



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: 13 December 2024

Status: Immediate

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Siyabonga Gugulethu Galela (Ex parte application) (1294/2023) [2024] ZASCA 176 (13 December 2024)

Today, the Supreme Court of Appeal (SCA) upheld an appeal from the Gauteng Division of the High Court, Pretoria (the high court). The SCA set aside the order of the high court and held that, the applicant had shown good cause for contravening rule 22.1.5.1 of the Legal Practice Council (LPC) rules, that the contract between the applicant and her principal is effective and that the applicant be admitted to practise as a legal practitioner in terms of s 24 and s 30 of the Legal Practice Act 28 of 2014. The Court also condoned her failure to attach her LLB degree certificate to her application.

Ms Siyabonga Gugulethu Galela (Ms Galela) launched an ex parte application for her admission as a legal practitioner to the Gauteng Division of the High Court, Pretoria (the high court) in June 2023. Her application was dismissed on the basis that she was not fit and proper. This was based on two findings, namely, that Ms Galela failed to disclose that she was a director of a company, Varsigator Solutions (Pty) Ltd (Varsigator) and secondly, she failed to attach her LLB certificate to her application.

On the first issue, the high court held that, Ms Galela failed to disclose her directorship at Varsigator and stated under oath that she did not engage in any business other than that of a candidate legal practitioner during her practical vocational training contract (PVT contract). She was invited to file a supplementary affidavit explaining her failure to obtain prior written consent from the LPC. Ms Galela attributed her failure to obtain prior written consent to her belief, that her directorship of at Varsigator had automatically ceased once the company stopped trading in 2017. She therefore was of the opinion that when she entered into a PVT contract on 1 February 2021, the company was dormant. Both Ms Galela and her principal in their supplementary affidavits stated that her directorship did not interfere with her PVT contract.

The high court held that, it was not open to her, or her principal, to decide whether her business would interfere with her training as a candidate attorney, only the LPC could make that determination. Significantly, she failed to disclose her directorship at Varsigator and made untrue statements under oath.

On the second issue, regarding her failure to attach the LLB certificate, Ms Galela explained that the University of the Witwatersrand does not issue degree certificates to graduates who are in arrears with their fees. Her academic transcript was proof of her completion of the Bachelor of Laws degree. The high court found that it was highly irresponsible for any person to ignore their financial obligations, especially a person who wanted to become an attorney. The court noted that Ms Galela had proffered no reasons as to why she had abandoned her financial obligations.

At the SCA, Ms Galela was invited to address these two points comprehensively in another supplementary affidavit. Ms Galela's supplementary affidavit has set out a proper explanation as to

why she did not disclose that she was a director of Varsigator. She stated that the business failed. As a result, Varsigator never opened a bank account, received no income and did not file tax returns. The Court held that there are sufficient grounds to condone her non-compliance with rule 22.1.5.

On the second issue, her nonpayment of her university fees was attributed to her unfavourable financial circumstances rather because she was a recalcitrant debtor. Once a degree certificate is not attached, Ms Galela was obliged to furnish a proper explanation. She has since then paid her outstanding fees. There was no dishonesty on her part but rather a genuine inability to pay her fees at the time.

As a result, the SCA set aside the order of the high court.

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