



Nyumbani Children's Home v. Ministry of Education & the Attorney General

Nyumbani Children's Home v. Ministry of Education, (2004) (Kenya).

Country: Kenya

Region: Africa

Year: 2004

Court: High Court of Kenya

Facts

The applicant, Nyumbani Children's Home, prayed a declaration from the High Court requiring public schools to permit HIV-positive children to enroll as students. The applicant represented ninety-one HIV-positive children who were prohibited from attending public schools. Forty-one children attended costly private schools, and the remaining fifty children studied informally at home. Nyumbani argued that school officials were using HIV status as a factor in determining which students to admit. Education officials claimed they were willing to accommodate the children subject to the availability of space in the respective schools.

The applicant, in collaboration with the Chamber of Justice, claimed that the public schools' policy unjustly discriminated against the children on the basis of their HIV status, and that there was no justifiable reason for precluding these children from attending public schools. The applicant offered scientific evidence that children living with HIV can live normal and healthy lives without affecting the well-being of other children.

Decision and Reasoning

The parties settled the matter privately. The public schools agreed to abolish the admission policy prohibiting the enrollment of HIV-positive children.

Decision Excerpts