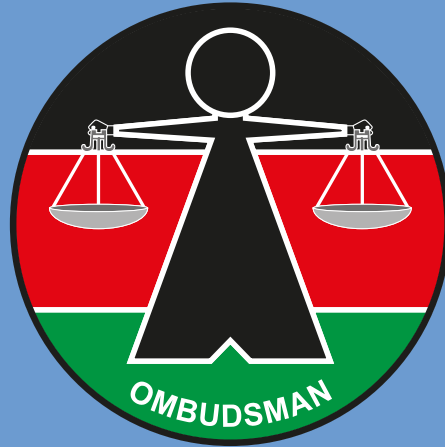


THE COMMISSION ON ADMINISTRATIVE JUSTICE
(OFFICE OF THE OMBUDSMAN)



Hata Mnyonge ana Haki

MISSED CHANCE

AN INVESTIGATION REPORT INTO ALLEGATIONS OF MANIFEST INJUSTICE ON
MS. MILLY NAFULA BY KENYA UNIVERSITY AND COLLEGE PLACEMENT SERVICES



JUNE 2022

Foreword

The Commission on Administrative Justice (CAJ) undertook investigations on a Suo Moto basis, based on media reports dated 7th December 2021 alleging that one Ms. Milly Nafula Barasa, a former student at Manor High school in Kitale, missed a slot to join University after scoring an A- of 74 points in the Kenya Certificate Secondary Education (KCSE) of 2007.

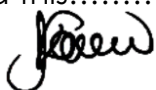
The investigations were prompted by public outcry alleging that someone used her details to register and pursue a degree in Tourism at Moi University. The Commission sought to establish the veracity of the allegations contained in the media reports.

The Commission notified the Principal Secretary for University Education and Research as well as the Chief Executive Officer, Kenya University and College Placement Services (KUCCPS) of the Commission's decision to undertake the investigation.

This report is informed by the analysis of the information gathered and the examination of documents recovered in the process of the investigations.

The Commission is confident that the full adoption and implementation of the recommendations will ensure that in the future qualified students do not miss out on their rightful slots in institutions of higher learning. CAJ commends Mount Kenya University for sponsoring Ms. Milly Nafula to pursue a Bachelor of Medicine and Surgery set to commence on 5th September 2022 to achieve her dream to become a doctor.

Signed this 24th day of June 2022



HON. FLORENCE KAJUJU, MBS

CHAIRPERSON, COMMISSION ON ADMINISTRATIVE JUSTICE

Table of Contents

Foreword	iii
Acronyms	v
Executive Summary	vi
1.0 Introduction to the Investigations.....	9
1.1 Joint Admissions Board	9
1.2 Issues under investigation	9
1.3 Investigation Process.....	9
1.3.1 The Principal Secretary for University Education and research	9
1.3.2 Offices Visited	10
1.3.3 List of interviewees	10
1.3.4 Documents Recovered	10
1.4 Legal Framework	11
1.4.1 Constitution of Kenya, 2010.....	11
1.4.2 Commission on Administrative Justice Act, 2011	11
1.4.3 University Act, 2012.....	12
1.4.4 Postal Corporation of Kenya Act, 1998.....	12
1.4.5 Postal-and-Courier-Services-Regulations-2010;	12
2.0 Analysis and Findings	14
2.1 Whether Ms. Milly Nafula was allocated a university slot by the defunct Joint Admissions Board.....	14
2.2 On the allegation that another person might have registered for the course using her details	15
2.3 Culpability on any relevant Government agency for failure to act as per their legal obligations.	16
3.0 Conclusions	17
4.0 Consequential Observations.....	17
5.0 Recommendations	18



Acronyms

CAJ	Commission on Administrative Justice
JAB	Joint Admissions Board
KUCCPS	Kenya Universities and Colleges Central Placement Services
PCK	Postal Corporation of Kenya



Executive Summary

The Commission on Administrative Justice (CAJ) undertook investigations on a *Suo Moto* basis, based on media reports alleging that Ms. Milly Nafula Barasa missed a slot to join the University after scoring an A- of 74 points in the Kenya Certificate Secondary Education of 2007.

The Commission notified the Principal Secretary for University Education and Research as well as the KUCCPS Chief Executive Officer of the Commission's decision to undertake the investigations. A team of investigators visited KUCCPS and Moi University. They conducted interviews with the affected lady, the Chief Executive Officer of KUCCPS; its Senior Assistant Placement Officer; Deputy Vice-chancellor, Academics; Research & Extension and Ag. Deputy Registrar, Admissions of Moi University. The investigators also recovered documents relevant to the issues under investigation.

It was established that the then Joint Admissions Board placed Ms. Milly Nafula at Moi University under a Government-sponsored regular program. It was also confirmed that no one used her admission letter to register for the course at the University. Further, it was confirmed that Moi University sent her the admission letter through Postal address 63-30205, Matunda, an address then owned by one Hudson Wasike Isacson. Ms. Nafula confirmed that she used the address during the Central application at Manor House Secondary School and that she knew the owner of that postal address.

It was noted that the Mt. Kenya University founder and Board of Directors Chairman Professor Simon Gicharu during the MKU 20th graduation ceremony announced that the University would offer, Ms. Nafula a fully paid scholarship set to commence on 5th September 2022.

In light of these findings, the Commission, therefore, recommends to the Ministry of Education through its Heads of Schools to ensure that students fill in correct contact details during university and courses application. Also, KUCCPS to notify Head of Schools about the placement of their candidates and use online platforms to notify students of their placement.

1.0 Introduction to the Investigations

On 7th December 2021, Citizen TV aired news highlighting a story of a 32-year-old lady named Ms. Milly Nafula Barasa, who was alleged to have missed a slot to join University after scoring an A- of 74 points in the Kenya Certificate Secondary Education of 2007.

Pursuant to its mandate, CAJ undertook investigations on a *Suo Moto* basis, on the media reports to determine circumstances that led to Ms. Milly Nafula's missing an admission to university after scoring an A-of 74 points.

1.1 Joint Admissions Board

The Joint Admissions Board (JAB) was the body that was mandated to conduct a joint admission exercise of high school students to universities under 'regular' state-funded programs.

JAB was composed of Vice-chancellors from all public universities and headed by a chairman chosen from among themselves. It was replaced by Kenya University and College Central Placement Services (KUCCPS), a State Corporation established under the Universities Act (2012) with the core mandate to coordinate the placement of Government Sponsored Students in Colleges and Universities.

1.2 Issues under investigation

- i. Whether Ms. Milly Nafula Barasa was placed or considered for a university slot by the defunct JAB. If so, what transpired?
- ii. Whether any other person used her details to join, register, and pursue a Tourism Course at Moi University as alleged by KUCCPS
- iii. Culpability on any relevant Government agency.

1.3 Investigation Process

1.3.1 The Principal Secretary for University Education and Research

The Principal Secretary for University Education and research as well as the Chief Executive Officer, KUCCPS were notified of the Commission's

decision to conduct investigations on the matter vide a letter Ref: **CAJ/IE/6/103/21** dated **20th December 2021**.

1.3.2 Offices Visited

- i. Kenya University and College Placement Services
- ii. Moi University-Main Campus, Eldoret
- iii. Postal Corporation of Kenya

1.3.3 List of interviewees

- i. Ms. Milly Nafula Barasa (the affected party)
- ii. Chief Executive Officer, KUCCPS
- iii. Senior Assistant Placement Officer, KUCCPS
- iv. Deputy Vice-chancellor Academics, Research and Extension, Moi University
- v. Ag. Deputy Registrar, Admissions-Moi University

1.3.4 Documents Recovered

- i. Copies of supporting documents availed by the complainant during the inquiry
- ii. 2008/2009 Moi University JAB (now KUCCPS) Selection List for Bachelor of Tourism Management (**Document D2C**).
- iii. Admission letter for Milly Nafula – BTM/24/09 for admission into the University for the Academic Year 2009/2010 commencing on Monday, July, 27th 2009.
- iv. 2012/2013 Moi University graduation list for Bachelor of Tourism Management Cohort
- v. Postal Corporation response letter dated 6th April 2022
- vi. Mount Kenya University offer of admission letter to Nafula dated 27th January 2022

1.4 Legal Framework

The following legal documents provided a framework which guided the investigation.

1.4.1 Constitution of Kenya, 2010

Article 43 of the Constitution provides *inter-alia* that every person has the right to education.

1.4.2 Commission on Administrative Justice Act, 2011

Section 8 of the CAJ Act provides that CAJ has a mandate, *inter-alia*, to investigate any conduct in state affairs or any act or omission in public administration in any sphere of Government and complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct.

Sections 26-29 of the CAJ Act gives the Commission powers to conduct investigations on its own initiative or on a complaint made by a member of the public, issue summons and require that statements be given under oath, adjudicate on matters relating to administrative justice, obtain relevant information from any person or government authorities and to compel production of such information.

Under Section 31 of the Act, the Commission has power not limited by other provisions to investigate an administrative action despite a provision in any written law to the effect that the action taken is final or cannot be appealed, challenged, reviewed, questioned or called in question. After undertaking its investigations, the Commission is required under Section 42 of its constitutive Act, to prepare a report to the state organ, public office or organization to which the investigation relates. The report shall include the findings of the investigation, action the Commission considers to be taken and reasons whereof and recommendations the Commission deems appropriate.

1.4.3 University Act, 2012

Section 55 (1) provides for the establishment of a Kenya Universities and Colleges Central Placement Service.

Section 56 prescribes the functions of the Placement Board as follows:

- (a) co-ordinate the placement of the government sponsored students to universities and colleges;
- (2) The Placement Board shall in the performance of its functions promote equity and access to university and college education, by among other things, developing criteria for affirmative action for the marginalized, the minorities and persons with disabilities.

The placement Board shall establish criteria to enable students' access the courses for which they applied taking into account the students' qualifications and listed priorities.

1.4.4 Postal Corporation of Kenya Act, 1998.

Section 5 on Functions of the Corporation;


The Corporation shall, in accordance with the provisions of section 50 of the Kenya Communications Act, 1998—

- (a) provide and operate—
 - (i) postal services, and perform incidental services relating to the receiving, collecting, sending, dispatching and delivering of postal articles and electronic mail;

1.4.5 Postal-and-Courier-Services-Regulations-2010;

Section 3 on Delivery and acceptance.

- (1) A postal article shall be considered—
 - (a) to have been delivered to the addressee—
 - (i) when it is delivered into a private letterbox or bag of the addressee;
 - (ii) when it is left at the house, or office of the addressee as set out thereon, or with the employee, agent, or any other person authorized to receive it; or
 - (iii) Where the addressee is a guest or is a resident at a hotel, hostel, or lodging when it is left with the proprietor or manager of the hotel, hostel, or lodging or with his agent; or



(b) To have been received by a postal licensee when it is deposited into a posting box or handed over to an employee or agent of a postal service operator authorized to receive it.

2.0 Analysis and Findings

2.1 Whether Ms. Milly Nafula was allocated a university slot by the defunct Joint Admissions Board.

Allegation

According to media reports, Ms. Milly Nafula had missed a slot to join University despite meeting the threshold for selection through her performance in the Kenya Certificate of Secondary Education exams which she sat in the year 2007.


Investigation Findings

A letter dated 9th December 2021 from Manor House High School addressed “to whom it may concern” indicates that Ms. Milly Nafula, studied at Manor House High School from form 1 (2003) to form 4 (2007). Also, her KCSE certificate indicates that she sat/did her exam under index No. 503209014 at Manor House High School. Ms. Milly Nafula indicated that she applied for courses and universities during the central application while at Manor House High School and the Principal submitted her application to JAB.

According to her, her preferred choices were first, Bachelor of Medicine at the University of Nairobi; second, Bachelor of Commerce at the University of Nairobi and lastly Bachelor of Tourism at Moi University.

She scored an A- with 74 points in the KCSE exams of 2007, as per her KCSE certificate. The defunct Joint Admission Board; the body that was in charge of student placement to universities (when she sat for her KCSE), considered her application and placed her at Moi University for the Bachelor of Tourism Management course, which was her choice number three (3).

KUCCPS which is a successor of JAB availed a document named D2c, dated 4th March 2009 which is a selection list containing the names of students that were placed at Moi University to pursue Bachelor of Tourism Management in the Academic year 2008/2007. A review of the document indicates that JAB placed Ms. Milly Nafula at Moi University to study Bachelor of Tourism Management in the Academic year 2008/2007. Further, it shows that JAB had allocated Ms. Milly Nafula serial number 22 in the University’s Bachelor of Tourism Management selection list of 2008/2009.



A Senior Assistant Placement Officer at KUCCPS who worked at the defunct JAB as a clerk stated that back then, JAB would submit the document D2c together with addresses of successful students to the respective Universities and it was the duty of the University to communicate to the students who had been placed in their institutions. As per the officer, the most common mode of communication back then was the use of postal address which students had used while in Secondary School.

The Commission obtained a copy of a letter addressed to Milly Nafula from Moi University, dated 13th May 2009 inviting her to pursue a degree in Bachelor of Tourism Management that was set to commence on the Monday of 27th July 2009. The letter indicated that the program would be based at the Chepkoilel Campus of Moi University, currently the University of Eldoret.

2.2 On the allegation that another person might have registered for the course using her details

Allegation

It was alleged that an unknown person impersonated Ms. Milly Nafula and used her details to enrol in the course at Moi University.

Investigation Findings

It was established that no person registered or was admitted at Moi University using Ms. Nafula's details. A perusal of Moi University Graduation List for the Bachelor of Tourism Management Cohort of September and December 2012 and September and December 2013 indicates that no one registered and graduated using Milly's details. Her particulars/details were not in the lists of students who had graduated in the two academic years.

Further, it was established that Moi University had generated an admission letter and sent it through the address Ms. Milly Nafula had used during the central application while in form four at Manor High Secondary School.

2.3 Culpability on any relevant Government agency for failure to act as per their legal obligations.

Allegations

It was alleged through media reports that JAB did not place Ms. Milly Nafula at any University and further, that Moi University did not send her the admission letter.

Investigation Findings

According to the Acting Deputy Registrar of Admissions at Moi University, the practice back then was that after receiving form D2c from JAB, the University would inform or notify the successful students of their admissions through letters that were posted to the postal addresses provided by the students in the University application form.

It was established that even though Ms. Milly Nafula Barasa did not receive any communication or report with regard to admission to any University, Moi University sent her admission letter through postal address 63-30205, Matunda. The University availed a certified copy of a letter that accompanied her admission documents.

The Commission wrote to the Postal Corporation of Kenya (PCK) to establish the post office box particulars for Address 63-30205, Matunda. The PCK indicated that the letter was sent as an ordinary mail which entails delivering the letters or emails into a private letterbox of the registered owner or the key holder to pick. The PCK indicated that one Hudson Wasike Isacson owned the above address from 2009 to 26th October 2020. Ms. Milly Nafula confirmed that she used the address in her university application while at Manor House Secondary School and that she knew the above person who at the time owned the postal address.

Therefore, the investigations absolved KUCCPS (formerly JAB) from any fault or failure to place Ms. Milly Nafula in a University and Moi University from the alleged failure to send her the admission documents.


3.0 Conclusions

From the investigations, the following conclusions were arrived at:

- i. It was confirmed that JAB placed Ms. Milly Nafula at Moi University to study Bachelor of Tourism Management which she had listed as her third choice at the same University during the central application at Manor Secondary School.
- ii. That there is no evidence of anyone using Ms. Nafula's details to register for Bachelor of Tourism Management at Chepkoilel Campus where the degree program was based, as alleged.
- iii. That though Ms. Milly Nafula alleged she did not receive the admission letter, Moi University sent her an admission letter through Postal address 63-30205, Matunda. An address then owned by one Hudson Wasike Isacson. Ms. Milly Nafula confirmed that she indicated/listed the address in her university application while at Manor House Secondary School and that she knew the person.

4.0 Consequential Observations

- i. It was noted that KUCCPS has improved the communication channels by providing an online platform where KCSE students can log in, and select their preferred courses and Universities. After application and placement, they are notified through the same student portal in regard to admission and reporting details. The KUCCPS system is interlinked and serves both the students and institutions of Higher Learning. Therefore, the likelihood of students missing to get their admission letters might be minimal.
- ii. That most institutions of higher learning notify the students of the courses and at which Institution through SMS and emails. They upload admission letters and other joining instructions on their websites for successful candidates to download by entering their form four index for admission.
- iii. It was noted that Milly visited her former high school to inquire about her admission to University but the School Principal informed her that the School had not received her admission letter from JAB, thereafter she visited the



then-District Education Office who wrote to the school about the same. It was noted that her efforts to get answers about the same were in vain.

- iv. The Commission takes note that Mt. Kenya University has offered to sponsor Ms. Milly Nafula to pursue a Bachelor of Medicine at the institution from September 2022.
- v. The Ag. Deputy Registrar Admissions at Moi University, stated that if Ms. Milly Nafula is ready and willing to pursue the Tourism course which she was selected to undertake then, he can recommend through the Deputy Vice-Chancellor Academics, Research and Extension, that she be admitted to undertake the course through the Government sponsorship program

5.0 Recommendations

Pursuant to section 42 (2) (c) of the CAJ Act, the Commission makes the following recommendations:

- i. KUCCPS to consider communicating to KCSE graduates updates on University and course revision deadlines and placement instructions via Message platforms, email addresses, social media pages, and mainstream media.
- ii. KUCCPS to consider notifying Head of Schools about the placement of their candidates and use online platforms to notify students of their placement.
- iii. All Universities to upload on their website names of students placed by KUCCPS in their Universities, Name of their Secondary Schools, KCSE index numbers, courses or programs considered for, and reporting dates in line with the Access to Information Act, 2016.
- iv. Given that not all Kenyan students can easily access online platforms (due to poor network coverage in some areas, remoteness, or poverty) The Ministry of Education through the Heads of Schools to consider guiding students in filling in the correct contact details (addresses, phone numbers and email addresses of guardians) during courses application.

Head Office

West End Towers, 2nd Floor, Waiyaki way
P.O. Box 20414- 00200, Nairobi
Tel: 0202270000 / 0800221349 (Toll Free)
Email: info@ombudsman.go.ke (for general inquiries)
complain@ombudsman.go.ke (for complaints)
Twitter: @kenyasombudsman
Facebook: Ombudsman Kenya

Kisumu Branch Office

Central square Building, 2nd Floor
Oginga Odinga Street
P.O. Box 1967 - 40100, Kisumu
Tel: 0572022810 / 0731248906
Email: kisumu@ombudsman.go.ke

Mombasa Branch Office

Mombasa Trade Centre, 2nd Floor,
North Wing, Nkrumah Road
(Former Ambalal House)
P.O. Box 80979 – 80100
MOMBASA.
Tel: 041 2315411/0731 011116
Email: mombasa@ombudsman.go.ke

Eldoret Branch Office

Kerio Valley Development Authority (KVDA)
Plaza, 7th Floor Oloo Street
P.O. Box 10326 - 30100, Eldoret
Tel: 020-8106515
Email: eldoret@ombudsman.go.ke

Isiolo Branch Office

County area, along kiwandani road,
Near KRA office
Tel: 020 2007671
Email: isiolo@ombudsman.go.ke

Nyahururu Branch Office

Laikipia County
Opposite Nyahururu Referral Hospital
Tel: 0800221349
Email: nyahururu@ombudsman.go.ke

Garissa Branch Office

Hosted by National Gender
and Equality Commission
KRA Route, Off Lamu Road
P O Box 485 - 70100, Garissa

Huduma Centres: Nairobi, Embu, Nyeri, Nakuru, Kajiado, Kakamega, Kisii, Bungoma, Kwale, Wundanyi, Makueni and Meru.

www.ombudsman.go.ke