



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE
SUPREME COURT OF APPEAL

28 September 2011

STATUS: Immediate

**NATIONAL LOTTERIES BOARD V SOUTH AFRICAN EDUCATION
ENVIRONMENT PROJECT (788/10)**

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

The Supreme Court of Appeal today dismissed an appeal by the National Lotteries Board (the board) against a decision of the Western Cape High relating to the board's refusal to approve three grant applications by two registered charities, the South African Education Project and Environment Project (SAEP) and the Claremont Methodist Church Social Impact Ministry, Sikhula Sonke (Sikhula Sonke). The board sought to justify their refusal to approve the applications on the ground that they did not comply with the guidelines that the board has adopted to prevent grant applicants from acquiring funds fraudulently.

SAEP operates in the Phillipi area by supporting crèches started up by women in that community, providing extra-curricular programmes in under-resources schools; offering bridging courses for promising students in preparation for tertiary education and supporting university students. Sikhula Sonke offers 'educare' facilities to approximately 4000 children in 65 pre-schools in the Khayelitsha community.

Sikhula Sonke submitted two applications to the board: one in July 2007 for R570 000 and the other in November 2008, for R300 000. The board refused both. It justified refusing the first application because Sikhula

Sonke had used its abbreviated name on parts of its application and not the same name throughout as the guidelines specified, and the second because its financial statements had not been signed. The SCA held that the board was not justified in applying the guidelines rigidly and unreasonably. This was because 'Sikhula Sonke' was obviously an abbreviated name and the statements, though not signed were otherwise in order. There could therefore not have been any genuine concern on the board's part that these applications were fraudulent.

SAEP had submitted an application for R313 560 in January 2009. The board refused its application on the ground that SAEP's auditor had not been accredited by one of three professional bodies prescribed in the regulations. Here the SCA found that it was unreasonable for the board to rely on the regulations in this case when it had not done so since 2000, and further that the guideline itself did not clearly state that only accreditation by the one of the three professional bodies would be acceptable.

The SCA observed that for the years under review the board had failed to spend R6 billion rand, which had been allocated for socially worthy projects. The reason appeared partly from this case: the board was not properly applying its guidelines, which was resulting in under-expenditure. The SCA noted further that the board does not seem to understand its mandate properly. It seems to think that the grants given to needy organisations are 'gratuities' to be allocated at the boards discretion.

But this approach, said the SCA was wrong. It said that 'the board holds public funds in trust for the purpose of allocating them to deserving projects. And it must ensure that these funds are allocated to these projects, provided of course that they meet the necessary requirements. The funds do not belong to the board to be disbursed as its largesse.'

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