



**REPUBLIC OF KENYA**

**IN THE TRANSPORT LICENSING APPEALS BOARD AT MACHAKOS**

**APPEAL CASE NO 019 OF 2019**

**KINATWA SACCO.....APPELLANT/APPLICANT**

**VERSUS**

**NATIONAL TRANSPORT AND SAFETY AUTHORITY.....RESPONDENT**

**RULING**

1. This ruling determines the Appellant’s application dated 26<sup>th</sup> August, 2019 in which, the Applicant sought a review of order number two (2) as granted by the Board in its judgment dated 16<sup>th</sup> August, 2019.

2. In the application, the Appellant prayed for an order compelling the Respondent to grant the application for the route extension sought, that is, Nairobi- Kitui- Mwingi- Makueni- Mombasa and back.

3. The application was supported by the grounds stated on the face of the Notice of Motion and the Supporting Affidavit of Clinton Wambua sworn on 26<sup>th</sup> August, 2019. The grounds in support of the application were:

- i. That the Respondent had failed to comply with the court orders.*
- ii. That the Respondent was hell-bent on obstructing justice by causing unnecessary delay.*
- iii. That, from the onset, the Respondent had been reluctant to fairly administer justice.*

4. This Board was guided by the provisions of section **80 of the Civil Procedure Act and Order 45, Rule 1 of the Civil Procedure Rules**, 2010, both of which provide that a court can review its orders if there were sufficient reasons to do so.

5. The Applicant submitted that the Respondent had failed to comply with this court’s judgment delivered on 16<sup>th</sup> August, 2019 particularly, order number two (2) which provided:

***“THAT the Respondent responds to the Appellant’s original application for route extension, that is, Nairobi- Kitui- Mwingi- Makueni- Mombasa and back, within seven (7) days of this judgment.”***

The Transport Licensing Appeals Board finds that the Appellant’s application was merited, as the Respondent had failed to comply with the Board’s orders. As a result, the Board makes the following orders:

**1. THAT the Respondent is hereby compelled to grant the Appellant the route extension applied for, namely: Nairobi- Kitui- Mwingi- Makueni- Mombasa and back.**

**2. THAT this Order be served upon the Respondent and the Traffic Commandant, with a view to ensuring that Kinatwa**

Sacco is allowed to ply the new route until the Respondent registers its route extension and issues its vehicles with the requisite Road Service Licences (RSLs).

Delivered, dated, and signed in Machakos by the Transport Licensing Appeals Board on this 9<sup>th</sup> day of September, 2019

Dick Waweru Chairman .....

Prof. Kiarie Mwaura Member .....

Moses Parantai Member .....

Aden Noor Ali Member .....



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