



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

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Phoshoko v Electoral Commission of South Africa (0019/26EC) [2026] ZAEC 10 (22 October 2026)

Today the Electoral Court handed down judgment in which it dismissed the applicant's application and made no order regarding costs.

The dispute arose under the following circumstances. Mr Phoshoko sought to stand as an independent candidate for Ward 33 in the 2026 local government elections. He submitted his nomination on the day nominations closed, supported by 53 signatures. After the Electoral Commission published the final list of candidates, he discovered that his name had been excluded and was informed that his nomination did not meet the statutory requirements. The Electoral Commission verified the supporting signatures and found that 13 were invalid because the signatories were either not registered in the ward, not registered voters, or had invalid identity numbers. As a result, only 40 valid signatures remained, falling short of the statutory requirement of 50 signatures for independent candidates. Mr Phoshoko challenged his exclusion from the ballot, contending that the Commission failed to notify him timeously of the defects in his nomination and that the 50-signature requirement was irrational and unconstitutional. The Commission asserted that it was not obliged to inform candidates of their disqualification where they did not provide sufficient signatures. At the same time, it accepted that it bore the duty to assist potential candidates to ensure that they were not disqualified solely due to defective nominations. The Commission further maintained that Mr Phoshoko was disqualified by operation of law for non-compliance with the Municipal Electoral Act 27 of 2000 (Municipal Electoral Act) and that there was insufficient time to remedy the defects because the nomination was submitted shortly before the deadline.

The primary issues raised in the case were whether a person who did not take any steps to ensure that the signatures annexed to his nomination were those of people registered to vote in the relevant ward, and who submitted his papers physically to the Commission at the last minute, was entitled (a) to require the same kind of assistance as someone who submitted a nomination a few days or even a few hours before the deadline, (b) to be informed expeditiously that the signatures were insufficient or non-compliant, and (c) to be afforded the opportunity to remedy the deficiency even though the deadline had passed.

The Court held that Mr Phoshoko was aware of the forthcoming local government elections, the election timetable, and the requirements for nomination well before nominations closed. It found that he had reasonable means available to verify whether the persons supporting his nomination were registered voters in the relevant ward but failed to do so. The Court concluded that, by leaving the nomination process to the last minute and not taking ordinary steps to verify the eligibility of his supporters, Mr Phoshoko was himself responsible for the position in which he found himself.

The Court further held that, had Mr Phoshoko submitted his nomination sufficiently early, the Electoral Commission would have been obliged, in accordance with the principles articulated in *Johnson v Electoral Commission* [2013] ZAEC 2; 2014 (1) SA 71 (EC) (*Johnson*), to notify him of any deficiencies and afford him an opportunity to correct them before the nomination deadline. However, because he

submitted his nomination shortly before the deadline, there was no practical opportunity for the defects to be remedied.

The Court rejected the Commission's contention that it had no obligation to inform Mr Phoshoko that his nomination had been unsuccessful once the deadline had passed. It held that, although the Municipal Electoral Act did not expressly require such notification, the Commission had a duty, consistent with its facilitative role and the principles set out in *Johnson*, to inform candidates within a reasonable time when their nominations did not qualify. The Court found that allowing a candidate and his supporters to believe for several weeks that he was participating in the election, only to discover later that he had been disqualified, had the potential to undermine public confidence in the electoral process.

The Court nevertheless found that the Commission's failure to notify Mr Phoshoko sooner did not assist him. It held that the election timetable permitted the correction after the nomination deadline only of limited defects relating to a candidate's identity document or signed acceptance of nomination. It did not permit an independent candidate to supplement or replace invalid supporting signatures after the closing date for nominations. Accordingly, the Court found that Mr Phoshoko had no legal entitlement to remedy the deficiency in his nomination once the deadline had passed.

The Court ultimately held that Mr Phoshoko's nomination did not comply with the statutory requirement that an independent candidate be supported by 50 valid signatures from registered voters in the relevant ward. As only 40 valid signatures remained after verification, he was disqualified by operation of law and was not entitled to be included on the ballot. The application was therefore dismissed.

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