



## 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** 21 November 2022  
**STATUS** Immediate

***Please note that the media summary is for the benefit of the media and does not form part of the judgment.***

*South African Health Products Regulatory Authority and Another v African Christian Democratic Party (869/2021) [2022] ZASCA 158 (21 November 2022)*

### **MEDIA STATEMENT**

The Supreme Court of Appeal (SCA) today upheld the appeal of the South African Health Products Regulatory Authority (the SAHPRA) and the Minister of Health (the Minister) against a supervisory order issued by the Gauteng Division of the High Court, Pretoria (the high court). The appeal was unopposed, although the African Christian Democratic Party (the ACDP) had initially opposed it.

Four applicants, including the ACDP, had brought separate applications against the SAHPRA and the Minister to compel them to make available for the treatment of Covid-19 in humans, an animal remedy called Ivermectin. The applications were to be heard together, but all were settled. The judge hearing the matters requested the parties to draft one settlement agreement which would be made an order. He added that he wanted a supervisory order to be added to the settlement. The SAHPRA and the Minister registered their objection and submitted heads of argument to oppose such an order being granted.

Despite that, the judge, shortly before the matter was to be heard, made the settlement and the supervisory order an order of court. He did so without hearing the parties and without furnishing reasons. When asked for his reasons for making the supervisory order, he gave reasons that made no mention of it.

On appeal, the SCA held that the supervisory order had to be set aside for three reasons. First, it was made without the SAHPRA and the Minister being heard. Secondly, it was not an issue before the court, never having been raised in the papers and not being relief that had been applied for by any of the parties. Thirdly, there was no evidence before the judge to justify granting the order.