

Supreme Court of Appeal of South Africa

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

From: The Registrar, Supreme Court of Appeal

Date: 21 November 2012

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.

**Qoboshiyane NO v Avusa Publishing Eastern Cape (Pty) Ltd**

The SCA today dismissed an appeal by the MEC for Local Government and Traditional Affairs in the Eastern Cape against an order that he make available to The Herald newspaper the Kabuso report into maladministration in the Nelson Mandela Metropolitan Municipality. The high court had ordered the MEC to make the report available because the public interest in its contents, which contained evidence of maladministration, outweighed the interest in preserving its confidentiality while the MEC decided what steps to take in the light of its contents. The MEC complied with the court order within 5 days but thereafter sought leave to appeal the court order.

In dismissing the appeal the SCA held that as the MEC had complied with the court order to provide access to the report, without expressing any reservations and on an unqualified basis, he had acquiesced in the judgment and thereby lost the right to appeal. Furthermore the appeal raised no legal issue of substance, but was merely an attempt to reargue the case on its facts. No order having a practical effect would result from the appeal because the report had been disclosed. Accordingly the appeal fell to be dismissed as moot.