



**Republic v Registrar of Societies; Khaemba & 5 others (Ex parte Applicants)
(Suing as the Registered Trustees of the Pentecostal Christian Universal
Church) (Judicial Review Miscellaneous Civil Application E078 of 2024)
[2025] KEHC 11922 (KLR) (Judicial Review) (11 August 2025) (Judgment)**

Neutral citation: [2025] KEHC 11922 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW MISCELLANEOUS CIVIL APPLICATION E078 OF 2024
RE ABURILI, J
AUGUST 11, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

THE REGISTRAR OF SOCIETIES RESPONDENT

AND

PETER KHAEMBA EX PARTE APPLICANT

NOAH KISABULI EX PARTE APPLICANT

LEVY WANJALA WANYAMA EX PARTE APPLICANT

ELIUD KALAMU EX PARTE APPLICANT

ISAIAH WEKESA EX PARTE APPLICANT

JOSEPH SIMIYU MURUNGA EX PARTE APPLICANT

**SUING AS THE REGISTERED TRUSTEES OF THE PENTECOSTAL
CHRISTIAN UNIVERSAL CHURCH**

JUDGMENT

1. Pursuant to leave granted on 8th July 2024 to apply for judicial review orders and the leave granted on 29th April 2025, to amend the substantive motion dated 3rd July 2024 and amended on 5th May 2025, the exparte applicants seek an order of Mandamus directing the Respondent, The Registrar Of Societies to immediately allow the Ex parte Applicants, The Pentecostal Christian Universal Church



- to file the society's annual tax returns and to admit as duly filed the annual returns of the society for the year ending 31st December,2023 as furnished by the Ex parte Applicants on the 15th January,2024.
2. The application is supported by a Statutory Statement dated 3rd July 2024, and a verifying affidavit sworn by Peter Khakina Khaemba on the even date.
 3. The Ex parte Applicants' case is that the Pentecostal Christian Universal Church is required to furnish its annual returns to the Registrar of Societies pursuant to Section 30 of the Societies Act, and that it has over the years without any hinderance whatsoever been filing/furnishing the Registrar of Societies, with its annual returns and accounts as and when the same fell due as require by law.
 4. That the Society had however been unable to file its annual returns for the year ending 31st December,2023 and that despite furnishing the Respondent with the same on 15th January 2024, the Respondent has refused to admit the same citing a pending dispute on the Church leadership.
 5. The Ex parte Applicants argue that neither the Society nor any of its registered officials have been aware of any existing complaint/dispute as pertains to its leadership. Further, that correspondence by the Respondent dated 19th January 2024 and referenced SOC/8046, confirms that there was/is no complaint whatsoever regarding the leadership of the society and that the chairperson was still legally elected as the society's Arch Bishop.
 6. It is averred that the letter dated 9th April 2024 addressed to the Respondent seeking for the Respondent to stop interfering with the Society's rights and accept its annual returns as furnished was never responded to and that neither, was a follow up letter dated 29th May 2024.
 7. The Ex parte Applicants further assert that the Respondent has not provided any justification for its decision to decline to receive the Society's annual returns despite several correspondences from the leaders of the Society as well as through the Society's advocates on record.
 8. According to the Ex parte Applicants, the Respondent's actions are illegal, unprocedural and unfair. They also claim that the Society continues to suffer great prejudice.
 9. The Applicants also filed a further affidavit sworn on 3rd June 2025 by Peter Khakina Khaemba. In the affidavit, Mr. Khaemba states that the Respondent has on several occasions confirmed that the deponent is the bona fide Chairperson/ Arch-Bishop of the Ex parte Applicants.
 10. That the Interested Party has been making baseless allegations to the effect that Mr. Khaemba had been expelled from the church and that she had been appointed as the Arch Bishop. However, that to the contrary, the Respondent is said to have in its letter dated 27th October 2023 confirmed that no such expulsion had been recorded/reported and that Mr. Khaemba was the bona-fide Arch Bishop of the church since his election and appointment.
 11. The Applicants' further case is that in the aforesaid letter, the Respondent stated that there was no complaint on its Records and thus affirmed the position that the Interested Party never mounted and sustained any legitimate dispute as to Mr. Khaemba's occupation of office of the Arch Bishop of the church.
 12. That in a letter dated 19th February 2024, the Respondent indicated that the Interested Party had failed to lodge her complaint promptly as it was filed 11 years after the fact and even advised her to seek recourse before a court of law if she was legitimately aggrieved which she has never done. It is the Applicants' case that due to the Interested Party's lack of evidence; she was unable to prosecute her suit on the same issue being, Kitale High Court Civil Suit No.101 of 2010, and that the same was ultimately dismissed for want of prosecution on 31st October 2018.



13. According to the Ex parte Applicants, even though there was a legitimate dispute before a body seized with requisite jurisdiction over the office of the Arch-Bishop of the church, the same by itself does not afford the basis for the Respondent to stop admitting returns from officials of the church. It is urged that a dispute concerning only a single office, can be resolved without stifling the affairs of the church entirely and pitting it in conflict with the law.
14. The Ex parte Applicants also filed written submissions dated 3rd June 2025. They rely on the case of Republic vs. Public Procurement Administrative Review Board & another; Wodex Technologies Ltd (Ex parte Applicant); Tana Solutions Limited (Interested Party) (Judicial Review Miscellaneous Application E104 of 2023)[2023] KEHC 24930 (KLR) where the court is said to have reaffirmed the positions in Pastoli v Kabale District Local Government Council and Others [2008] 2 EA 300 and Council of Civil Unions v Minister for Civil Service [1985] AC 2 on the scope of judicial review remedy.
15. They submit that under section 44 of the *Societies Act*, the contents of any register as kept by the Respondent is prima facie evidence that the same is correct. Further, that the Interested Party seeks to turn the present judicial review proceedings into a suit to determine who between her and Peter Khaemba is the lawful Arch Bishop which requires evidence and testimony.
16. It is also their submission that section 18 of the *Societies Act* provides for a means for resolution of a dispute in respect of office bearers. That as was held by the court in the case of Njenga Mwangi Wachira & Partners vs. County Secretary, City County of Nairobi [2017] KEHC 8098 (KLR) where there exists other legal mechanisms for resolving a dispute, a party cannot resolve to judicial review proceedings at the first instance.
17. The Ex parte Applicants submit that the Respondent is estopped from now asserting contrary to what it has already represented to the Interested Party and the Ex parte Applicant in respect of the dispute regarding the position of Arch Bishop, reliance is placed on the case of Lucas Ahula Ocheyo & another vs. Al-Hyder Trading Company Limited & another [2020] eKLR.
18. According to the exparte Applicants, the Respondent's actions are unlawful and unfair as it is an offence for a society to fail to file its returns and that as such, the Respondent has put the Society in direct conflict with the law.

Responses

19. In response to the application, the Respondent filed a Replying Affidavit dated 13th May 2025 and written submissions of even date.
20. The Respondent's case is that the Ex parte Applicant has been filing annual returns, however that the Respondent did not approve the returns for the year ending 31st December 2023 as a complaint against the Ex parte Applicant was introduced on record on 22nd June 2023 by the Interested Party and the Respondent is not satisfied by the identity of the office bearers of the Society.
21. That the Office of the Registrar of Societies received a complaint letter against the Ex parte Applicant from Yano & Company Advocates dated 22nd June 2023 and Mr. Peter Khaemba was given a chance to respond to the allegations. That the returns have not been approved owing to a dispute on leadership brought vide a complaint letter dated 29th October 2023.
22. Further, that the dispute pertaining to leadership of the Pentecostal Christian Universal Church arises where Margaret Nabwoba Wanyonyi, the Interested Party herein was introduced on record as Arch



- Bishop vide Form H dated 20th March 2012. It is the Respondent's case that the two parties alleging the seat of the chairman were invited to a meeting vide a letter dated 25th September 2023 to no avail.
23. The Respondent contends that once the dispute is amicably settled, the Annual Returns for Pentecostal Christian Universal Church will be duly approved and filed. It is also the Respondent's case that under Section 18 of the *Societies Act*, the Respondent has powers to step in and resolve dispute between or among members of a Society. The court is said to have reaffirmed this position in the case of *Omari vs. Registered Trustees Muslim Association Mosque Omari v Registered Trustees Muslim Association Mosque Committee Eldoret & 8 others (Constitutional Petition E017 of 2021) [2023] KEHC 26117 (KLR) (1 December 2023) (Judgment)*.
 24. The Respondent submits that attempts to solve the dispute amicably were futile as the disputants refused to adhere to the Respondent's directions. That the Annual Returns are filled by availing to the office a duly filled Form 1 and that the Statutory details to be filled in the Form include names of office bearers.
 25. It is submitted that the Respondent's approval of the Annual Returns will prima facie confirm office bearers appended on the approved Annual Returns as legitimate office bearers, which would be prejudicial to the complainant as her complaint against the Ex parte Applicant has not been resolved or concluded.
 26. The Interested Party also filed a Replying Affidavit sworn on 23rd May 2025 sworn by Margaret Jirongo Nabwoba and written submissions dated 29th May 2025.
 27. The Interested Party's case is that she was elected on 27th June 2009 in a meeting duly convened and held at Church Headquarters in Kamukuywa following the death of the founder of the Church, Arch Bishop Peter Masinde Wamakondi on 10th May 2009.
 28. That Peter Khaemba was officially expelled from the church during a synod sitting held on 2nd April 2002 due to his divisive politics. That while purporting to have taken over as Arch Bishop, he started filing Returns with the office of the Registrar without the consent and knowledge of the Church office.
 29. It is contended that the matter of genuineness of the Annual Returns filed by the unlawful splinter group led by Peter Khaemba was brought to the attention of the Registrar who confirmed in writing vide a letter dated 3rd May 2004 that the genuine Returns were those filed by the Secretary of the Church, Reverend Solomon Jirongo.
 30. The Interested Party states that she sought for an injunction from the High Court in Civil Suit No.101 of 2010, to prevent the alleged Arch Bishop, Khaemba from continuing to file returns for the unregistered splinter group, in the name of the Church despite being expelled on 2nd April 2002, thus interfering with the running of the Church as an imposter.
 31. That in a turn of events, the 2nd Defendant in the High Court, Timothy Wangila conceded that the Interested Party was the duly elected Chairperson/ Arch Bishop of the church and subsequently they recorded a Consent Order in court in regard to his position of the church leadership.
 32. According to the Interested Party, Peter Khaemba continues to use the church's registration certificate as belonging to his splinter group whereas indeed, it is the Certificate issued to the Church long before he started the splinter group. It is contended that the alleged Chairperson/ Arch Bishop ought to have sought counsel and registered another society by obtaining a separate and distinct registration certificate so as to avoid the conflict instead of using the Church's registration as his.



33. The Interested Party's further case is that way back in 2002, the conduct of Peter Khaemba had reached his employer, the Teachers Service Commission due to his incessant trouble making at the church.
34. That it would be wrong and the height of absurdity to ignore the historical trajectory of Peter Khaemba's attempt to stage 'a coup' and to usurp the interested party's authority as the legal Chairperson/ Arch Bishop of the Applicant Church, and to insert himself falsely as its leader by filing returns to the non-registered splinter church group at Kimilili.
35. In her submissions, the Interested Party argues that the Applicant failed to adhere to section 9 (2) of the *Fair Administrative Action Act* before instituting the instant proceedings. According to the Interested Party, the mechanism for resolving the dispute is attending a physical meeting chaired by the Respondent to determine the legitimate Chairperson/ Arch Bishop of the Pentecostal Christian Universal Church of Kenya.
36. The Interested Party submits that she is willing to avail herself for any such meeting as has been alluded to by the Respondent in her submissions dated 13th May 2025, in order to assist in bringing the matter to an amicable end.
37. The Interested Party further submits that under Section 9(3) of the *Fair Administrative Action Act*, the court can order that the meetings be conducted within a set period of time, the result of which can be filed in this Court so as to bring this matter to a close. Further, that as the court has discretion to accept exemptions of the aforementioned section, under 9 (4), that the court can keep the matter pending with regard to the dispute on leadership pending the outcome of the dispute resolution meeting of the two parties with the Respondent.
38. The Interested Party also submits that pursuant to the outcome of the meeting with the Respondent on the legitimate office bearers of the Ex parte Applicant, the Court should issue an order barring the Applicant from further attempting to file returns using the Registration Certificate of the Pentecostal Christian Universal Church of Kenya.

Analysis and Determination

39. I have considered the amended notice of motion application, verifying affidavit and statutory statement. I have also considered the responses and the submissions by all parties. The issues for determination are:
 - i. Whether the Respondent acted lawfully and within its statutory mandate under the *Societies Act* in declining to admit the Applicants' annual returns for the year ending 31st December 2023 on account of a leadership dispute.
 - ii. Whether the Respondent's decision met the constitutional and statutory standards of procedural fairness and was reasonable in the circumstances.
 - iii. Whether the Applicants have met the threshold for the grant of an order of mandamus in the circumstances of this case.
 - iv. What orders should this court make?



Whether the Respondent acted lawfully and within its statutory mandate under the Societies Act in declining to admit the Applicants’ annual returns for the year ending 31st December 2023 on account of a leadership dispute

40. The *exparte* Applicants’ position is that they have consistently filed returns without hindrance until 2023, and that the Respondent’s refusal to admit returns is unlawful because there is no legitimate leadership dispute. Further, that even if there were a dispute over one office, it doesn’t justify stifling the filing of returns for the entire society. That, Section 44 of the Societies Act makes the register *prima facie* correct and the Respondent is estopped from contradicting its own official position.
41. In response, the Respondent argues that a complaint was formally lodged vide the letters of 22 Jun 2023 and 29 Oct 2023 creating doubt about the legitimacy of office bearers who were seeking to file the church returns for the year. Further, that under Section 18 of the Societies Act, the Registrar has powers to step in to resolve disputes between members and that therefore approving returns which name disputed office bearers would implicitly endorse one side and prejudice the complainant. It was also submitted that attempts to resolve the dispute amicably failed as parties did not cooperate.
42. The Interested Party’s case is that the historical background shows that Khaemba was expelled in 2002 and has been filing returns unlawfully yet he leads a splinter group and not the legitimate church. Further, that the leadership dispute has been long standing and unresolved and ignoring it would legitimise a splinter group. It is also her case that the Registrar acted within its mandate in withholding approval until the dispute is resolved.
43. Section 30 of the Societies Act imposes a mandatory obligation on societies to furnish annual returns. On the other hand, Section 18 empowers the Registrar to intervene in disputes between members regarding the leadership or management of the society.
44. The letters of 27th October 2023 and 19th January 2024 are significant. As late as January 2024, the Registrar was on record affirming that there was no complaint on the file regarding leadership of the applicant church and that the 1st Applicant remained the Arch Bishop of the church in question. This lends weight to the Applicants’ complaint of inconsistency in the Respondent’s later position that there is a dispute lodged regarding leadership of the church and therefore who was to file the returns on behalf of the church.
45. However, the record also discloses that a formal complaint had been lodged on 22nd June 2023 and again on 29th October 2023. The Respondent considered this complaint and convened a meeting under section 18 of the Act. By the time the returns for 2023 were being filed for admission, the Respondent had formed the view that there was indeed a leadership dispute hence the withholding of the admission of the church returns.
46. Section 18 of the Societies Act empowers the Registrar of Societies to intervene if there is a dispute over office bearers and requires production of evidence or initiation of proceedings. Failure to comply may result in cancellation of registration. Of the society. This position was reiterated by the Court of Appeal in the case of *Tarak Khawaja & 5 others v Registrar of Societies & 9 others* [2017] eKLR where it was stated:

“ The Act provides a specific procedure for addressing disputes regarding the office bearers of a society. Section 18 provides as follows:

...



Under the above provisions, once the Registrar is satisfied that there is a dispute between members or officers of a Society so that he cannot tell the identity of the legitimate office bearers, he is required to serve a written order upon the Society requiring it to produce, within a month either evidence of settlement of the dispute, or of the properly appointed officers or evidence that proceedings have been initiated to resolve the dispute. Where the society fails to comply with the notice, the registrar has power to order cancellation of the society's registration.”

47. The Respondent correctly observes that a society's annual return must be filed In Form I, which requires the full names, occupations and addresses of its officers as at 31st December of the year for which the returns are being filed.
48. While the Respondent has the statutory mandate to avoid endorsing disputed office bearers, that power must be exercised proportionately, promptly and in a manner that does not indefinitely paralyse the society's compliance with the law.
49. As section 9(3) of the *Fair Administrative Action Act* contemplates, parties should ordinarily exhaust available statutory dispute resolution mechanisms before seeking judicial review. However, such processes must be conducted within a reasonable timeframe so as not to defeat the very rights that they are intended to safeguard.
50. In Republic v Public Procurement Administrative Review Board & Another ex parte Selex Sistemi Integrati [2008] KLR 728, Nyamu J emphasized that fairness and proportionality require that “judicial time is an expensive resource which must be apportioned fairly... Every file is important.” The same principle applies to administrative time and processes.
51. In the end, this Court finds that the respondent acted lawfully and it was within its mandate to decline to admit the exparte applicants' returns for the year in question owing to the unresolved dispute on who the legitimate office bearers of the exparte applicant church are and until such dispute is resolved, the persons attempting to file returns cannot be outrightly be endorsed to be the church office bearers, noting that the law requires that returns be filed in a form giving particulars and details of office bearers.

Whether the Respondent's decision met the constitutional and statutory standards of procedural fairness and was reasonable in the circumstances

52. The Applicants' case is that they wrote to the Respondent on 9th April 2024 and 29th May 2024 without receiving a substantive response. That this failure to communicate a clear resolution pathway was procedurally unfair, particularly given the Respondent's earlier unambiguous confirmation of the Applicants' leadership.
53. The Respondent's contention is that both disputing parties were given a chance to respond and were even invited to a meeting vide the letter of 25th September 2023 but none of them showed up. The Registrar argues that the decision is reasonable as approving the returns while the dispute persists would undermine the complaint process.
54. The Interested Party on the other hand argues that the Applicants have failed to exhaust alternative dispute resolution mechanisms provided under Section 9(2) *Fair Administrative Action Act* and that they should have attended the Registrar chaired meeting before approaching this court. It is her case that the Court should exercise discretion under Section 9(3) to (4) of the *Fair Administrative Action Act* to order that the meeting convened by the Respondent proceeds first.



55. As stated in issue 1 above, this Court reiterates that the existence of a church leadership dispute can justify temporary suspension of approval of returns, but only if accompanied by a structured, time-bound process aimed at resolving the dispute. Section 18 of the *Societies Act* contemplates intervention to resolve disputes, not to leave them pending without progress.
56. The Court of Appeal in the case of *Morris Jarha Maro & another v Registrar of Societies & another* [2016] eKLR held as follows regarding disputes under section 18 of the *Societies Act*:
- “It is common ground that to this day, the 1st respondent has never communicated its decision to the appellants or the reasons therefor. Article 47 of *the Constitution* further guarantees the appellants, where their rights or fundamental freedoms are likely to be adversely affected by an administrative action, the right to be given written reasons for the action.
- As the High Court aptly stated in *Dry Associates v. Capital Markets Authority & Another*, HC Petition No. 328 of 2011: “Article 47 is intended to subject administrative processes to constitutional discipline hence relief for administrative grievances is no longer left to the realm of common law...but is to be measured against the standards established by *the Constitution*”. Emphasis mine.
57. The Court in the case of *Naado & 6 others (All Applicants Suing as Officials of Supreme Council of Kenya Muslim (SUPKEM)- Ex Parte Applicants) v Registrar of Societies; Nzibo & another (Interested Parties)* [2024] KEHC 1819 (KLR) highlighted those administrative actions must be lawful and procedurally fair. The court stated thus:
- “In interpreting the scope and application of Section 18 of the *Societies Act* without doubt it effects and manifests the intendment of Article 47(1) of *the Constitution* of Kenya which the Respondent violated in issuing the last paragraphs of her 2 impugned letters.
- “Earlier in his above cited decision of *Kenya Human Rights Commission & another v Non-Governmental Organizations Co-ordination Board & another* [supra], Mwita J in paragraph 33 of his decision held:
- “33. Article 47(1) of *the Constitution* is in mandatory terms that every person has a right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair. Sub Article 2 makes it even more forceful that if a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for that action.” Emphasis added.
58. Further, fairness in such a process requires that all affected office bearers not only the two principal disputants be given an opportunity to be heard. A determination reached without participation of other registered officials could lack legitimacy and invite further challenge, thereby prolonging the impasse. This Court therefore agrees that there is need to invoke the provisions of section 9 of the *Fair Administrative Action Act* and direct that the leadership dispute be first be heard before the Respondent at which forum, there shall be required representation from each faction beyond the two principal disputants, Mr. Khaemba and the interested party herein, so that the resolution will bind the society and bring finality.
59. Section 9(3) of the *Fair Administrative Action Act* empowers the Court to direct that a party first exhausts an available and adequate mechanism for review or appeal before seeking judicial review. In the present case, although the applicants’ claim that the respondent had been receiving returns and even confirmed as to who were legitimate office bearers of the church, it is now clear that there is a



dispute which, in the view of this court, was raised by the interested party, leading to the suspension of admission of returns. Section 18 of the *Societies Act* provides such a mechanism, empowering the Registrar to resolve disputes between members and office bearers.

60. This Court is therefore satisfied that this statutory dispute resolution procedure, if conducted promptly and fairly, can determine the leadership question that underlies the refusal to process the 2023 returns for the ex parte applicant church. This Court therefore finds it appropriate to direct the parties to participate in that process within strict timelines.
61. I must briefly highlight that the rationale for the doctrine of exhaustion was further explained in the case of *Geoffrey Muthiga Kabiru & 2 others – vs- Samuel Munga Henry & 1756 others* [2015] eKLR, where the Court of Appeal stated that:

“It is imperative that where a dispute resolution mechanism exists outside Courts, the same be exhausted before the jurisdiction of the Courts is invoked. Courts ought to be fora of last resort and not the first port of call the moment a storm brews...The exhaustion doctrine is a sound one and serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is first of all diligent in the protection of his own interest within the mechanisms in place for resolution outside the Courts...”

62. As observed by Nyamu, J in *Republic v Public Procurement Administrative Review Board & Another Ex Parte Selex Sistemi Integrati Nairobi HCMA No. 1260 of 2007* [2008] KLR 728:

“In the long run in the interest of the overriding objectives of case management, no group of litigants no matter how privileged are entitled to more judicial time than any other. Judicial time is an expensive resource which must be apportioned fairly to the entire spectrum of the work in the Court. Every file is important. For Courts to continually inspire confidence of the Court users and litigants, they must have a very sharp sense of proportionality, fairness and equity in the allocation of judicial time.”

63. The same principle applies to administrative agencies such as the Registrar of Societies. Public time and resources must be allocated proportionately and fairly, and disputes must be addressed promptly to avoid prolonged prejudice to any party.
64. Accordingly, my finding is that the Respondent’s decision not to accept the returns filed by the ex parte applicant met the constitutional and statutory standards of procedural fairness and was reasonable in the circumstances, in that it balanced the interests of the ex parte applicants and the interested party complainant.

Whether the Applicants have met the threshold for the grant of an order of mandamus in the circumstances of this case

65. The nature of mandamus was discussed in the case of *Kenya Kenya National Examination Council v Republic Ex Parte Geoffrey Gathenji Njoroge & 9 others* [1997] KECA 58 (KLR) where the Court observed that:

“The next issue we must deal with is this: What is the scope and efficacy of an Order Of Mandamus? Once again we turn to Halsbury’s Law Of England, 4th Edition Volume 1 at page 111 From Paragraph 89. That learned treatise says:- “The order of mandamus is of a most extensive remedial nature, and is, in form, a command issuing from the High Court of Justice, directed to any person, corporation or inferior tribunal, requiring him or them to



do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. Its purpose is to remedy the defects of justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right and no specific legal remedy for enforcing that right; and it may issue in cases where, although there is an alternative legal remedy, yet that mode of redress is less convenient, beneficial and effectual.”

At paragraph 90 headed “the mandate” it is stated:

“The order must command no more than the party against whom the application is made is legally bound to perform. Where a general duty is imposed, a mandamus cannot require it to be done at once. Where a statute, which imposes a duty leaves discretion as to the mode of performing the duty in the hands of the party on whom the obligation is laid, a mandamus cannot command the duty in question to be carried out in a specific way.”

What do these principles mean? They mean that an order of mandamus will compel the performance of a public duty which is imposed on a person or body of persons by a statute and where that person or body of persons has failed to perform the duty to the detriment of a party who has a legal right to expect the duty to be performed.”

66. Mandamus issues to compel the performance of a public duty where it is clear, unqualified, and unlawfully withheld.

67. In *Republic v Registrar of Societies & 3 others Ex parte Lydia Cherubet (Interim Chairperson) & 2 others* [2016] eKLR, the Court quashed the Registrar of Societies’ decision removing the names of the interim officials appointed pursuant to an arbitration process arising out of a leadership dispute for being procedurally unfair as the Registrar had altered the registration already effected without an order of the Court. The court stated thus;

“In this case the Registrar’s position is that the registration of the applicants was made when there in fact existed a Court order in force restraining such registration. The applicants in this case however contend that the alleged Court order had in fact lapsed hence it did not exist. In my view the Registrar ought to have invoked the powers conferred upon him under section 18 of the Act and directed the Association to produce to him, within one month of the service of the order, evidence of the settlement of the dispute and of the proper appointment of the lawful officers of the society or of the institution of proceedings for the settlement of such dispute. This the Registrar did not do. Had he done this all the parties would have appeared before him and he would have been in a position to determine whether or not the alleged Court order did in fact exist before he acted in the manner he did. By so acting the Registrar also clearly violated the provisions of Article 47 of *the Constitution* as read with section 4 of the *Fair Administrative Action Act*, 2015.

68. The court in the above case issued an order of Mandamus directed to the Registrar of Societies compelling the reinstatement of the names of the interim officials.

69. The appropriate relief in these circumstances in my humble view, is not to compel immediate acceptance of the returns, nor to dismiss the application outright, but to order a structured, time-bound dispute resolution process under the Registrar’s chairmanship, as stipulated in section 18 of the *Societies Act*, with wider participation from each faction and supervisory oversight by the Court. This will protect the society’s statutory obligations while respecting the Registrar’s mandate under section 18 of the Society’s Act.



70. Accordingly, the appropriate orders for this court to make, and invoking this Court’s supervisory jurisdiction under Article 165(6) of *the Constitution* and in the absence of express statutory timelines for the completion of the section 18 process:

1. The Respondent shall within thirty (30) days of this judgment convene and conclude a meeting between all the exparte applicant church factions under section 18 of the *Societies Act* to determine the legitimate office bearers of the Pentecostal Christian Universal Church.
2. The following persons shall attend and participate in the said meeting in person or through duly authorised representatives:
 - i. Peter Khakina Khaemba and his supporting team including those who filed this case;
 - ii. Margaret Jirongo Nabwoba and her supporters
 - iii. Registered officials of the society as per the records held by the Respondent.
3. All participants shall attend and participate in good faith and provide any information or documents requested by the Respondent for purposes of determining the dispute.
4. The Respondent shall communicate its determination to all parties and, within fourteen (14) days thereafter, process the Society’s 2023 annual returns in accordance with that determination.
5. The Respondent shall file a compliance report in this Court within forty-five (45) days of this judgment.
6. Any party aggrieved by the decision of the Registrar may approach the appropriate Court for appropriate orders but not in this file, in view of section 18 of the *Societies Act*.
7. As parties though disputants are members of a local church congregation and in order to promote harmony among and between them, each party shall bear their own costs of these proceedings.
8. This file is closed save for the filing of the report on dispute resolution under section 18 of the *Societies Act*.
9. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 11TH DAY OF AUGUST 2025

R.E ABURILI

JUDGE

