



THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA

**MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

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From: The Registrar, Supreme Court of Appeal

Date: 20 September 2010

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*

**MEC OF KWAZULU-NATAL EXECUTIVE COUNCIL FOR LOCAL  
GOVERNMENT, HOUSING AND TRADITIONAL AFFAIRS**

**V**

**AMAJUBA DISTRICT MUNICIPALITY & OTHERS**

The Supreme Court of Appeal today dismissed an appeal by the MEC for Local Government, Housing and Traditional Affairs (KwaZulu-Natal) against an order dismissing an application he had brought in the High Court, Pietermaritzburg seeking an order directing the council of the Amajuba District Municipality to elect onto its executive committee two ANC councillors who had earlier been removed by the council from that committee.

The case flows from a decision taken by the Amajuba District Municipality to remove the two ANC councillors from its executive committee for having incurred wasteful expenditure of public funds. This led to two vacancies on the executive committee, both of which the ANC was entitled to have filled by ANC councillors. However, the ANC caucus in the council nominated the same two councillors whose removal had led to the vacancies in the first place, and the council refused to elect them. This led to the MEC instituting legal proceedings for an order declaring, inter alia, that the refusal by the Amajuba District Municipality's council to elect the two councillors was unlawful and that the council was obliged to do so. The high court, Pietermaritzburg, dismissed this application which led to the appeal before the Supreme Court of Appeal.

It was argued that s 43(1) of the Local Government: Municipal Structures Act 117 of 1998 which requires a municipal council to 'elect' councillors onto its executive committee is not to be interpreted as meaning a decision taken by a majority vote. Instead it was argued that as the ANC was entitled to have two of

its councillors on the executive committee, it could select any two of its sitting councillors it chose and that the municipal council was obliged to accept them onto the executive committee.

This argument was rejected, the Supreme Court of Appeal holding that s 43(1) empowered the council by a majority vote to determine who was to be on its executive committee, and that this process was in accordance with the Constitution and not undemocratic. The appeal was therefore dismissed with costs.