

SOUTH AFRICA / JUDGMENT

Democratic Alliance v City of Johannesburg (052407/2024) [2025] ZAGPJHC 107 (14 February 2025) [2025] ZAGPJHC 107

COURT

South Gauteng High Court, Johannesburg

BEFORE

S D J Wilson

CASE / FILE NUMBER

052407/2024

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IN

THE HIGH COURT OF SOUTH AFRICA
(GAUTENG
LOCAL DIVISION, JOHANNESBURG)

(1)

REPORTABLE: NO

(2)

OF INTEREST TO OTHER JUDGES: NO

(3)

REVISED.

14

February 2025

Case

No. 052407-2024

In

the matter between:

THE
DEMOCRATIC ALLIANCE
Applicant
and
CITY
OF JOHANNESBURG
First Respondent
COUNCIL
OF THE CITY OF JOHANNESBURG
Second Respondent
CITY
MANAGER, CITY OF JOHANNESBURG
Third Respondent
SPEAKER,
CITY OF JOHANNESBURG
Fourth Respondent
MARGARET
ARNOLDS
Fifth Respondent
MINISTER OF
CO-OPERATIVE GOVERNANCE
AND
TRADITIONAL AFFAIRS
Sixth Respondent
MEC FOR CO-OPERATIVE
GOVERNANCE AND
TRADITIONAL
AFFAIRS, GAUTENG
Seventh Respondent

JUDGMENT

WILSON J:

1 On 2 January 2025, I handed down judgment in *Democratic Alliance v City of Johannesburg* (052407/2024) [2025] ZAGPJHC 1. In that decision, I declared unconstitutional and invalid a resolution adopted by the second respondent, the City Council. The resolution approved a document developed by the first respondent, the City, called the “Protection and Security for VIP Risk Management System Policy” (“the policy”). The policy regularised the City’s prior decision to increase the number of personal protection officers afforded to some municipal councillors beyond the limits prescribed under section 7 (1) of the Remuneration of Public Office Bearers Act 20 of 1998 (“the Act”). I also set that prior decision aside.

2 Because none of the respondents had placed any information before me about the extent to which such an order might place the affected municipal councillors in danger, I suspended my order until noon on 14 February 2025. I made allowance for the extension of that

period beyond 14 February 2025 if facts could be adduced to demonstrate that an extension is necessary to avoid imminent harm.

3 On the afternoon of 13 February 2025, less than twenty-four hours before the period of suspension was due to expire, the City filed an application to extend the suspension. The City's notice of motion neglects to specify the period for which the extension is sought. However, in his affidavit filed in support of the application, Mr. Patrick Jaca, who describes himself as the City's Chief of Police, suggests that the City will require until 30 April 2025 to remedy its non-compliance with the requirements set by the sixth respondent, the Minister, under section 7 of (1) of the Act.

4 Whether or not that is so, my order makes clear that an extension is not to be granted merely because the City might need more time to comply with the law. An extension will only be granted if it is required to avoid imminent harm.

5 In this respect, Mr. Jaca's affidavit is sorely lacking. Mr. Jaca says that he has sent letters to the Provincial Commissioner

of Police in which he asks the Commissioner to carry out assessments of whether the "inherent risks" associated with the work of various senior municipal councillors might justify enhanced personal protection. That is obviously not the same as saying that imminent harm will ensue unless my order of 2 January 2025 is further suspended.

6 Mr. Jaca does say in his affidavit that two senior municipal councillors – the Chief Whip and the Member of the Mayoral Committee for Public Safety – have, at some unspecified point in the past, received anonymous threats. He also says that the Member

of the Mayoral Committee for Finance thought that she had been followed home on her way from work one evening. However, there is no suggestion that any of these councillors will come to any harm if my order is brought into effect. None of these councillors deposes to an affidavit setting out the harm they think might ensue if the suspension expires today. In the case of the Chief Whip, there is no attempt to say why the two bodyguards to which he is already entitled under the Act are insufficient to address any concerns he may have.

7 It follows that the City has failed to adduce facts showing that imminent harm will follow if the suspension I placed on my order

of 2 January 2025 is allowed to expire.

8 I should add that nothing in my judgment prevents the City from providing adequate security to any of its officials or councillors who face a specific threat to their safety in a particular context or on a particular occasion. What my judgment strikes at is the extension of illegal, round-the-clock, personal protection to particular councillors simply by virtue of the offices they hold. The City has given no reason why that illegality should be perpetuated beyond today.

9 The application is dismissed.

S D J WILSON

Judge of the High Court

This judgment is handed down electronically by circulation to the parties or their legal representatives by email, by uploading it to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 14 February 2025.

APPLICATION

RECEIVED ON:

13 February 2025

DECIDED ON:

14 February 2025

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