

Case *Note*

CASE NOTES & COMMENTARY
ODPC & HIGH COURT, KENYA

ONE RULING, DIGESTED ON ITS OWN – THE FACTS, THE HOLDING, AND THE PRACTICE POINT

📅 [2026] KEHC 3274

No ODPC complaint filed first means no petition, however genuine the grievance

Barasa v CSI Energy Group Limited

PETITION DISMISSED CASE NOTED DATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK & CO. ADVOCATES

A former employee complained that his employer kept his image on its website and marketing platforms after his resignation, causing emotional distress. The employer said it removed the material promptly on notice and had acted in good faith. The Court did not reach the merits: the petitioner had never lodged a complaint with the ODPC before going straight to a constitutional petition, and the core of the grievance was a data protection complaint squarely within the ODPC's mandate. The Court declined jurisdiction on the doctrine of exhaustion.

PRACTICE POINT

However sympathetic the facts, a data protection grievance that has never touched the ODPC is not yet ripe for a constitutional petition — file the complaint first, and keep the petition in reserve for genuine gaps in the ODPC's remedies.

Cite this page: Muchangi Patrick & Co. Advocates, "No ODPC complaint filed first means no petition, however genuine the grievance: Barasa v CSI Energy Group Limited" (dataprivacyadvocates.co.ke, 2026)
<<https://dataprivacyadvocates.co.ke/case-barasa-v-csi-energy-group-limited.html>>.

HOW THIS TOUCHES A LIVE ODPC MATTER

Whether you are defending a complaint, appealing a determination, or bringing a privacy claim of your own, the forum you choose and the procedural record you build early usually decide the outcome.

Muchangi Patrick & Co. Advocates represents complainants and respondents before the Office of the Data Protection Commissioner and on appeal, judicial review and constitutional petition before the High Court.

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