

SOUTH AFRICA / JUDGMENT

Heradien v Meshoa and Others

(768/2024)

[2024] ZAWCHC 37 (13 February 2024)

[2024] ZAWCHC 37

COURT

Western Cape High Court, Cape Town

BEFORE

Adhikari AJ

CASE / FILE NUMBER

768/2024

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IN THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE HIGH COURT, CAPE TOWN)

Case No: 768/2024

In the matter between:

PETRUS HERADIEN Applicant versus WERNER MESHOA First Respondent JEFFREY DONSON
Second Respondent VALENCIO DONSON Third Respondent BARBARA OWEN Fourth Respondent
INDEPENDENT CIVIC ORGANIZATION OF SOUTH AFRICA Fifth Respondent INDEPENDENT
ELECTORAL COMMISSION Sixth Respondent THE CHIEF ELECTORAL OFFICER OF THE
INDEPENDENT ELECTORAL COMMISSION Seventh Respondent WITZENBERG MUNICIPALITY
Eighth Respondent MUNICIPAL MANAGER OF WITZENBERG MUNICIPALITY Ninth Respondent
JONATHAN NEL Tenth Respondent

Coram: Adhikari AJ

Heard: 26 January 2024

Delivered: 13 February 2024

JUDGMENT DELIVERED ELECTRONICALLY ON 13 FEBRUARY 2024

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by email. The date for the hand-down is deemed to be on 12 February 2024.

ADHIKARI, AJ

- [1] This is an urgent application for an interdict, pending the outcome of judicial review proceedings instituted under Part B of the Notice of Motion ('Part B').
- [2] The applicant, Mr Heradien was a member of the fifth respondent ('ICOSA'), a political party that holds a seat on the Municipal Council ('the Council') of the eighth respondent ('the Witzenberg Municipality'). During the tenure of his membership, Mr Heradien was the proportional representation councillor ('PR councillor')

representing ICOSA on the Council. Following the termination of his membership he was replaced as PR councillor by the tenth respondent ('Mr Nel').

- [3] Mr Heradien sought an urgent interim interdict, pending a review of the termination of his membership of ICOSA and his replacement as PR councillor by Mr Nel:

[3.1] Suspending the purported decision taken on 4 December 2023, to expel him as a member of ICOSA;

[3.2] Suspending the purported decision of the sixth respondent ('the IEC') to replace him with Mr Nel as the ICOSA PR councillor on the Council;

[3.3] Restraining the respondents from interfering with or hindering him from carrying out his duties as the ICOSA PR councillor; and

[3.4] Directing that he immediately be returned to his position as the ICOSA PR councillor.

- [4] The interdictory relief is opposed by Mr Nel and the first to fifth respondents ('the respondents'). [1] The Witzenberg Municipality and the ninth respondent ('the Municipal Manager') delivered an explanatory

affidavit in which they state that they abide by the decision of the court but oppose any costs being granted against them. At the commencement of the hearing Mr Filand who appeared for Mr Heradien confirmed that his client would not seek costs

against Witzenberg Municipality or the Municipal Manager. In the practice note filed by Mr Filand prior to the hearing, he was indicated that the IEC and the seventh respondent had advised his attorney telephonically that they would not oppose the relief sought, and that his attorney had given the IEC and the seventh respondent an undertaking that costs would not be sought against them.

- [5] The respondents oppose the relief sought in Part A on the basis that the relief is incompetent; the requirements for an interim interdict have not been satisfied; and the application constitutes an abuse of process.

RELEVANT FACTUAL

BACKGROUND

[6] On 23 October 2023 Mr Heradien received a letter from the fourth respondent in which she stated that she had been appointed as an investigator by an ad hoc disciplinary committee of ICOSA to investigate two incidents of alleged misconduct against Mr Heradien, in that he was alleged to have breached clauses 2.5.3.3, and/or 2.5.3.6 and 2.5.3.7 of the constitution of ICOSA ('the constitution').^[2] It appears, however, that no further steps were taken in respect of these allegations of misconduct against Mr Heradien.

[7] On 17 November 2023 Mr Heradien received a letter from the first respondent in which he was informed that he had not paid his monthly councillor contribution to ICOSA which had been due on 7 November 2023, and affording him three days to settle his outstanding dues.

[8] The respondents contend that correspondence was sent to ICOSA members, including Mr Heradien, advising them that they were required to urgently renew their membership before 18h00 on 22 November 2023 in anticipation of the upcoming national

congress which was scheduled for 8 December 2023. Mr Heradien denies having received this correspondence. It appears to be common cause that Mr Heradien did not attend a meeting held on 18 November 2023 at which ICOSA members were reminded to renew their membership of the party before 22 November 2023.

[9] It is, however, not in dispute that Mr Heradien received the 17 November 2023 letter in which he was informed that he had not paid his monthly councillor contribution to ICOSA and it is further not in dispute that he received a further letter dated 27 November 2023 in which he was again advised that he had not paid his monthly councillor contribution to ICOSA

,and in which he was advised to pay his outstanding dues by the close of business on that day (that is 27 November 2023).

[10] Mr Heradien does not deny that he failed to pay his membership dues to the NEC. He contends in the replying affidavit that he had in fact paid his monthly contributions to "the Western Cape Division of ICOSA which [he] recognized (sic) as the only legitimate structure of ICOSA". It appears from the papers that Mr Heradien and certain other ICOSA members took issue with the legitimacy of the NEC, and as a consequence, ceased paying their membership dues to the bank account controlled by the NEC. The contention in the replying affidavit is that Mr Heradien and those other ICOSA members instead took a decision to pay their membership dues into a bank account controlled by what appears to be a breakaway provincial structure. Mr Heradien in the replying affidavit contends that he paid his membership dues into this alternative bank account on 7 October 2023.

[11] The respondents, on the other hand, contend that Mr Heradien's membership terminated automatically as provided for in clause 3.3.1.4 read with clause 3.3.2 of the constitution as a consequence of his failure to pay his membership dues by 22 November 2023.

- [12] Mr Heradien was advised on 4 December 2023 that his membership of ICOSA had terminated. On 11 December 2023 the second respondent addressed correspondence to the Municipal Manager advising him of the termination of Mr Heradien's membership of ICOSA. On 12 December 2023 the Municipal Manager advised the IEC that Mr Heradien was no longer a member of ICOSA and that in terms of s 27(c) of the Local Government Municipal Structures Act 117 of 1998 ('the Structures Act') Mr Heradien had ceased to be a member of the Council and to hold office as a councillor.
- [13] On 18 December 2023 the IEC advised the Municipal Manager that Mr Nel had been declared elected to the Council, being the candidate at the top of the ICOSA party list, and that Mr Nel had replaced Mr Heradien as the ICOSA PR councillor.

THE INTERIM RELIEF SOUGHT

- [14] The well-established requisites for an interim interdict are[3] a prima facie right, namely prima facie proof of facts that establish the existence of a right in terms of substantive law; [4] a well-grounded apprehension of irreparable harm if the interim relief is not granted, and the ultimate relief is eventually granted; that the balance of convenience favours the granting of an interim interdict; and that the applicant has no other satisfactory remedy.
- [15] These requirements must not be considered separately or in isolation, but in conjunction with one another in order to determine whether the Court should exercise its discretion in favour of granting interim relief.[5] Prospects of success in the main application is a key factor in determining whether interim relief pendente lite should be granted, in that the stronger the prospects of success, the less the need for the balance of convenience to favour the applicant, and vice versa.

The prima facie right

- [16] Prima facie proof of facts for purposes of interim relief has been formulated as follows:[6] the right can be prima facie established, even if it is open to some doubt, mere acceptance of the applicant's allegations is insufficient, but a weighing up of the probabilities of conflicting versions is not required. The proper approach is
- (i) to consider the facts as set out by the applicant together with any facts set out by the respondents which the applicant cannot dispute; (ii) to decide whether, with regard to the inherent probabilities and the ultimate onus, the applicant could[7] on those facts obtain final relief in due course; and (iii) to then consider the facts set up in contradiction by the respondents,

and if they throw serious doubt on the applicant's case the latter cannot succeed.

- [17] The prima facie right that Mr Heradien asserts in the founding affidavit is the right to review the conduct of ICOSA in summarily expelling him as a member of the party without due process and in breach of the provisions of the constitution relating to expulsion of members. It would appear, at first blush, that Mr Heradien's application falters at the first

hurdle given the principle articulated in OUTA,[8] that the prima facie right that an applicant must establish is more than simply his right to approach the court for a review, and that he must demonstrate a prima facie right threatened by an impending or imminent irreparable harm.

[18] However, on a generous interpretation of the case made out in the founding affidavit, it appears that Mr Heradien contends that he has a prima facie right to

(a) the suspension of the decisions to expel him and to replace him as a PR councillor, (b) be returned to his position as ICOSA's PR councillor, and (c) an order prohibiting the respondents from interfering with his ability to carry out his duties as a councillor on his return to the Council. Mr Heradien appears to contend that he has a right to the aforesaid interim relief because the purported decision to terminate his membership is unlawful and stands to be reviewed and set aside in that:

[18.1] His membership was terminated (a) in breach of the due process provisions in the constitution, (b) in breach of the disciplinary process prescribed by clause 8 of the constitution, and (c) without regard to the rules of natural justice, in that ICOSA failed to consult with him prior to his expulsion, he did not receive a charge sheet and he was not afforded an opportunity to make representations;

[18.2] He was not afforded a hearing before his membership was terminated, in breach of the audi alteram partem principle; and

[18.3] His membership was terminated in order to settle a political score, (that is with an ulterior purpose).

[19] In order to interrogate these submissions, I must consider the grounds of review in the main review application and assess their strength, and I must be satisfied that Mr Heradien has good prospects of success in the main review, based on strong grounds which are likely to succeed before I may grant the interim interdict that he seeks.[9]

There was no decision taken

[20] The respondents contend that there was no decision taken to terminate Mr Heradien's membership and that his membership terminated automatically in consequence of the provisions of clauses 3.2.2, 3.3.1.4, and 3.3.2 of the constitution, when he failed to renew his membership by the date prescribed by the NEC (that is by 22 November 2023).

[21] Clause 3.1.1.4 of the constitution provides that a member ceases to be a member of ICOSA when he fails to renew his membership on or before the date determined by the NEC in terms of clause 3.2.2 of the constitution which in turn provides that the date of payment of annual membership subscriptions shall be determined by the NEC. Clause 3.3.2 of the constitution provides that a member who ceases to be a member of ICOSA, loses all privileges of party membership and if that member is a public representative, he also loses the office which he occupies by virtue of his membership, with immediate effect.

[22] Mr Heradien does not dispute that he failed to pay his membership dues to the NEC. Instead, he contends that he paid his membership dues on 7 October 2023 to the alternative bank account controlled by the breakaway provincial structure.

[23] The evidence on which Heradien relies in support of the contention that he made payment of his outstanding membership dues are:

[23.1] A document styled as a “witness statement” from one Dawie Kampher (‘Mr Kampher’)[10] in which he identifies himself as the interim leader of ICOSA, and in which he states that at a meeting held on 7 October 2023

membership fees, including the membership fees of Mr Heradien, were paid and that “[t]he fees paid on this day was (sic) to be used for the booking of the hall and refreshments, which was paid in advance by Mr Benjamin Marsala and was (sic) compensated back unto (sic) him at the conclusion of the meeting.”

[23.2] A letter dated 17 October 2023 addressed to the Municipal Manager by Mr Benjamin Marsala (‘Mr Marsala’) who identified himself as the Provincial Chairperson of ICOSA, requesting that “all future debit orders” be paid into a “Gold Business Account” at an unidentified bank with the account name recorded as “ICOSA” and stating that “[a]ll party contributions will use this account”.

[23.3] An ICOSA membership form completed by Mr Heradien and dated 7 October 2023.

[24] The difficulty for Mr Heradien is that none of these documents demonstrate that the outstanding membership fees were in fact paid into the alternative bank account referred to in the replying affidavit, or that this alternative bank account is in fact a bank account operated by “the Western Cape Division of ICOSA” as alleged by Mr Heradien.

[25] It bears emphasis that no bank statements or any other documents are annexed to Mr Heradien’s affidavits substantiating the contention that this alternative bank account exists and is a bank account operated by “the Western Cape Division of ICOSA”. Further no proof of payment is annexed to Mr Heradien’s affidavits indicating that he made payment of his outstanding

membership dues into this alternative bank account. If fact, the evidence put up by Mr Heradien demonstrates the opposite.

It is clear from Mr Kampher’s witness statement that the membership fees that were paid on 7 October 2023

(which purportedly included the membership fees of Mr Heradien) were paid over to Mr Marsala to reimburse him for monies that he had expended to pay for the hall in which the meeting of 7 October 2023 was held, and the refreshments provided at the meeting. There is no provision in the constitution that provides for membership fees to be paid in this manner.

[26] It appears from the facts alleged by Mr Heradien that he did not pay his membership fees to ICOSA by 22 November 2023.

Consequently his membership of ICOSA terminated.

[27] In *Phenithi v Minister of Education and others*, the Supreme Court of Appeal held that a consequence that occurs by operation of law is not administrative action in terms of PAJA (for an act to qualify as “administrative action” under PAJA, it must constitute a “decision”).

[11] In *Phenithi* a teacher was dismissed as a result of s 14(1)(a) of the Employment of Educators Act 76 of 1998 because she had been absent from work without leave for 14 days. The Supreme Court of Appeal concluded that the teacher could not review her dismissal under PAJA because no decision had been taken. Her employment terminated automatically.

[28] The Supreme Court of Appeal quoted with approval the following statement in *Minister van Onderwys en Kultuur en Andere v Louw*:^[12]

“There is then no question of a review of an administrative decision. Indeed, the coming into operation of the deeming provision is not dependent upon any decision. There is thus no room for reliance on the audi rule which, in its classic formulation, is applicable when an administrative - and discretionary - decision may detrimentally affect the rights, privileges or liberty of a person.”

[29] While this does not preclude the possibility of reviewing the authority’s determination that the factual basis for the operation of the provision exists, there is no scope to demand a hearing before a law applies. In this matter the objective jurisdictional fact necessary for Mr Heradien’s expulsion as a member (that is his failure to pay his membership fees to ICOSA) has been established on the evidence put up by Mr Heradien himself.

[30] This Court has consistently applied the principle established in *Minister van Onderwys en Kultuur* and in *Phenithi* to matters involving the automatic termination of membership of a political party.

[30.1] In *Henderson v The Democratic Alliance*^[13] where the constitution of the Democratic Alliance stated that a person’s membership ipso facto ceased upon his or her conviction, it was held that upon conviction there was no decision to end the applicant’s membership of the Democratic Alliance.

[30.2] In *Noland v Independent Democrats*^[14] this court per Louw and Erasmus JJ considered the validity of a decision to summarily expel the applicant from the Independent Democrats (‘ID’) before the opening of the floor-crossing window-period; as well as the validity of her subsequent attempt to

cross the floor. In so doing, it became clear that the applicant had signed a floor-crossing form before her expulsion, thus

indicating her desire to join another party. The court noted that in terms of clause 15 of the ID's constitution a member automatically terminated their membership if they joined another party. The case was ultimately decided on other bases, but the court noted that "[o]n the construction of the constitution, she had, by joining another party, automatically terminated her membership, the applicant ceased to be a member of the ID before the end of Friday 31 August 2007."

[30.3] *Brummer v Democratic Alliance & Others*,^[15] this court held that, absent an attack on the validity of the relevant clause in the constitution of the Democratic Alliance which

provided for automatic termination of membership on failure to pay candidate fees for a period of two months, a member who fell foul of the provision in question after demand has no prima facie right to have their membership re-instated.

[31] In *Andrews v Democratic Alliance*^[16] this court, in dismissing a claim for interdictory relief on substantially similar grounds those raised by Mr Heradien in

these proceedings, referred to the aforementioned judgments, and held that "these cases conclusively refute the applicant's suggestion that it is grossly unfair or unconscionable for a political party to include in its constitution provisions which summarily terminate membership of the party in defined circumstances. This court has repeatedly accepted that these provisions require no decision". In this matter too, there is no challenge to the provisions of the constitution on which the respondents rely.

[32] Further, the constitution read as a whole, must be looked at to determine whether according to its terms, construed in accordance with the ordinary principles of construction^[17] there is any merit in Mr Heradien's contention that the termination of his membership was, in any event, subject to the

disciplinary process prescribed in clause 8 of the constitution.

[33] Clause 3.3.1 of the constitution provides that a member ceases to be a member of ICOSA when the member in question engages in any of the conduct set out in clauses 3.3.1.1 to 3.3.1.7. Clause 3.4.1 provides that "apart from clause 3.3.1 the membership of any member including that of a public representative may only be determined by a provincial executive and only after a proper process in terms of the constitution". Applying the ordinary principles of construction to the aforementioned provisions,^[18] it is clear that the disciplinary procedure in clause 8 of the constitution does not apply to the cessation of membership as provided for in clause 3.3.1 of the constitution. Put differently, the disciplinary procedure in clause 8 applies to cessation of membership in terms of any provision of the constitution, other than cessation as contemplated in clause 3.3.1.

[34] Having regard to the provisions of the constitution governing the termination of Mr Heradien's membership, in light of the decisions to which I have referred and by which I am bound, I am unable to find that there was a decision taken by ICOSA to terminate Mr Heradien's membership, or that he was entitled to a hearing before his membership was terminated.

His membership terminated automatically when he failed to pay his membership fees.

[35] Further, s 27(c) of the Structures Act provides that a councillor vacates office during a term of office if that councillor was elected from a party list referred to in Schedule 1 or 2 and ceases to be a member of the relevant party. It follows that if a member of a party who became a councillor by virtue of being elected from a party list, ceases to be a member of the relevant party, that councillor vacates office.

[36] Item 18 (1) (b) of Schedule 1 the Structures Act provides that "if a councillor elected from a party list ceases to hold office, the chief electoral officer must, subject to Item 20, declare in writing the person whose name is at the top of the applicable party list to be elected in the vacancy".

[37] The provisions of s 27(c) read Item 18 (1) (b) of Schedule 1 of the Structures Act are peremptory. There is no decision involved in the replacement of a councillor elected from a party list. Where a councillor elected from a party list ceases to be a member of the party in question, he or she vacates their seat by operation of law and is replaced by operation of law with the person whose name appears at the top of the relevant party list. That is precisely what happened in this matter. No decision was taken by the IEC to replace Mr Heradien with Mr Nel as the ICOSA PR councillor.

[38] Consequently, I am not satisfied that Mr Heradien has good prospects of success in the main review, and Mr Heradien has thus failed to establish that he has a prima facie right to the interim relief sought.

Reasonable apprehension of irreparable harm

[39] Mr Heradien's failure to establish a prima facie right for the purposes of interim interdictory relief ought to be the end of the matter, however, for the sake of completeness, it bears emphasis that the conduct that Mr Heradien seeks to interdict in prayers 2.1 and 2.2 of Part A of the notice motion, has already occurred. He has been expelled as a member of ICOSA and he has been replaced as a councillor. An interdict is not a remedy for past invasion of rights but is concerned with present or future infringements.[19] It is appropriate where future injury is feared.[20] An interdict is meant to prevent future conduct and not conduct that has already occurred or decisions already made.[21] Consequently, Mr Heradien has failed to demonstrate a well-grounded apprehension of irreparable harm.

[40] Mr Heradien in addition seeks interim relief to, in effect, temporarily reinstate his membership of ICOSA, in order to retain his seat on the Council until a court can hear Part B and decide whether he is a member of ICOSA or not, in order to secure his salary. A similar argument was rejected by this court in *Harding v The Independent Democrats*. [22]

[41] I agree with the submission of Ms Foster who appeared for the respondents, that Mr Heradien's financial position cannot justify the Court interfering with the proper functioning of a political party or of the Council. This is particularly so where Mr Heradien has made it clear that he does not recognise the NEC as the legitimate leadership structure of ICOSA and where he has made it clear that he does not intend to follow the NEC's instructions. If Mr Heradien could occupy

ICOSA's seat on the Council, to secure his personal financial interests and outside the party's discipline, while in open dispute with the party, ICOSA would effectively lose the seat which it won in democratic elections. There is no basis in law to justify such far reaching relief.

[42] For these reasons, the application for interim interdictory relief must fail.

COSTS

[43] It is an established principle of law that costs are generally not awarded in interlocutory proceedings, unless there are exceptional

circumstances that warrant the departure from this rule. [23] This is so for good reason: a court finally hearing a matter is better placed, having regard to all the evidence, to determine whether the application was well-founded.

[44] The respondents contend that the application constitutes an abuse of process and for that reason ask that costs be awarded against Mr Heradien. Although the application for interim relief has not succeeded, there is no basis on which to find that Mr Heradien lacked bona fides in bringing the application or that the application for interim relief constitutes an abuse of process. I am not persuaded that there are exceptional circumstances in this matter that warrant determining costs at the interlocutory stage.

In the result I make the following order:

1. The application for interim relief in Part A of the notice of motion is dismissed.
2. The costs of this application shall stand over for determination by the court hearing the relief sought in Part B of the notice of motion.

M. ADHIKARI

Acting Judge of the High Court

APPEARANCES: Applicant's Counsel: Mr D Filand Instructed by: Duncan Korabie Attorneys First to Fifth and Tenth Respondents' Counsel: Ms J Foster Instructed by: Andrews & Co Attorneys

- [1] The first to fourth respondents are all office bearers of ICOSA. For ease of reference, I refer to Mr Nel and the first to fifth respondents collectively as ‘the respondents’.
- [2] The quoted provisions of the constitution provide that any member of ICOSA, including a public representative, is guilty of misconduct if he or she is disloyal to ICOSA; acts in a manner that is unreasonable and detrimental to internal co-operation within ICOSA; unreasonably fails to comply with or rejects decisions of the official structures of ICOSA or of the national executive committee (‘the NEC’) or the provincial executive committee (‘the PEC’).
- [3] Setlogelo v Setlogelo 1914 AD 221. See also Pilane v Pilane and Another (4) BCLR 431 (CC) para [39].
- [4] National Council of Societies for the Prevention of Cruelty to Animals v Openshaw [2008] ZASCA 78; 2008 (5) SA 339 (SCA) para [20].
- [5] Olympic Passenger Services (Pty) Ltd v Ramlaga 1957 (2) SA 382 (D) at 383E-F.
- [6] Webster v Mitchell 1948 (1) SA 1186 (W), as qualified by Gool v Minister of Justice 1955 (2) SA 682 (C); Spur Steak Ranches Ltd v Saddles Steak Ranch 1996 (3) SA 706 (C) at 714.
- [7] In Webster v Mitchell, the test was whether the applicant could obtain final relief on those facts. Gool v Minister of Justice, qualified this, saying the test was “should” however, in cases of urgent applications the lesser test formulated in Webster’s case may be applied: Singh & Co. (Pty) Ltd v Pietermaritzburg Local Road Transportation Board 1959 (3) SA 822 (N).
- [8] National Treasury and others vs Opposition to Urban Tolling Alliance and others 2012 (6) SA 223 (CC) at para [50].
- [9] Economic Freedom Fighters v Gordhan and Others; Public Protector and Another v Gordhan and 2020 (6) SA 325 (CC) at para [42].
- [10] A confirmatory affidavit was filed by Mr Kampher in these proceedings.
- [11] Phenithi v Minister of Education and others 2008 (1) SA 420 (SCA) at paras [9]-[10].
- [12] Minister van Onderwys en Kultuur en Andere v Louw [1994] ZASCA 160; 1995 (4) SA 383 (A) at 388-389.

- [13] Henderson v The Democratic Alliance unreported case no. 2540/2007, 4 December 2007 at para [9].
- [14] Noland v Independent Democrats, unreported judgment case number 13275/07, 1 April 2008, per Louw and Erasmus JJ at para [26].
- [15] Brummer v Democratic Alliance & Others, unreported judgment case number 17305/2012 (12 September 2012).
- [16] Andrews v The Democratic Alliance, unreported case No. 17633/2012, 13 November 2012 at para [33].
- [17] Bothma-Batho Transport v S Bothma & Seun Transport 2014
- (2) SA 494 SCA at para [12].
- [18] Natal Joint Municipal Pension Fund v Endumeni Municipality 2012
- (4) SA 593 (SCA) at para [18]
- [19] NCSPCA v Openshaw para [20].
- [20] Phillip Morris Inc v Marlboro Trust Co SA 1991 (2) SA 720 (A) at 735B.
- [21] OUTA at para [50].
- [22] Harding v The Independent Democrats
- [2008] 2 All SA 199 (C) at 206.
- [23] EMS Belting Co of SA (Pty) Ltd and Others v Lloyd and Another 1983
- (1) SA 641 (E) at 644H confirmed in Airodexpress (Pty) Ltd v Chairman, Local Road Transportation Board, Durban and Others [1986] ZASCA 6; 1986
- (2) SA 663 (A) at 683A and Maccsand CC v Macassar Land Claims Committee an Others [2005] 2 All SA 469 (SCA) at para [13].

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Prepared on 10 October 2026 · Esheria