



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 28 September 2007

Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

**TETRA MOBILE RADIO v MEC, DEPARTMENT OF WORKS
[2007] SCA 128 (RSA).**

[1] The SCA today upheld an appeal by Tetra Mobile Radio against the decision of the Pietermaritzburg High Court. The High Court had dismissed Tetra Mobile's application for an order directing the MEC of the Department of Works of the Province of KwaZulu Natal and other tender bodies to make available to it certain documentation required for purposes of noting an appeal to the Appeals Tribunal against the decision of a Central Procurement Committee.

[2] Tetra Mobile had been an unsuccessful tenderer for the award of a contract for the maintenance of repeater networks in KwaZulu Natal. The tender had been awarded to another company, Infotrunk (Pty) Limited.

The request for documentation was refused by the MEC of the Department of Works and other tender bodies on the basis that the documents were confidential. The SCA held that fairness dictated that the documents that were before the Central Procurement Committee be made available to Tetra Mobile, so as to enable it to prosecute a fair hearing before the Appeals Tribunal. The order made in the High Court was accordingly set aside and replaced with an order directing that the required documents be made available to Tetra Mobile. To meet the concern raised by the respondents in relation to confidentiality, the SCA ordered that, where confidentiality is claimed the document concerned should be marked and identified, and the reason given as to why non-disclosure is claimed in respect thereof.