

SOUTH AFRICA / JUDGMENT

## Helen Suzman Foundation v South African Broadcasting Corporation Soc Ltd and Others (52160/16) [2016] ZAGPPHC 606 (20 July 2016) [2016] ZAGPPHC 606

COURT

North Gauteng High Court, Pretoria

BEFORE

Murphy

CASE / FILE NUMBER

52160/16

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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

Case No: 52160/16

BEFORE THE HONOURABLE MR JUSTICE MURPHY

PRETORIA, 20 JULY 2016

HELEN SUZMAN FOUNDATION Applicant

And

THE SOUTH AFRICAN BROADCASTING

CORPORATION SOC LTD 1st Respondent

HLAUDI MOTSOENENG: CHIEF OPERATING OFFICER

OF THE SOUTH AFRICAN BROADCASTING

CORPORATION SOC LIMITED 2nd Respondent

MINISTER OF COMMUNICATIONS 3rd Respondent

PROF MBULAHENI OBERT MAGUVHE 4th Respondent

LEAH THABISILE KHUMALO 5th Respondent

VUSIMUZI GOODMAN MOSES MAVUSO 6th Respondent

KRISH NAIDOO 7th Respondent

DR. NDIVHONISWANI AARON TSHIDZUMBA 8th Respondent

NOMVUYO MEMORY MHLAKAZA 9th Respondent

JAMES ROGERS AGUMA 10th Respondent

FRANS LEKOAPA MATLALA 11th Respondent

ORDER

PART A

IT IS ORDERED THAT

1. Pending the final determination of Part B of this application, including any appeal of the review proceedings under Part B:

1.1. each of the respondents is interdicted from giving effect to, implementing or enforcing the censorship decision, as defined in paragraph 9 of the founding affidavit of Francis Antonie (“the founding affidavit”);

1.2. the first and second respondents are required to exercise their editorial discretion in accordance with the Constitution, the Broadcasting Act, 1999, and the Broadcasting Complaints Commission of South Africa Free- To-Air Code of Conduct for Broadcasting Service Licensees, 2009, and in accordance with the following order:

1.2.1. the first, second and fourth to eleventh respondents are interdicted from adopting or giving effect to any decision, policy, guidelines or instruction which would require the events in 1.2.1.1 to 1.2.1.9 below not to be broadcast, reported upon, covered, publicised, disseminated to the public, or afforded media coverage (“the relevant decisions”). For the avoidance of doubt, this includes any policy, guideline or instruction which would result in partial coverage without visuals, or preclude coverage, by the first respondent of the following:

1.2.1.1. any peaceful protest or demonstration;

1.2.1.2. any violent protest or demonstration;

1.2.1.3. any peaceful or violent protest or demonstration against service delivery;

1.2.1.4. any peaceful or violent protest or demonstration against the Policy (as defined in paragraph 92 of the founding affidavit);

1.2.1.5. any peaceful or violent protest or demonstration against government or a public body, at any level (local, municipal, provincial, regional or national);

1.2.1.6. any protest, demonstration, commentary or news piece which portrays, or has the potential to portray:

1.2.1.6.1. government (at any level); or

1.2.1.6.2. any political leader or government employee or officer, including a member of the National Executive

in a negative light;

1.2.1.7. any politically motivated protest or demonstration (whether violent or peaceful);

1.2.1.8. any events or actions (including violent or peaceful protest or demonstration) that reflects, or may reflect, any political party or politician in a negative light; and/or

1.2.1.9. any events or actions (including violent or peaceful protest or demonstration) that reflect, or may reflect, negatively upon the President of the Republic of South Africa;

2. the first respondent is liable to pay the cost of the application for Part A relief on the scale as between attorney and client, including the costs of two counsel.

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