



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: 31 March 2021

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

Ramakatsa and Others v African National Congress and Another (Case No. 724/2019) [2021] ZASCA 31 (31 March 2021)

Today the Supreme Court of Appeal (SCA) handed down judgment upholding the appeal against an order of the Free State Division of the High Court, Bloemfontein (high court). The order of the high court was set aside and replaced with an order declaring the African National Congress (ANC) Provincial Conference (PC) for the Free State of 18 and 19 May 2018 to have been held in violation of the court order of 29 November 2017 and as a result declared its decisions/resolutions and/or outcome are unlawful and unconstitutional.

The issue before the SCA was whether a declaration should be granted that the PC for the Free State Province that took place on 18 and 19 May 2018 was held in violation of the court order and that such PC, its decision/resolutions and/or outcome were unlawful and unconstitutional.

Before this Court, the appellants contended that numerous complaints were raised which were not addressed prior to the holding of the PC. The appellants contended, pertinently, that the holding of the PC was not, for instance, preceded by an audit process of all branches and membership as required. Several of the wards conducted unlawful BGMs.

In this regard the SCA held that the ANC Guidelines applicable in this matter made it plain that the national audit team conducted an audit of branches and membership, based on a cut-off date that was not more than nine months before the date of the provincial and regional conferences, to determine the delegation to the conferences.

Further, and in consequence of the above, the SCA held that the importance of auditing was underscored by the fact that it ensured that the participants in the ANC process were fully paid up members of the ANC who could participate in the elections and vote for those they wanted to lead them and not non-members. The SCA held it was clear that the delegates to the elective PC had not been properly accredited and audited as required in terms of the Constitution of the ANC and its Membership Audit Guidelines; and concluded that the audit guidelines constituted an integral part of the governance instrument of the ANC. A mandatory pre-audit had to be conducted by the Provincial Executive or Regional Executive in preparation for the National audit which was then conducted by the National Audit Team in each province within a cut-off date

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