



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: 6 May 2026

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

The Municipal Manager of the Umdoni Local Municipality and Others v S Sookhraj and Another (1057/2024) [2026] ZASCA 65 (6 May 2026).

The Supreme Court of Appeal (SCA) handed down judgment dismissing, with costs, including the costs of two counsel, an appeal against the decision of the KwaZulu-Natal Division of the High Court, Durban (the high court).

Following the November 2021 local government elections, the Umdoni Local Municipality constituted a council of 37 councillors. The African National Congress (ANC) held 17 seats, the Democratic Alliance (DA) held seven seats, and the remaining seats were held by other political parties and independent councillors.

Within 14 days of the council's first sitting, the council determined the composition of its executive committee in accordance with the Local Government: Municipal Structures Act 117 of 1998 (the Structures Act). Seven seats were allocated on the executive committee, with the ANC allocated three seats and the DA two seats. The DA appointed Councillor Edwin Baptie to one of its allocated seats.

In November 2021, a by-election was held following the resignation of a DA councillor. The ANC won the by-election, increasing its representation on the council from 17 to 18 seats, while the DA's representation decreased from seven to six seats.

On 29 August 2022, Councillor Baptie resigned as a councillor, thereby vacating his position on the executive committee. On 9 November 2022, the DA notified the municipal manager and the speaker of council that it had nominated Councillor Sookhraj to fill the vacancy.

Instead of implementing the DA's nomination, the council, through the recommendation of the Municipal Manager, appointed Councillor Ravinand Maharaj, an ANC member, to the vacant executive committee seat. The DA and Councillor Sookhraj approached the high court on an urgent basis. On 24 March 2023, by consent, the high court declared the appointment unlawful and set it aside. Aggrieved by the high court's decision, the appellants applied for leave to appeal, which was dismissed. On petition, leave to appeal was granted to this Court.

The crisp issue to be determined was the proper interpretation of s 43(2) of the Structures Act, namely whether: (a) as contended by the appellants, the composition of an Exco may, during a Council's five-year term, be altered as a consequence of by-elections taking place and a change in the composition of the Council being effected thereby (the proportionality interpretation); or (b) as contended by the respondents, the right of political parties to appoint members to Exco is fixed within 14 days of the Council's election and only terminates when the municipality has changed or when the next Council was elected (categorised by the appellants as "the textual interpretation").

The SCA held that the 2021 amendment to the Structures Act introduced a clear, rule-based system for constituting municipal executive committees, expressly distinguishing between the initial allocation of seats and the filling of vacancies. The SCA found that this distinction reflected a legislative intention

to ensure stability in the composition of executive committees for the duration of a municipal council's term.

The SCA further held that section 43(2)(e) governs how vacancies in an executive committee must be filled. It found that the phrase "the political party or political interest to which the seat was allocated" referred to the original allocation of executive committee seats made within 14 days of the council's election, and not to the council's composition at the time a vacancy arose. The use of the past tense was held to be deliberate and decisive.

The SCA also found that once a seat on an executive committee had been allocated to a political party during the initial determination process, that party acquired a vested right to fill that specific seat for the remainder of the executive committee's term, regardless of later changes in council representation caused by by-elections.

The SCA further held that s 43 must be read together with ss 45, 46 and 47 of the Structures Act, which created a single, mandatory moment for the determination of executive committee composition and did not permit re-determination merely because a by-election had occurred. The Court found that by-elections were not listed in the Act as events that trigger a reconstitution of the executive committee.

The SCA rejected the argument that s 47(2) requires the proportional seat-allocation formula to be reapplied whenever a vacancy arose. It found that such an interpretation would render s 43(2)(e) meaningless and inconsistent with the statutory scheme.

On purpose and context, the SCA found that the legislative design sought to promote stable and effective municipal governance. It held that allowing executive committees to be reshuffled after every by-election would undermine service delivery, create administrative uncertainty, and destabilise municipalities, particularly where councils were closely balanced.

The SCA held that general municipal elections, held every five years, provided a comprehensive electoral mandate for both council and executive committee composition, whereas ward by-elections addressed only localised vacancies and did not justify a reconfiguration of the executive committee as a whole.

Accordingly, the SCA found that the composition of a municipal executive committee was fixed for the duration of the council's five-year term and was not subject to recalculation following by-elections. It held that the Democratic Alliance was therefore entitled to fill the executive committee vacancy with its nominated councillor, and that the appeal had to fail.