

SOUTH AFRICA / JUDGMENT

Mgengo v Lekwa-Teemane Local Municipality and Others (J452/20)

[2020] ZALCJHB 255 (11 June 2020)

[2020] ZALCJHB 255

COURT

Labour Court Johannesburg

BEFORE

P Nkutha-Nkontwana

CASE / FILE NUMBER

J452/20

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

THE

LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not

Reportable

Case

no: J452/20

In

the matter between:

NDODA
MGENGO
Applicant
and
LEKWA-TEEMANE
LOCAL MUNICIPALITY First
Respondent
GOBAKWANG
J MOATSHE
(ADMINISTRATOR
OF 1ST RESPONDENT)
Second Respondent
BHEKI
MHLONGO
(CHAIRPERSON
OF DISCIPLINARY ENQUIRY)
Third
Respondent

Heard:

2 June 2020

Delivered:	This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the Labour Court's website and released to SAFLII. The date and time for hand-down is deemed to be 10h00 on 11 June 2020.
Summary:	Urgent application – declaring that suspension automatically lapsed in terms of Regulation 6(6)(a) of the Disciplinary Regulations – no jurisdiction to enforce compliance with COVID-19 Regulations – the applicant has substantial redress on due course to request for documents and further particulars in relation to the impending disciplinary hearing.

JUDGMENT

NKUTHA-NKONTWANA, J

Introduction

[1] The applicant, Mr Ndoda Mgengo (Mr Mgengo), the Municipal Manager of the first respondent, Lekwa-Teemane Local Municipality (Municipality), approached the Court by way of urgency seeking the following relief:

1.1 A declaration that his suspension automatically lapsed on 19 May 2020, in terms of Regulation 6(6)(a) of the Local Government: Disciplinary Regulations for Senior Managers of 2010 (Disciplinary Regulations);

1.2 Directing the Municipality and the second respondent, Mr Gobakweng Moatshe (Mr Moatshe), the Municipal Administrator, to reinstate Mr Mgengo with immediate effect;

1.3 Interdicting the respondents from proceeding with the disciplinary hearing against him, until such time as:

1.3.1 The Municipality and Mr Moatshe have implemented measures to mitigate possible exposure to Covid-19 during the disciplinary hearing, in compliance with the National Disaster Regulations and any relevant directions issued thereunder;

1.3.2 The venue where the hearing is to be held is compliant with the relevant legislative prescripts contained in the Occupational Health and Safety Act (OHSA)[1], the Regulations thereto, the Disaster Management Regulations and any directions issued thereunder;

1.3.3 The Municipality has complied with Regulation 5 and 16(5) of the National Disaster Regulations;

1.3.4 All participants in the hearing are permitted to travel from their place of residence to the venue where the hearing is to be held;

1.3.5 A disciplinary hearing is permitted or falls under the scope of permitted services, with reference to the National Disaster Regulations.

1.4 The Municipality and Mr Moatshe be directed to furnish Mr Mgengo's attorneys of record, within five days of the order being granted, with the following:

1.4.1 The documents listed in paragraph 8 of the letter by his attorneys of record, dated 15 May 2020, addressed to Jafta Inc. and;

1.4.2 The office address and contact details of the appointed Chairperson.

[2] The application is vigorously opposed by the first and second respondents (respondents) and they raised a point in limine in relation to urgency.

Background

[3] There is not much controversy on the facts of this matter. On 19 February 2020, Mr Mgengo was placed on a precautionary suspension pending investigation and consequent disciplinary hearing, if at all.

[4] On 15 May 2020, Mr Mgengo was served with a notice to attend a disciplinary hearing which was scheduled to take place on 25 May 2020 in the Boardroom of the Municipality. Attached to the notice was a charge sheet containing six counts of gross misconduct.

Subsequently thereto was a barrage of correspondence between the parties which I deal with hereunder to the extent relevant.

[5] Mr Mgengo's attorneys of record addressed a letter, dated 15 May 2020, to Mr Moatshe wherein they asserted, inter alia, that the period of his suspension would automatically lapse on 19 May 2020 since the disciplinary hearing did not commence within three months as contemplated by Regulation 6(6)(a) of the Disciplinary Regulations.[2]

[6] Regulation 6(6)(a) provides as follows:

'If a senior manager is suspended, a disciplinary hearing must commence within three months after the date of suspension, failing which the suspension will automatically lapse.' (Emphasis added)

[7] Another letter from Mr Mgengo's attorneys was addressed to Mr Jafta, the officer appointed to lead evidence, requesting that the disciplinary hearing scheduled for 25 May 2020 be deferred to a date to be agreed upon between all relevant parties.

[8] On 18 May 2020, Mr Jafta responded by stating the following:

'We refer to your letter dated the 15 May 2020 contents whereof have been noted.

Your letter was referred to the Chairperson for his ruling on your client's request for a postponement. The Chairperson has granted your client's request for a postponement and has given us three (3) suggested dates to choose one for the new date of hearing. The dates are the 11 June 2020, 12 June 2020 and 15 June 2020 for the same place and time as the one for the 25 May 2020.

We await hearing from you on which of the dates is suitable to your client.'[3]

[9] On 19 May 2020, Mr Mgengo's attorneys addressed another letter to Mr Jafta confirming the conversation he had with Mr Scholtz from Mr Mgengo's attorneys and their divergent views on the interpretation of Regulation 6(6)(a). Mr Mgengo's attorneys

then confirmed that they had been instructed to approach the Labour Court on an urgent basis to seek an order reinstating Mr Mgengo

should Mr Moatshe fail to provide them with written confirmation that he, Mr Mngengo, would be allowed to report for duty and resume his duties as Municipal Manager with immediate effect. [4]

[10] Mr Mgengo's attorneys also raised numerous issues and, pertinently, the legality of the disciplinary hearing; questions of health and safety related to the Covid-19 pandemic; written undertakings concerning compliance with the Disaster Management Regulations. Lastly, Mr Mgengo requested information pertaining to the reports and resolutions of the Municipal Council that sectioned the disciplinary measures taken against him.

[11] Mr Jafta was adamant that, since Mr Mgengo had been served with the charge sheet on 15 May 2020, the disciplinary inquiry commenced that very same day. Also, he referred Mr Scholtz to the suspension letter which states that Mr Mgengo is 'suspended for a period of three months ... with full pay pending investigations and if the disciplinary inquiry is conducted, the suspension will continue until the finalisation of the internal inquiry'.[5]

Precautionary Suspension

[12] Mr Scholtz who appeared for Mr Mgengo persisted with the argument that his suspension automatically lapsed on 19 May 2020 since the disciplinary hearing was only scheduled to commence on 25 May 2020, three months after the date of suspension. He based his submission on an unreported judgment of this Court by Prinsloo J in *Moloto and Another v Kagisano Molopo Local Municipality and Others*, [6] where, on granting leave to execute an order by Cele, J pending the application for leave to appeal, she made the following observations:

'[19] The interlocutory application dealt with the Applicants' precautionary suspension, pending a disciplinary hearing, on the basis that Regulation 6(6)(a) provides that a suspended senior manager's disciplinary hearing must commence within 3 months after the date of suspension, failing which the suspension will automatically lapse. The Applicants' case was that their suspensions lapsed on 4 December 2018 and as the disciplinary enquiry had not commenced

before the expiry of the three-month period, they have the right to be reinstated upon the expiry of the three-month period.

[20] Cele J accepted the Applicants' interpretation of the said regulation and they were reinstated. It is evident from the Respondents' application for leave to appeal that Cele J's interpretation of the word 'commence' as used in regulation 6(6)(a) is the subject of the application for leave to appeal. The Respondents' case is that 'commence'

should be interpreted to mean the external manifestation of an intent to proceed with the disciplinary process and as such the disciplinary proceedings against the Applicants commenced by virtue of the notices and charge sheets that were served on them on 19 November 2018, prior to the expiry of the three-month period.'

[13] The leave to appeal against the ex-tempore judgment by Cele, J in Moloto[7] was never prosecuted to finality.[8]

[14] On the other hand, Mr Moerane, counsel for the respondents, persisted with the respondents' argument that the dictum in Moloto[9] is distinguishable as Mr Mgengo's suspension did not lapse, as the disciplinary proceeding against him commenced on 15 May 2020, the day on which he received the charge sheet and notice of the internal hearing. This argument is hinged on the judgment the Labour Appeal Court (LAC) in Matatiele Local Municipality v Shaik and Others.[10], where the LAC dealt with the time limit prescribed in terms of clause 6.3 of the South African Local Government Bargaining Council (SALGBC) Disciplinary Code Collective Agreement (Disciplinary Code) which provides as follows:

'The employer shall proceed forthwith or as soon as reasonably possible with a disciplinary hearing but in any event not later than three (3) months from the date upon which the employer became aware of the alleged misconduct. Should the employer fail to proceed within the period stipulated above and still wish to pursue the matter, it shall apply for consideration to the relevant division of the SALGBC.'

[15] The LAC stated that:

'[15] The employer was obligated by clause 6.3 to "proceed forthwith or as soon as reasonably possible with a disciplinary hearing". The Labour Court has considered the meaning of "proceed" in several judgments.

[16] In Independent Municipal and Allied Trade Union Obo Dandala v Ekurhuleni Metropolitan Municipality and Others[11] the Labour Court opined that:

'Proceeding with a disciplinary hearing starts when the Municipal Manager appoints a presiding officer. There can be no doubt in my mind that once a presiding officer is appointed an employer will be proceeding with a disciplinary hearing. In my judgment, the processes that follow after the appointment of the presiding officer is all part of proceeding with the disciplinary hearing up to and including the actual commencement of the sittings. Therefore, the relevant outer date is the date on which the presiding officer was appointed and not the date on which the hearing sits

as contemplated in clause 6.10.’

[17] I would respectfully disagree with the proposition that “proceeding with a disciplinary hearing starts when the Municipal Manager appoints a presiding officer.” The employee may not necessarily know when this occurs. In my view, in keeping with the context that an employee is affected by a disciplinary hearing, a hearing proceeds only when there is an external manifestation of the municipality’s intention to proceed with a hearing and this occurs when the charges are formally furnished to the alleged offending employee.’ (Emphasis added)

[16] The principles of interpretation summarised in *Joint Municipal Pension Fund v Endumeni Municipality*[12] are trite. The Supreme Court of Appeal (SCA), per Wallis JA stated that:

‘The present state of the law can be expressed as follows. Interpretation is the process of attributing meaning to the words used in a document, be it legislation, some other statutory instrument, or contract, having regard to the context provided by reading the particular provision or provisions in the light of the document as a whole and the circumstances attendant upon its coming into existence. Whatever the nature of the document, consideration must be given to the language used in the light of the ordinary rules of grammar and syntax; the context in which the provision appears; the apparent purpose to which it is directed and the material known to those responsible for its production. Where more than one meaning is possible each possibility must be weighed in the light of all these factors. The process is objective

not subjective. A sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results or undermines the apparent purpose of the document. Judges must be alert to, and guard against, the temptation to substitute what they regard as reasonable, sensible or businesslike for the words actually used. To do so in regard to a statute or statutory instrument is to cross the divide between interpretation and legislation. In a contractual context it is to make a contract for the parties other than the one they in fact made. The ‘inevitable point of departure is the language of the provision itself’, read in context and having regard to the purpose of the provision and the background to the preparation and production of the document.’ (Emphasis added)

[17] In this instance, the Disciplinary Regulation provides as follows:

‘5. Disciplinary procedures

(1) ...

(2) ...

(3) ...

(4) The investigator appointed in terms of subregulation (3)(a) must, within a period of 30 days of his or her

appointment, submit a report with recommendations to the mayor or municipal manager, as the case may be.

- (5) The report contemplated in subregulation (4) must be tabled before the municipal council in the manner and within the timeframe as set out in subregulation (2).
- (6) After having considered the report referred to in subregulation (4), the municipal council must by way of a resolution institute disciplinary proceedings against the senior manager.
- (7) The resolution in subregulation (6) must –
 - (a) include a determination as to whether the alleged misconduct is of a serious or a less serious nature;
 - (b) authorise the mayor, in the case of municipal manager, or municipal manager, in the case of the manager, directly accountable to the municipal manager to –
 - (i) appoint –
 - (aa) an independent and external presiding officer; and
 - (bb) an officer to lead evidence; and
 - (ii) sign the letters of appointment.
- 6. Precautionary suspension
 - (1) The municipal council may suspend a senior manager on full pay if it is alleged that the senior manager has committed an act of misconduct, where the municipal council has reason to believe that –
 - (a) the presence of the senior manager at the workplace may –
 - (i) jeopardise any investigation into the alleged misconduct;
 - (ii) endanger the well-being or safety of any person or municipal property; or
 - (iii) be detrimental to stability in the municipality; or
 - (b) the senior manager may—
 - (i) interfere with potential witnesses; or
 - (ii) commit further acts of misconduct.
 - (2) ...
 - (4) ...
 - (5) ...
 - (6)

- (a) If a senior manager is suspended, a disciplinary hearing must commence within three months after the date of suspension, failing which the suspension will automatically lapse.
- (b) The period of three months referred to in paragraph (a) may not be extended by council.

7...

8. Serious misconduct

- (1) The officer leading evidence who has been appointed in terms of subregulation 5(7)(b) –
 - (a) must, within 30 days of his or her appointment, formulate and serve charges of the alleged misconduct in a format compliant with Annexure D; and
 - (b) may summons any witness to appear before the disciplinary hearing in a format substantially compliant with

Annexure E.

- (2) The charge sheet contemplated in subregulation (1) must inform the senior manager of –
 - (a) the alleged act or acts of misconduct;
 - (b) the time, date and venue at which the hearing will be conducted;
 - (c) the name of the presiding officer and the officer leading evidence;
 - (d) the address at which notices and correspondence may be served on such officer;
 - (e) the right to appoint a representative of his or her choice, who may be a fellow staff member, shop steward, union official or any other suitably qualified person;
 - (f) the right to request further particulars or access to documentation or copies thereof from the officer leading evidence, in writing, within seven days of receipt of the charge sheet;
 - (g) the right to an interpreter, whose presence must be requested by notice in writing, addressed to the officer leading evidence within seven days of receipt of the charge sheet;
 - (h) the right to call witnesses to testify on his or her behalf;
 - (i) the fact that any request for a postponement should be directed to the officer leading evidence in writing not later than seven days after receipt of the charge sheet; and
 - (j) the fact that the enquiry may be conducted in his or her absence if the senior manager or his or her

representative fails to attend the hearing, which includes the making of a finding and the possible imposition of a suitable sanction.

- (3) The charge sheet contemplated in subregulation (1) must be delivered by hand or registered mail to the senior manager together with the notice of the disciplinary hearing.

9 ...

10. Conducting disciplinary hearing;

(1) The disciplinary hearing must commence –

(a) within three months of the resolution to institute disciplinary action; and

(b) on a date not less than seven days and not more than 10 days from the date of service of the charge sheet and the written notice of the disciplinary hearing on the senior manager.

(2) The hearing must be conducted by the presiding officer who may determine the procedures to be followed, provided that the –

(a) rules of natural justice are adhered to at all times;

(b) matter is speedily resolved with the minimum of legal formalities;

(c) presiding officer in discharging his or her obligations –

(i) exercises care, diligence and acts impartially; and

(ii) does not consult or confer with any of the parties or their representatives on the merits or demerits of the case.

(3) The officer leading evidence –

(a) must commence the disciplinary hearing by reading out the charges to the senior manager..’

[18] In my view, the enquiry in the present instance pertains to the interpretation of Regulation 6(6)(a) of the Disciplinary Regulations which states that a disciplinary hearing of senior manager must ‘commence’ within three months from the date of suspension and not the question as to when a hearing ‘proceeds’ as provided in the Collective Agreement which, in any event, is only applicable to the general staff members and not senior managers.

[19] Regulation 10 of the Disciplinary Regulations is pertinent, particularly, sub-regulations 10(1) (a) and

(b) which specifically provide that the disciplinary hearing must ‘commence’ within three months of the resolution to institute disciplinary action and on a date not less than seven days and not more than ten days from the date of service of the charge sheet and the written notice. Whilst, sub-regulation 10(3)(a) provides that the officer leading evidence must ‘commence’ the disciplinary hearing by reading out the charges to the senior manager.

[20] In Moloto,[13] confronted with similar facts, Cele, J interpreted the phrase ‘disciplinary hearing must commence’ to mean the actual sitting of the disciplinary hearing with the presiding officer formally conducting the disciplinary hearing.

Since, likewise, the question of the lapse of the suspension in terms of Regulation 6(6)(b) was contested, Cele, J opined that the issuing of a charge sheet and postponement of the disciplinary hearing that did not sit, do not interrupt the mandatory period within which to commence a disciplinary hearing in terms of Regulation 6(6)(a). Accordingly, he found that, since the disciplinary hearing only sat after the expiry of the prescribed three-month period, the suspension of the applicants in that matter automatically lapsed.

[21] Clearly, Moloto[14] applies squarely in the present instance. An alternative submission by Mr Moerane was the Moloto should not be followed in the light of the LAC decision in Matatiele[15]. I do not agree. Unlike in the case of a junior employee, the disciplinary hearing against a senior manager is proceeded with in

terms of the resolution of the Municipal Council in accordance Regulation 5(6), consequent to the investigation report in terms of Regulation 5(4).

[22] The issuing of the charge sheet and the notice to attend the disciplinary hearing do not commence the disciplinary hearing but facilitates the process towards its commencement. I agree with Cele, J that the disciplinary hearing can only commence in the actual sitting when the presiding officer officiates over the proceedings or proverbially takes the captainship and navigate the ship. This construction accords with Regulation 10(1)(a) which states that the disciplinary hearing must commence within three months from the date that the Municipal Council resolved to institute a formal disciplinary hearing.

[23] I get the impression that the purpose of the Disciplinary Regulation is to ensure that the suspension and disciplinary hearing of a senior manager in the Municipality is attended to expeditiously so as to avoid prolonged leadership vacancy which could impede the rendering of the Municipal services. Also, it cannot be overstated that 'suspension is a measure that has serious consequences for an employee, and is not a measure that should be resorted to lightly'. [16] Hence it is perfectly logical that, once the three-month period of suspension lapses, the Municipal Council is debarred by Regulation 6(6)(b) from extending it. In my view, it is incumbent upon the Municipal Council to act with the speed of a gazelle consequent to the resolution to institute a formal disciplinary hearing against a senior manager.

[24] The essence of Mr Mgengo's claim is that since his suspension automatically lapsed, the failure by the respondents to allow him to resume his duties has rendered his continued suspension unlawful. As he has no substantial redress in due course, I am satisfied that his claim in the regard is urgent. Also, he approached the Court with the necessary speed.

[25] In the circumstances, I am satisfied that Mr Mgengo has made out a case for the grant of the final relief sought in prayers two and three of the Notice of Motion.

Covid-19 and compliance with the National Disaster Regulations

[26] Declared as a global ‘pandemic’ by the World Health Organisation (WHO) on 11 March 2020, COVID-19 continues to affect countries, companies and individuals globally. South Africa is not spared and the issues related to the implementation of national measures to fight this invisible adversary called COVID-19 would remain the main bone of contention or ancillary issue to be dealt with by our Courts.

[27] In the present instance, Mr Mgengo also seeks an interim order interdicting the commencement of the impending disciplinary hearing

pending the respondents’ compliance with the Regulations relating to COVID-19 issued in terms of the National Disaster Management Act[17] (COVID-19 Regulations) read with the COVID-19 Direction on Health and Safety in the Workplace issued by the Minister of Employment and Labour in terms of Regulation 10(8) of the COVID-19 Regulations.

[28] Mr Scholtz concedes in his written submission that the relief which Mr Mgengo seeks in this regard is not necessarily dependent on any right. However, he seems to suggest that this Court has jurisdiction simply because failure by the Municipality to adhere to the COVID-19 Regulations would affect certain fundamental rights which Mr Mgengo is entitled to. This submission has no merit simply because it is trite that ‘where legislation has been enacted to give effect to a right, a litigant should rely on that legislation in order to give effect to the right or alternatively challenge the legislation as being inconsistent with the Constitution.’ [18]

[29] OHSA is the applicable legislation in terms of which the Direction on Health and Safety in the Workplace is enforced. The Labour Inspectors are tasked with the monitoring of compliance with this Direction and may attend at workplaces for this purpose.

[30] In *PSA v Minister of Health*[19] it was emphasised that this Court lacks jurisdiction as a court of first instance to enforce any of the duties of an employer in terms of section 8 of OHSA or any obligation under the OHSA. Therefore, this Court’s only role in respect of OHSA is with respect to section 35(3) which empowers it to hear appeals against a decision of the chief inspector. Also, this Court lacks jurisdiction to enforce the rest of the COVID-19 Regulations issued in terms of the Disaster Management Act.

[31] As such, Mr Mgengo’s the claims in this regard stand to be dismissed.

Further particulars

[32] Lastly, Mr Mgengo seeks an order directing the Municipality and Mr Moatshe to furnish his attorneys with the documents listed in paragraph 8 of their letter dated 15 May 2020,

addressed to Mr Jafta; and the details of the presiding officer. Regulation 8(2)(f) of the Disciplinary Regulations provides for the ‘right to request further particulars or access to documentation or copies thereof from the officer leading evidence, in writing, within seven days of receipt of the charge sheet’. In the event Mr Jafta fails to discover the documents requested or further particulars, Mr Mgengo can approach the presiding officer with the same request at the

commencement of the disciplinary hearing. Mr Mgengo accordingly has a substantial redress in due course.

[33] The claims in this regard stand to be struck off the roll for lack of urgency.

Conclusion

[34] In the circumstances, I am satisfied that Mr Mgengo has made a case for the grant of the final relief in relation to prayers two and three on the Notice of Motion. Nonetheless, this Court has no jurisdiction to grant the order sought in prayer four and Mr Mgengo's claims in this regard stand to be dismissed. Furthermore, the relief sought in prayer five is not urgent and Mr Mgengo's claims in this regard stand to be struck off the roll.

Costs

[35] Since both parties are partially successful, each must bear its own costs.

[36] In the circumstances, I make the following order:

Order

1. The suspension of Mr Mgengo is declared to have automatically lapsed on 19 May 2020, in terms of Regulation 6(6)(a) of the Local Government Regulations for Senior Managers of 2010.
2. The Municipality and Mr Moatshe are directed to reinstate Mr Mgengo as Municipal Manager of Lekwa-Teemane Local Municipality, with immediate effect.
3. The claim for the enforcement of the COVID-19 Regulations and Direction on Health and Safety in the Workplace is dismissed.
4. The claim for the documents and further particulars is struck from the roll for lack of urgency
5. There is no order as to costs.

P. Nkutha-Nkontwana

Judge of the Labour Court of South Africa.

Appearances:

For the Applicant:

Mr WO Scholtz of Scholtz Attorneys

For the Respondents:

Advocate MTK Moerane SC

Instructed by:

Jafta Incorporated

- [1] Act 85 of 1993, as amended.
- [2] See: Founding Affidavit, annexure “NM 13”, pages 100 – 103.
- [3] See: Founding Affidavit, para 4.29; Answering Affidavit, para 32; Replying Affidavit, para 3.36.
- [4] See: Founding Affidavit, annexure “NM 20”, pages 127 – 131.
- [5] See: Founding Affidavit, annexure “NM 16”; pages 110 – 111.
- [6] (J 4415/18) [2019] ZALCJHB 25 (21 February 2019).
- [7] Ibid.
- [8] The ex-tempore judgment by Cele, J has not been transcribed. However, I have since listened to the audio recording of the proceedings and directed that the ex-tempore judgment be transcribed.
- [9] Ibid.
- [10] (2017) 38 ILJ 2280 (LAC); [2017] 11 BLLR 1090 (LAC) at para 17.
- [11] (JR 1026/15) [2016] ZALCJHB 247 (24 June 2016) at para 15.
- [12] [2012] 2 All SA 262 (SCA); 2012 (4) SA 593 (SCA) at para [18].
- [13] Supra n 5.
- [14] Ibid.
- [15] Supra n 9.
- [16] See: Lekabe v Minister Department of Justice and Constitutional Development (2009) 30 ILJ 2444 (LC); Lebu v Maquassi Hills Local Municipality [2012] 33 ILJ 642 (LC); [2012] 4 BLLR 411 (LC) at para 40; Biyase v Sisonke District Municipality and Another (2012) 33 ILJ 598 (LC); and Rudman v Maquassi Hills Local Municipality and Another [2019] JOL 41158 (LC).
- [17] Act 57 of 2002, as amended.
- [18] See: Mazibuko and Others v City of Johannesburg and Others
- [2009] ZACC 28; 2010 (4) SA 1 (CC); 2010 (3) BCLR 239 (CC) at para
- 73. See also: Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs and Tourism and Others
- [2004] ZACC 15; 2004 (4) SA 490 (CC); 2004 (7) BCLR 687 (CC) at paras 21-6; and Minister of Health and Another v New Clicks South Africa (Pty) Ltd and Others

[2005] ZACC 14; 2006 (2) SA 311 (CC); 2006 (1) BCLR 1 (CC) at para 96; Mazibuko and Others v City of Johannesburg and Others

[2009] ZACC 28; 2010 (4) SA 1 (CC); 2010 (3) BCLR 239 (CC) at para 73.

[19] [2019] 1 BLLR 71 (LC).

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZALCJHB/2020/255.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/mgengo-v-lekwa-teemane-local-municipality-and-others-unknown-topic-alcjhb-2020--6a3ea5133b1caa912980a81d>

Prepared on 13 October 2026 · Esheria