

**REPUBLIC OF KENYA**

**IN THE SUPREME COURT OF KENYA AT NAIROBI**

*(Corum: Ibrahim, Ojwang, Wanjala, Njoki & Lenaola SCJJ)*

**APPLICATION NO. 3 OF 2019**

**–BETWEEN–**

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

**–AND–**

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

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*(Being an application for extension of time to file and serve a Notice of Appeal and Appeal out of time against the Judgment and Orders of the Court of Appeal (**Sichale, Kantai & Waki JJ.A**) in Civil Appeal No. 122 of 2017 delivered at Nairobi on the 20<sup>th</sup> April, 2018)*

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**RULING OF THE COURT**

**[1] UPON** perusing the Notice of Motion Application dated 1<sup>st</sup> February 2019, and brought under Sections 15 and 16 of the Supreme Court Act, and any other enabling provisions of law, seeking extension of time to file a Notice of Appeal and an Appeal out of time against the Judgment and Orders of the Court of Appeal, in **Civil Appeal No. 122 of 2017** delivered on 20<sup>th</sup> April, 2018; and

**[2] UPON** reading the Applicant’s grounds in support of the application and his undated but sworn supporting affidavit, wherein he avers that; the delay in filing the

Notice of Appeal was occasioned, not by any act or omission on his part, but by the failure of the Court of Appeal, to inform him of his right of appeal to the Supreme Court, under Article 163 (4) (b) of the Constitution; and

**[3] UPON** considering the Applicant's written submissions filed on 2<sup>nd</sup> August 2019, wherein, the Applicant merely draws the Court's attention, without more, to the failure by the Respondent, to file written submissions in response to the Application as directed by the Deputy Registrar; and

**[4] WHILE NOTING** that indeed, the Respondent has failed to comply with the directions of this Court, requiring it to file written submissions in response to the Application herein, within the specified timeframes;

**[5] WE FIND** as follows:

The averments and written submissions, by the Applicant herein, in support of his Application for extension of time to file an Appeal, do not provide a sufficient basis upon which, this Court can exercise its discretion to indulge the Applicant. The reasons advanced by the Applicant, to explain the inordinate delay (to wit, 290 days), in filing the Appeal, are neither reasonable, nor credible. The Application does not meet the threshold for grant of extension of time as set out in *Nicholas Kiptoo Korir Salat v. Independent Electoral and Boundaries Commission & 7 Others* Application No. 16 of 2014 and in *Hassan Nyanje Charo v. Khatib Mwashetani & 3 Others* SC Application No. 15 of 2014;

**HAVING** made the foregoing determinations, by a unanimous decision of this Bench, we make the following Orders under Section 23(2)(b) of the Supreme Court Act, 2011 and Rules 21 and 23 of the Supreme Court Rules, 2012;

**ORDERS**

*(i) The Application dated 1<sup>st</sup> February, 2019 and filed on 4<sup>th</sup> February, 2019 is hereby dismissed.*

*(ii) No Orders as to cost.*

**Orders accordingly.**

**DATED and DELIVERED at NAIROBI this 17<sup>th</sup> Day of December, 2019.**

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**M. K. IBRAHIM**  
**JUSTICE OF THE SUPREME COURT**

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**J. B. OJWANG**  
**JUSTICE OF THE SUPREME COURT**

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**S. C. WANJALA**  
**JUSTICE OF THE SUPREME COURT**

.....  
**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**