



**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:** 4 June 2025

**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*

*Rautenbach & Others v The Governing Body of die Hoërskool DF Malan & Another*  
(073/2024) [2025] ZASCA 78 (4 June 2025)

---

Today the Supreme Court of Appeal (the SCA) handed down judgment, dismissing an appeal against an order granted in the Western Cape Division of the High Court, Cape Town (high court) with costs, including the costs of two counsel. The high court dismissed the review application, finding that the governing body of DF Malan High School (the school) had the implied power under the South African Schools Act 84 of 1996 (the Schools Act) to rename the school.

This matter concerned the decision of the school's governing body to change the name of the school. The school, an Afrikaans-medium public school established in 1954, bore the name of Prime Minister Daniel Francois Malan, a principal architect of apartheid. Over time, pressure grew from alumni, parents and learners to reconsider the name due to its association with racial segregation and discrimination. In June 2020, the school governing body resolved to review all school symbols, including the school's name. Because the Schools Act does not prescribe a procure for the changing of a schools name, the governing body decided on a consultative process, which was independently facilitated by Dr Jan Frederick Marais (Dr Marais), an experienced mediator. At the guidance of Dr Marais, the process included, among others, group discussions focused on the school's identity and core values.

By May 2021, the school governing body agreed that the name conflicted with the school's Christian ethos, policy of inclusivity and culture, and thus resolved, subject to financial and procedural considerations, to adopt a new name. Subsequent stakeholder voting favoured the school's name to be changed to 'DF Akademie', which was submitted to the Provincial Education Department for verification that there were no other educational institutions bearing that name.

The appellants, four parents of learners at the school, launched review proceedings in the high court in December 2021, seeking to set aside the decision to change the school's name on grounds that the governing body lacked statutory authority under the Schools Act; that the process was not fair as it breached the Promotion of Administrative Justice Act 3 of 2000 (PAJA) and that the decision was irrational. The high court dismissed the application, finding that the school's governing body has implied power to rename the school under the Schools Act and there were no procedural or rationality defects. The high court granted leave to appeal only on the implied-power issue. The appellants petitioned successfully to this Court for broader leave, adding appeal grounds on the adopted procedure and the rationality of the decision.

The SCA held that the Schools Act must be construed purposively and contextually, which requires reading ss 16(1) and 20 together and applying s 39 of the Constitution which enjoins courts, when interpreting any legislation, to promote the 'spirit, purport and objects of the Bill of Rights'. The SCA found that the term 'governance' includes defining a school's identity and that a governing body, as a democratically elected entity, is best placed to decide on its name by necessary implication, akin to its implied power to adopt various school policies. The Court concluded that the appellants' narrow focus on s 16(1) ignored the Schools Act's scheme, which presumes that the school's governing body has authority regarding school symbols and that the alternative construction contended for by the appellants would yield absurd results.

The Court held that in terms of s 3 of PAJA, the minimum requirements of adequate notice, opportunity to be heard, clear statement of the action and reasons were met through detailed stakeholder invitations, unbiased facilitation and broad community engagement. The Court further found that the 'saturation point', halting consultation when no new views emerged, was reasonable. The appellants' claim that the full report was not debated was dispelled by evidence that all members had received and understood its contents prior to voting.

The SCA concluded that the May 2021 decision was informed by a comprehensive report on the school's core values, stakeholder voting results and the incompatibility of the old name with those values. The Court held that the appellants failed to establish that the governing body acted *ultra vires*, procedurally unfairly or irrationally.

As a result, the SCA dismissed the appeal with costs, including the costs of two counsel, where so employed.

~~~~ends~~~~