

SOUTH AFRICA / JUDGMENT

Afriforum v South African Human Rights Commission and Others (14370-2019) [2024] ZAGPJHC 317 (27 March 2024) [2024] ZAGPJHC 317

COURT

South Gauteng High Court, Johannesburg

BEFORE

Roland Sutherland

CASE / FILE NUMBER

14370/2019

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REPUBLIC

OF SOUTH AFRICA

IN

THE HIGH COURT OF SOUTH AFRICA

GAUTENG

DIVISION, JOHANNESBURG

Case

no: 14370/2019

31328/2019

1.

REPORTABLE: no

2.

OF INTEREST TO OTHER JUDGES: no

In

the matter between:

AFRIFORUM
First Applicant
and
THE
SOUTH AFRICAN HUMAN RIGHTS COMMISSION First
Respondent
THE
CHAIRPERSON: BONGANI
Second Respondent
CHRISTOPHER
MAJOLA N.O
COMMISSIONER
PRISCILLA JANA N.O
Third Respondent
JULIUS
MALEMA
Fourth Respondent
ECONOMIC
FREEDOM FIGHTERS
Fifth Respondent
And,
FREDERIK
WILLEM DE KLERK N.O
First Applicant
DAVID
WHITEFOORDT STEWARD N.O
Second Applicant
HERMAN
BAILEY N.O
Third Applicant
BEN
COETZEE BESTER N.O
Fourth Applicant
WARREN
ALEXANDER MORTEN CLEWLOW N.O
Fifth Applicant
ELIZABETH
DE KLERK N.O
Sixth Applicant
THEUNIS
ELOFF N.O
Seventh Applicant
DEENADA
YALEN KONAR N.O
Eighth Applicant
FORTUNATE
MASHEBU MATHEBULA N.O
Ninth Applicant
And
THE
SOUTH AFRICAN RIGHTS COMMISSION

First
Respondent
THE
CHAIRPERSON: BONGANI
Second Respondent
COMMISSIONER
PRISCILLA JANA N.O
Third Respondent
JULIUS
MALEMA
Fourth Respondent
ECONOMIC
FREEDOM FIGHTERS
Fifth Respondent
This
judgment for application for leave to appeal has been delivered by
uploading it to the caselines digital database of the Gauteng
Division of the High Court of South Africa, Johannesburg, and by
email to the attorneys of record of the parties on 27 March 2024.

JUDGMENT

ON LEAVE TO APPEAL

Sutherland DJP:

- [1] In this matter, which is an application for leave to appeal, and then an application on a conditional basis for a cross leave to appeal.
- [2] After hearing counsel I am satisfied that its appropriate that leave to appeal be granted and that the application for leave to cross appeal similarly be granted.
- [3] Therefore, I make the following order:
- (1) Leave to appeal is granted to the South African Human Rights Commission against the order.
- (2) Leave to appeal is granted to the first applicant (Afriforum) in terms set out below:
- 2.1 That, conditional on the appeal court finding that the finding/decision of the South African Human Rights Commission (SAHRC) of 8 March 2019 constitutes a decision of the type that is reviewable, Afriforum be granted leave to cross appeal against the order contained in paragraph 2 of the High Court order in order to seek an order on appeal:
- 2.1.1 Granting the relief contained in the notice of motion of Afriforum, specifically that the decision of the SAHRC of 8 March 2019 be reviewed and set aside; alternatively be reviewed and corrected; alternatively
- 2.1.2 Remitting the case to the High Court for the further hearing of the matter on such terms as the appeal court may determine.

(3) The costs of the appeal and the cross appeal shall be costs in the appeal itself.

Roland Sutherland

Deputy Judge President, Gauteng Division, Johannesburg.

Heard: 27 March 2024

Judgment:

27 March 2024

Appearances:

For Afriforum:

Adv C Woodrow SC

Instructed by Hurter Spies Incorporated

For South African Human Rights Commission:

Adv K Pillay,

With her, Adv K Hardy

Instructed by South African Human Rights Commission

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Prepared on 11 October 2026 · Esheria