

SOUTH AFRICA / JUDGMENT

Morudu v University of the Free State (5797/2022) [2024] ZAFSHC 248 (20 August 2024)

[2024] ZAFSHC 248

COURT

Free State High Court, Bloemfontein

BEFORE

Mhlambi

CASE / FILE NUMBER

5797/2022

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IN THE HIGH COURT
OF SOUTH AFRICA,
FREE STATE
DIVISION, BLOEMFONTEIN

Reportable:

NO
Of Interest to other
Judges: NO
Circulate to
Magistrates: NO
Case No: 5797/2022
In

the matter between:

JONAH
MORUDU
Applicant
and
THE
UNIVERSITY OF THE FREE STATE
Respondent
HEARD
ON: Matter disposed of without oral
hearing in terms of section19(a) of the Superior Court Act 10 of
2013.

JUDGMENT

BY: MHLAMBI, J

DELIVERED ON: 20 AUGUST 2024

APPLICATION FOR LEAVE TO APPEAL

[1] On 20 October 2023, I granted the application and the following orders:

1. The respondent is ordered to perform all such acts as may be necessary in order to confer and bestow upon the applicant, at its next graduation ceremony or at such other time as may be convenient, a Diploma in Construction Science and Building Surveying.
2. Concomitant to the conferring, to issue to the applicant a Diploma confirming that the applicant had completed the said course and had qualified for conferral of such Diploma upon him.
3. The respondent was ordered to pay the costs of the application.

[2] The essence of the application for leave to appeal is that I did not find merit with the applicant's following arguments:

2.1 Section 65(D)(1) of the Higher Education Act prohibited the conferring of the Diploma;

2.2 The applicant failed to comply with all the conditions/requirements for the Diploma and was therefore not entitled to specific performance; and/or

2.3 Specific performance should have been refused on the basis that the relief sought would be practically impossible.

[3] Though the application is opposed and the respondent contended that the applicant failed to discharge the onus of showing on proper grounds that reasonable prospects of success on appeal existed, he did not take issue with the appealability of the judgment.

[4] I have traversed the grounds of appeal in my judgment. I agree that the matter is indeed of substantial importance to the parties and that it would be just and proper that a superior court should hear the appeal.

[5] In the result the following order issues:

Order:

1. Leave to appeal is granted to the full bench of this division.
2. The costs will be costs in the appeal.

MHLAMBI, J

On behalf of the Applicant: Adv. JMC Johnson Instructed by: Phatshoane Henney Attorneys 35 Markgaft Street Westdene Bloemfontein On behalf of the respondent: Adv. R Van Der Merwe Instructed by: Badenhorst Attorneys 15 Groenvlei Avenue Groenvlei Bloemfontein

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Prepared on 9 October 2026 · Esheria