](#) is expressly limited to matters relating only to that Act.
28. Furthermore, this Court finds that the Respondent did not meet the specified admission requirements under Paragraph 1(b) of the Second Schedule to the [Kenya School of Law Act](#), which requires a minimum grade of B in English and Kiswahili at KCSE level.
29. The Respondent's grades of B- in both subjects fell short of this mandatory requirement.



- 30. The attempt to rely on Paragraph 1(a) through the "or" conjunction is misguided, as the Court of Appeal in the Otene case already settled that both sets of requirements must be read conjunctively where applicable.
- 31. This interpretation avoids the absurdity of creating two different standards for admission based on where one obtained their LLB, as correctly argued by the Appellant.
- 32. The academic progression under Section 8(3)(c) of the Legal Education Act is an important principle, but it cannot override specific statutory admission requirements set by another Act of Parliament.
- 33. The Respondent's otherwise impressive academic credentials do not exempt her from meeting the clearly stipulated minimum grades for core subjects.
- 34. This position aligns with the constitutional principle of legality under Article 94(5) that requires statutory bodies to operate strictly within their legal mandates.
- 35. I allow the appeal by Kenya School of Law and set aside the decision of the Legal Education Appeals Tribunal that had directed the admission of Sheila Kerubo Kennedy.
- 36. Each party to bear its own costs of the appeal.

DATED, SIGNED AND DELIVERED THIS 27TH DAY OF JUNE 2025 VIRTUALLY VIA MT AT VOI HIGH COURT.

ASENATH ONGERI

JUDGE

In the presence of:-

Court Assistants: Maina/Millicent

.....for the Appellant

.....for the Respondent

.....for Interested Party

