



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 17 December 2021

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Mahinga v Minister of Home Affairs and Another (Case no 1027/2020) [2021] ZASCA 179 (17 December 2021)

Today the Supreme Court of Appeal (SCA) dismissed the appellant's appeal with costs including those of two counsel.

This was an appeal against the judgment and order of the full court of the Gauteng Division of the High Court, Pretoria in terms of which it upheld the appeal by the respondents, the Minister of Home Affairs (the Minister) and the Director-General Home Affairs (the Director-General) against the judgment of the high court. In that judgment the high court reviewed and set aside the Minister's decision to revoke the appellant's citizenship in terms of s 8 of the South African Citizenship Act 88 of 1995 (the Citizenship Act) which allows the Minister to deprive any South African citizen by naturalisation of his or her South African citizenship in certain circumstances. The appeal was with the special leave of this Court.

On appeal, the full court upheld the Minister's appeal. The full court rejected the appellant's contention that the Minister lacked authority, in the absence of a court order to revoke the appellant's citizenship and that the Minister's decision breached the appellant's constitutionally protected right to citizenship. It held that the word 'order' appearing in s 8(1) of the Act did not mean a 'court order,' which meant that the Minister could make a ministerial determination to deprive an individual of his or her citizenship.

In this Court, counsel for the appellant submitted that the full court erred in finding that the Minister had satisfied the requirements for the revocation of the citizenship under s 8(1) of the Citizenship Act. The SCA rejected the appellant's contention and held that the appellant's response to the concerns raised by the Minister about his status as an asylum seeker, were unsatisfactory and failed to address pertinent questions.

The SCA held that the Minister's decision to deprive the appellant of his South African citizenship was not unreasonable or irrational. There was a rational objective basis justifying the connection made by the Minister between the evidence before him and the decision he made.

In the result, the appeal was dismissed with costs including those of two counsel.