



**Achoro Ventures Limited v Principal Secretary - Internal Security and National Administration, Ministry of Interior and National Administration & another (Judicial Review E018 of 2024) [2025] KEHC 11310 (KLR) (Judicial Review) (30 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 11310 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ISIOLO  
JUDICIAL REVIEW  
JUDICIAL REVIEW E018 OF 2024  
SC CHIRCHIR, J  
JULY 30, 2025**

**BETWEEN**

**ACHORO VENTURES LIMITED ..... APPLICANT**

**AND**

**PRINCIPAL SECRETARY - INTERNAL SECURITY AND NATIONAL  
ADMINISTRATION, MINISTRY OF INTERIOR AND NATIONAL  
ADMINISTRATION ..... 1<sup>ST</sup> RESPONDENT**

**ATTORNEY GENERAL ..... 2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

1. By way of a Notice of Motion dated 6<sup>th</sup> January, 2025, the ex-parte Applicant seeks orders as follows;
  - a. That this honorable court be pleased to grant to the Applicant Orders of Judicial review in the nature of a prohibition directed at the 1<sup>st</sup> Respondent, its agents, servant or anyone acting at its behest from implementation or enforcement of the directive or decision made by the 1<sup>st</sup> Respondent, dated 12<sup>th</sup> November, 2024 for closure of the Applicant's business entity known as Safari Bar and Restaurant situated within Isiolo
  - b. That the Applicant be hereby granted an Order of judicial review in the nature of Certiorari to remove and bring into the High Court, the directive or decision made by the 1<sup>st</sup> Respondent dated 12<sup>th</sup> November, 2024 for closure of the Applicant's business entity known as Safari Bar situated within Isiolo Township and the same be quashed and/or set aside.
  - c. That this honorable court be pleased to issue any other of further consequential Orders and/or directions that it may deem fit and just to issue.



2. The ex-parte Applicant was granted leave to bring the substantive Motion on 30<sup>th</sup> December,2024.
3. The prayers sought are against the Principal Secretary Internal Security and National Administration, Ministry of Interior and National Administration (1<sup>st</sup> Respondent) and the Attorney General ( 2<sup>nd</sup> Respondent)

### **The Applicant's Case**

4. The Affidavit in support is sworn by one Alex Thuraira Maorwe who describes himself as a director of the Applicant. It is the Applicant's case that it has been operating an establishment for sale of alcoholic drinks, food and beverages known as Safari Bar and Restaurant since the year 1965. That he learnt through the print media, that on 12<sup>th</sup> November,2024, the 1<sup>st</sup> Respondent issued a directive for closure of various drinking outlets, which included the Applicant business premises.
5. The Applicant avers that the 1<sup>st</sup> Respondent did not formally communicate or issue a prior/adequate notice to the Applicant of the decision that its business entity was to be affected by the subject decision and/or directive as necessitated under Section 4(3a) of the Fair Administrative Action Act,2010
6. The Applicant further states that he was not issued with a notice of a right to review or internal appeal against the 1<sup>st</sup> Respondent decision/or directive, and thus he is apprehensive that the 1<sup>st</sup> respondent and/or its agent will at any time proceed to implement and/or enforce the subject directive.
7. The Applicant therefore seeks this Court to urgently intervene by granting the reliefs sought.
8. The Application is unopposed.
9. The Court directed the Application to prosecute the Application by way of written submissions.

### **Applicant's submissions**

10. It is the Applicant's submission that the decision by the 1<sup>st</sup> Respondent was issued ultravires (sic), in total infringement of the Applicant constitutionally ordained right of fair administrative action as envisaged under Article 47 of the Constitution of Kenya.
11. The Applicant further submits that since the 1<sup>st</sup> Respondent did not accord the Applicant an opportunity to participate or attend the proceedings towards reaching of the impugned directive as required, the 1<sup>st</sup> Respondent infringed the 1<sup>st</sup> Applicant rights to fair administrative action.
12. The Applicant therefore urges this court to find that the 1<sup>st</sup> Respondent decision was ultravires and that the Applicant is entitled to the reliefs sought.

### **Determination**

13. I have considered the Application, and accompanying documents in support, as well as the Applicant's submissions. The impugned directive was communicated through a letter dated 12<sup>th</sup> November 2024. The letter was authored by the permanent secretary (PS) in charge of interior and internal security, and addressed to all Regional and county security committees.
14. In the letter, the PS was bringing to the attention of the committees the provisions of section 12(1) ( c ) of the Alcoholic Drinks control Act, Article 53(1) (b) of the constitution, section 4(a) of the Basic Education Act, section 13 of the children's Act and section 3 (c) of the National Authority for campaign against Alcohol and drug abuse Act. The PS pointed out that there has been breach of the aforesaid provisions of law and consequently the Government's efforts of ensuring that learning takes place in a conducive and safe environment were being hampered. He thus directed the security committees to



close them. Attached to the list are several outlets marked for closure. The Applicant's Bar is one of them.

15. Section 12 of the [Alcoholic Drinks Control Act](#) provides as follows:

“ 12.

(1) The District Committee shall not grant a new licenses for the sale of an alcoholic drink to be consumed on the premises unless the District Committee is satisfied:—

(c) that the premises in respect of which the application is made are located at least three hundred metres from any nursery, primary, secondary or other learning institutions for persons under the age of eighteen years.

16. It is the above provision section of the [Alcoholic drinks control Act](#) in particular, that has prompted the Applicant to come to court. Article 53(1) (b) provides for the right of a child to free and compulsory Education; the same right is reiterated under section 4(a) of the [Basic Education Act](#) and section 13 of the children's Act.

17. It is the Ex-parte Applicant's contention that it was not contacted or consulted before the decision was reached, and thus their right to Fair Administrative Actions was infringed .

18. However, what the permanent secretary was conveying was not a policy directive, it was the law. The [Alcoholic Drinks Control Act](#) is a 2010 enactment. The delimitation of the of Liquor premises from learning institutions of minors has existed since then. It is apparent that the implementation has been wanting. In simple terms, it was a case of an Administrator reminding his subordinates to enforce the law as it exists. Further this was not a new enactment or a policy decision so as to bring it under the purview of the [fair Administrative Action Act](#).

19. Looked at it differently, the Applicant's contention is tantamount to calling upon the court to stop law Enforcement Agencies from implementing the law. That is not tenable, unless the process of enforcement in itself, infringes the law.

20. The Applicant has further argued that, the directive is discriminatory, as its predecessors had been operating the same business since 1965 . In addressing this question, I can do no more than to associate myself with the findings of Justice E. Muriithi in the case of *Kaaniru v Meru County Government & 4 others* [2022] KEHC 16715 (KLR) where he observed:- “ ..... .In these circumstances, the situation of Applicant's bar infringes the law as to the proximity in distance of alcoholic sale premises from the educational institutions. It matters not that the Respondents have previously given the Applicant licenses at the same sites. If the Respondents have not enforced the law previously, it is no bar from their enforcement of it now and in the future. It is trite that there can never be any estoppel against the operation of the law by reasons of acquiescence or waiver..... The rule of law depends on the scrupulous and strict enforcement of the law as it stands as at the time of enforcement. The adage 'do it now for there may be a law against it tomorrow' says it all! If it is law, it may be enforced today and it is immaterial that it was not against the law yesterday”

21. The judge went on to state that, the fact that the applicant has a license or has had a license previously does not operate as estoppel on the enforcement of the law as every person involved in the business of the sale of liquor must satisfy himself that his business premises does not fall within the prohibited range.



22. In the present case, the fact that the Applicant has a licence does not sanitize an illegality if the business location breaches the law.
23. In a nutshell, the Ministry was implementing the law, and issues of prior consultation, public participation or right to hearing do not apply. Those concepts belong either to instances of enactment of a new law or Administrative or policy decisions.
24. The Application is without merit. It is hereby dismissed.

**DATED , SIGNED AND DELIVERED AT ISIOLO ,THIS 30<sup>TH</sup> DAY OF JULY 2025.**

**S. CHIRCHIR**

**JUDGE**

In the presence of:

Roba Katelo- Court Assistant

