

CHUKA



UNIVERSITY

UNIVERSITY EXAMINATIONS

RESIT/SPECIAL EXAMINATION

EXAMINATION FOR THE AWARD OF DEGREE OF BACHELOR OF LAWS

BLAW 213: ADMINISTRATIVE LAW

STREAMS: BLAW

TIME: 2 HOURS

DAY/DATE: WEDNESDAY 30/08/2023

2.30 P.M – 4.30 P.M.

INSTRUCTIONS

- **Answer question one and any other two**

QUESTION ONE

(a) Muchori Investment limited was contracted by the government of Kenami through the ministry of environment to build a dam. The contract was valued at Kshs 56 million. The dam was to be constructed within duration of 1 year commencing on 1st August 2015. The dam was meant to supply water to a nearby tree nursery beds growing indigenous trees. Upon successful feasibility study, the company was given a green light to commence the works by a letter dated 17th July 2015 and signed by the Principal Secretary, Ministry of Environment. The letter indicated that Muchori Investment was to be given a mobilisation fund equivalent to 25% of the contract price before the end of the month of August. The company commenced work after securing a loan of Kshs 20 million from Ukweli Bank. Unfortunately, the company had not been paid by the lapse of the agreed time. The company therefore continued mobilising its own funds until when their resources depleted. By this time, the company was halfway to completion. They thus wrote severally to the government requesting for part payment as per the agreement so that they manage to continue with the project. This never happened and actually the ministry through the principal secretary wrote back to the company notifying them of the government decision to terminate the contract for lack of enough funds. The company, thereafter, went to court and successfully got an order directed towards the principal secretary and the government of Kenami ordering them to pay for the work done in the contract. The court ordered the Permanent Secretary to the Ministry of Environment to pay to the company the sum of Kshs.30,500,672.50/= together with interest thereon at 12% per annum from 1st September, 2015 until payment in full. Despite several follows ups, the government has adamantly refused to pay.

Having been recommended as an expert in administrative matters, the managing director has sought your legal advice. Give a detailed advice to the company in regard to matters of administrative law under consideration. **(15 Marks)**

(b) You are a senior legal officer at the Commission on Administration of Justice in the state of Bakinyuma. You have received a complaint from Octavia, a national of Bakinyuma (An African state with a Constitution similar to that of Kenya). Octavia claims that she was harassed and her property destroyed by members of the Bakinyuma Armed Forces. She also claims that she is HIV positive and she has been denied access to anti-retroviral drugs in the health facility where she has been getting her drugs. This is simply because she refused to support the regime of Bakinyuma in the just concluded elections, where the incumbent president won. Citing relevant authorities advise Octavian and act on her behalf.

(15 marks)

QUESTION TWO

(a) Relying on relevant provisions of the law, discuss the role of the citizenry in the administration **(12 Marks)**

(b) The Constitution of Kenya provides on timeframes in regard to its implementation. James notes that the parliament was also required to enact a law providing for mechanism on how electorates can recall a member of parliament. As a legal assistant, prepare a legal memorandum to address these issues

(8 marks)

QUESTION THREE

(a) What are the parliamentary safeguards or mechanisms available in administrative law in regard to formulation of indirect legislation **(12 marks)**

(b) Discuss the common law doctrine of *nemo judex in re causa sua*

(8 marks)

QUESTION FOUR

(a) Examine the power and jurisdictions of inquiries in Kenya

(12 marks)

(b) Examine the development of administrative law in Kenya

(8 marks)

QUESTION FIVE

(a) Examine the safeguards put in place by the Constitution in limiting the power of the president from abuse **(12 marks)**

(b) Contrast constitutional law and administrative law

(6 marks)
