



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

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Status: Immediate

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Breede Valley Onafhanklik v Speaker of the Breede Valley Municipality and Others (130/2025) [2026] ZASCA 130 (29 September 2026)

Today, the Supreme Court of Appeal (SCA) dismissed, with costs, including those of two counsel, an order of the Western Cape Division of the High Court, Cape Town.

On 1 December 2021, the municipal council adopted resolution C114/2021, establishing s 80 committees and requiring political parties to nominate councillors for appointment by 10 December 2021. Breede Valley Onafhanklik (BVO) declined to make any nominations. To address BVO's refusal, Item 9.3 was included on the agenda for the council meeting of 23 August 2022, proposing the appointment of four BVO councillors to the s 80 committees. BVO objected, contending that only political parties could nominate representatives and that the municipality lacked authority to do so on its behalf. Despite these objections, the council adopted resolution C100/2022, appointing the identified BVO councillors to the s 80 committees and notifying BVO of the decision on 30 August 2022. When one of the appointed councillors was invited to attend a committee meeting, BVO indicated that he would not attend, as it was challenging the appointments. The appointed councillors risked removal from office if they failed to attend s 80 committee meetings.

Thereafter, on 14 February 2023, BVO brought an application for judicial review in the high court. The high court dismissed the application with costs. Aggrieved by this outcome, BVO appealed to this Court.

The main issue on appeal concerns the competence of a municipal council to appoint councillors from its own ranks to its committees established in terms s 80, read with s 79, of the Local Government: Municipal Structures Act 117 of 1998 (Structures Act), to assist its executive committee.

BVO challenged the appointments, contending that the municipality acted beyond its powers, failed to follow a prior council resolution requiring political parties to nominate councillors, and irrationally compelled councillors to serve on committees without their consent.

The SCA held that the decision to appoint councillors to s 80 committees constituted executive action relating to the internal organisation and functioning of the municipal council, and was therefore reviewable under the constitutional principle of legality rather than under the Promotion of Administrative Justice Act 3 of 2000. However, the Court noted that the distinction had no practical effect in the present matter, as the grounds relied upon by BVO, namely unlawfulness and irrationality, are reviewable under both regimes.

On the merits, the SCA found that ss 79 and 80 of the Structures Act expressly confer on a municipal council the power to appoint councillors from among its members to serve on municipal committees. The SCA held that a council resolution inviting political parties to nominate candidates could not limit or override the statutory powers conferred by national legislation. Once BVO declined to nominate councillors, the council remained entitled to exercise its statutory authority to appoint members, ensuring that the committees could function effectively.

The SCA further rejected BVO's contention that councillors could not be appointed to committees without their consent. It held that elected councillors hold public office and are required to perform the duties associated with it, including participation in municipal governance structures. The constitutional principle of fair representation on municipal committees promotes inclusive and effective local government and does not permit political parties or councillors to opt out of committee participation in a way that would undermine municipal governance.

The SCA also found that the council's decision was rationally connected to the legitimate purpose of ensuring that its committees were fully constituted and broadly representative of all political parties represented on the council. Appointing BVO councillors to the committees advanced the constitutional objective of fair political representation and effective local government administration.

Accordingly, the SCA held that the municipal council acted within its powers and that its decision was lawful and rational. As a result, the appeal was dismissed with costs, including those of two counsel.

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