



**IN THE ELECTORAL COURT OF SOUTH AFRICA
(HELD AT BLOEMFONTEIN)**

Not Reportable

Case no: 005/25EC

In the matter between:

LEPHALALE RESIDENTS PARTY

First Applicant

PIET DIBETSO

Second Applicant

and

THE INDEPENDENT ELECTORAL

COMMISSION OF SOUTH AFRICA

First Respondent

MOHAU RONALD MJAKULA

Second Respondent

LEPHALALE LOCAL MUNICIPALITY

Third Respondent

Neutral citation: *Lephalale Residents Party and Another v The Independent Electoral Commission of South Africa* (005/25EC) [2026] ZAEC 01 (03 July 2026)

Coram: ZONDI DP and STEYN and MANGCU-LOCKWOOD AJJ,
PROFESSOR NTLAMA-MAKHANYA and PROFESSOR PHOOKO
(ADDITIONAL MEMBERS)

Heard: Matter was disposed of without oral hearing in terms of s 19(a) of the Superior Courts Act 10 of 2013.

Delivered: This judgment was handed down electronically by circulation to the parties' representatives *via* email, by publication on the website of the Supreme Court of Appeal and by release to SAFLII. The date and time for hand-down is deemed to be 11:00 on 03 July 2026.

Summary: Leadership dispute under s 20(2A) of the Electoral Commission Act 51 of 1996 – application to remove the name of a leader of the political party from the records of the Electoral Commission - application dismissed.

ORDER

The application is dismissed with no order as to costs.

JUDGMENT

Mangcu-Lockwood AJ (Zondi DP, Steyn AJ, Professors Ntlama-Makhanya and Phooko concurring)

A. Introduction

[1] This is an application in terms of s 20(2A) of the Electoral Commission Act 51 of 1996 (the Act) to compel the first respondent, the Independent Electoral Commission of South Africa (the IEC) to remove the name of the second respondent, Mohau Ronald Mjakula (Mr Mjakula) from its records as the party leader of the first applicant, the Lephalale Residents Party (the party), and for the third respondent, the Lephalale Local Municipality (the Municipality) to cancel his appointment as a proportional representative (PR) councillor. An order is also sought for his replacement at those institutions by Lesiba George Moloantoa (Mr Molantoa).

[2] The application is only opposed by Mr Mjakula, who has filed an answering affidavit. There is no replying affidavit from the applicants. The deponent to the founding affidavit is the deputy chairperson of the party, who brings the application on its behalf, and states that he has such authority by virtue of his position.

[3] The basis for the application is that, after being invited to attend three consecutive meetings of the executive committee of the party on 9, 11 and 13 December 2020, Mr Mjakula was dismissed due to not only his failure to attend, but also a string of alleged misconduct, described as follows: failing to convene and attend meetings; drinking alcohol while attending meetings; insulting party members telephonically; failing to attend disciplinary hearings three times after being duly invited to attend; and unilaterally appointing on social media a non-member of the party as the chairperson during a stay in hospital. Two other members of the executive committee were purportedly expelled from the party at the meeting of 13 December 2020, namely Ms Anna Maletse and Ms Aletta Nare.

[4] The applicants have attached copies of WhatsApp messages sent to Mr Mjakula as invitations to the meetings of 9 and 11 December 2020, but not for 13 December 2020. On 7 January 2021, the executive committee decided to suspend Mr Mjakula as chairperson. Thereafter, he was notified of impending disciplinary proceedings against him, though no date was provided with the notification, and no proof was attached. On 31 October 2021, Mr Mjakula was dismissed in absentia. The applicants have attached a notice of his dismissal, but it is undated.

[5] On an unspecified date, the party voted for the appointment of the then Secretary-General, Mr Moloantsoa, as the PR councillor representing the party. A letter from the IEC addressed to the Municipality dated 7 January 2022 confirmed that Mr Moloantsoa indeed replaced another member, Mr Makopo, who had ceased to hold office as the PR councillor.

[6] According to the applicants, Mr Moloantoa served as PR councillor from January 2022 until July 2024, when they received a letter from the Municipality stating that it had received notification dated 2 July 2024 from the party informing it of Mr Moloantoa's expulsion from the party. The applicants state they have no knowledge of the letter of 2 July 2024.

[7] On 21 August 2024, the applicants' attorneys addressed a letter to the IEC complaining about its continued recognition of Mr Mjakula as the chairperson of the party despite being informed of his dismissal as a member and chairperson. The response from the IEC, dated 23 August 2024, conveyed its stance that it viewed the matter as an internal party dispute relating to membership and/or leadership and directed the party to s 20(2A) of the Act.

[8] On 10 September 2024, the IEC declared that Mr Mjakula (being the candidate at the top of the party list for the party) was replacing Mr Moloantoa as PR councillor on account of his expulsion. On 18 September 2024, the Municipality notified Mr Moloantoa of his replacement by Mr Mjakula as PR councillor, with effect from 12 September 2024.

B. The second respondent's case

[9] Mr Mjakula denies receiving invitations to attend the meetings of 9, 11 and 13 December 2020. He also denies receiving notification of suspension on 7 January 2021, and of the impending disciplinary proceedings against him. And while he does not specifically deny receipt of the dismissal notice, he denies the allegations surrounding his dismissal in generalised terms.

[10] The main contention throughout his answering affidavit is that there was no policy or agreed procedure for calling meetings or proceeding with disciplinary

processes without his involvement as the party chairperson. He states that neither the party's constitution nor any other document provides for such.

[11] In addition, Mr Mjakula relies on two letters attached to his affidavit, which are not mentioned in the founding papers. One was from the party to the IEC, dated 4 November 2020, headed 'New Executive Members', and it advised that the executive committee had agreed to change its structure due to the misconduct of the three now-expelled members. The other was the IEC's response dated 29 January 2021,¹ confirming that, in terms of regulation 9, Mr Mjakula was recognised as the leader of the party and that any changes to the party structure must emanate from the leader or contact person of the party. The IEC further noted that it was evident that there was a leadership dispute and directed the parties to the provisions of s 20 of the Act.

C. Discussion

[12] Mr Mjakula has raised certain preliminary points. First, is the applicability of s 20(2A) of the Act. He contends that the dispute does not relate to membership or leadership of a registered party but rather to the IEC's refusal to accede to the party's request for his name to be removed as the political party leader and cancellation of his appointments as PR councillor. He states that the applicable provisions are ss 20(1)(a), (b), 20(2)(a) and (b) of the Act, read with rules 5(1) and 6(1) of the Rules Regulating the Conduct of the Proceedings of the Electoral Court.

[13] But no review is sought in these proceedings. There is no specific conduct or decision of the IEC or Municipality sought to be attacked by the applicants. Rather,

¹ The letter seems to be erroneously dated 2020 instead of 2021. The error is apparent from the fact that it was a response to the applicant's letter of 4 November 2020.

the applicants seek a mandatory order compelling the IEC and the Municipality to effectively recognise its new leadership, relying on the purported dismissal of Mr Mjakula. Contrary to what is claimed in the answering affidavit, the whole basis for the applicants' application is a dispute relating to the membership and leadership of Mr Mjakula. Section 20 (2A) is wide in its ambit, and in my view, would include the relief sought. It provides as follows:

‘The Electoral Court may hear and determine any dispute relating to membership, leadership, constitution or founding instruments of a registered party.’

[14] I accordingly find no merit in the first preliminary challenge. Mr Mjakula also takes issue with the authority of the second respondent to bring these proceedings on behalf of the party. Indeed, there is no authority or resolution annexed to the founding affidavit for the second applicant to bring the application on behalf of the party. The second applicant's averment that he has the authority to bring these proceedings by virtue of his position is not supported by the provisions of the party's constitution. It simply states the following regarding the powers of a deputy chairperson:

‘Vice Chairperson is a subordinate to the chairperson, is sometimes chosen to assist and serve as chairperson in the latter's absence or when a motion involving the chairperson is being discussed.’²

[15] Another preliminary point concerns the delay in notifying the IEC of the alleged change in the party's leadership following the dismissal of Mr Mjakula as chairperson. Mr Mjakula points to regulation 9 of the Registration of Political Parties, 2004, which provides as follows:

² Annexure “LRP1” para 15.

‘Any change in the particulars furnished in Annexure 1 must be notified to the Chief Electoral Officer in writing within 30 days after such change by the registered contact person or the leader of the party.’

Annexure 1 is the application form containing particulars of a political party, for purposes of its registration.

[16] He points to his alleged dismissal, which occurred in October 2021, and to the fact that the IEC appears to have only been notified by letter from the applicants’ attorneys dated 21 August 2024, sent just before the launch of these proceedings on about 20 September 2024.³ That would have been well after the 30-day period provided in regulation 9.

[17] While it is true that there is nothing in the record to indicate that the IEC was notified of Mr Mjakula’s dismissal of 31 October 2021 prior to 21 August 2024, that delay is not a bar for the applicants to approach this Court for the relief they seek. The time requirements in regulation 9 self-evidently apply when political party particulars are furnished to the Chief Electoral Officer of the IEC, not to proceedings of this Court.

[18] Apart from the preliminary issues discussed, the applicants have failed to establish that the alleged dismissal of Mr Mjakula was procedurally fair. It remains in dispute whether Mr Mjakula did indeed receive notification to attend meetings on 9 and 11 December 2020, and the applicants have failed to rebut his denials. There remains no proof of an invitation for Mr Mjakula to attend the meeting on 13 December 2020. Neither is there proof that Mr Mjakula was notified of his

³ It is unclear when the founding papers were served upon Mr Mjakula. The original copy bears a sheriff’s stamp dated 10 April 2025. Mr Mjakula’s notice of intention to oppose, and the answering affidavit were delivered on 11 August 2025.

suspension of 7 January 2021, nor of the impending disciplinary proceedings against him. And as I have already mentioned, the notification letter of dismissal attached to the founding papers is undated and is also not accompanied by proof of receipt by Mr Mjakula.

[19] The constitution of the party provides as follows, at paragraph 17, regarding disciplinary procedure:

‘If a member of a executive break the following rules Chairperson set a meeting and call for that person who broke the law and discuss whether that person is given writing warning, suspended or reshuffled with immediate effect due to our disciplinary procedures.

FOLLOWING RULES.

- If you come late more than five (5) times
- No more than three (3) apologies allowed.
- Offensive words are not allowed.
- Alcohol prohibited during time of work.’

[20] At the very least, what is envisaged in these provisions is that there should be communication with the transgressor, hence the express requirements to ‘call for that person who broke the law’ and to ‘discuss’. The subject matter of that communication, according to the provisions, includes the arrangement of a meeting, the process to be followed, and the sanction to be meted out. That interpretation accords with the rules of natural justice by which a political party is bound, which require, amongst other things, that prior to disciplinary action being taken, notice should be given and that the person should be heard.⁴

⁴ *Magashule v Ramaphosa* [2021] ZAGPJHC 88; [2021] 3 All SA 887 paras 108–110.

[21] It must be remembered that the terms of the contractual relationship between a political party and its members are contained in the constitution of the party, and that there is no inherent right residing in a voluntary association such as a political party to take action to expel a member.⁵ Furthermore, expulsion is the most drastic form of punishment which a voluntary association can impose on its members and the power to do so must accordingly appear expressly or by necessary implication from the provisions of its constitution.⁶ The law accordingly provides that a member may only be expelled by a structure of the voluntary association entrusted with the power of expulsion expressly or by clear and unambiguous implication, and a purported expulsion by a structure other than one in which this power is vested in terms of the constitution will be *ultra vires* and unlawful.⁷

[22] Although I accept that the charges levelled against Mr Mjakula are infractions which are specifically proscribed in the party's constitution and, if proved, may lead to dismissal, and that a properly constituted executive committee is entitled to hold him accountable, there are also clauses in the party's constitution which support his contention that his dismissal was not authorised, including paragraph 17, to which I have already referred. In particular, the following clauses are relevant:

‘15. Executives.

Chairperson – Mohau Ronald Mjakula

...

Chairperson is responsible for making sure that each meeting is planned effectively, conducted to the constitution and that matters are dealt with in an orderly, efficient manner and also must make the most of all his/her committee members, building and leading the team.

16. Election procedures

⁵ *Matlholwa v Mahuma and others* [2009] ZASCA 29; [2009] 3 All SA 238 (SCA) (*Matlholwa*) para 8. *Yiba and others v African Gospel Church* 1999 (2) SA 949 (C) at 960D-961B.

⁶ *Matlholwa op cit.*

⁷ *Matlholwa op cit.*

When voting **Chairperson** set a meeting and allow all members (the executives (10)) to attend a meeting and allow members to participate on a voting and after the votes is where we count the votes and go for majority.

17. Disciplinary procedures

If a member of a executive break the following rules **Chairperson** set a meeting and call for that person who broke the law and discuss whether that person was given writing warning, suspended or reshuffled with immediate effect due to our disciplinary procedures.’

[23] Even if these provisions were interpreted generously in favour of the executive committee’s power to act in the absence of the chairperson, the application still falls short of establishing that lawful procedural steps were taken in dismissing him. Furthermore, the decisions appear to have been taken by the newly constituted executive committee, whose names are not the ones specified as the executive committee in paragraph 15 of the constitution. Those names are also the names that the party submitted to the IEC in its letter of 4 November 2020, and which were rejected by the IEC for failure to comply with regulation 9. This raises questions about the lawfulness of the new executive committee’s decisions.

[24] There are other anomalies in the applicants’ application. For example, it is not explained why, on 7 January 2022, Mr Moloantoa replaced Mr Makopo as PR councillor and not Mr Mjakula, given that this appears to have been the intention following his dismissal. On the other hand, Mr Mjakula states he opened a criminal case about this PR appointment, and specifically how the IEC approved it, given its previous stance. He has provided a CAS number 185/2/2022. There has been no reply to these allegations.

[25] There are also unexplained time gaps in the application. The first is between the alleged suspension of Mr Mjakula in January 2021 and his dismissal on 31 October 2021. The second has already been mentioned earlier, and it concerns the

period between Mr Mjakula’s dismissal on 31 October 2021 and the notification of the dismissal to the IEC on 21 August 2024. Although the applicants seek an order compelling the IEC to remove the name of Mr Mjakula from its records pursuant to his dismissal on 31 October 2021, there is no detail provided regarding their interactions with the IEC, if any, apart from the letter from their attorneys dated 21 August 2024. At the same time, Mr Mjakula has continued to operate a parallel structure, also referred to as the Lephalale Residents Party, with a different executive committee, while the IEC has continued to recognise him as the party chairperson. What is apparent is that on 23 August 2024,⁸ the IEC repeated what it had already stated in the letter of 29 January 2021,⁹ namely that the applicants should pursue relief in terms of s 20 and/or 20(2A) of the Act, which the applicants have now finally done in these proceedings. The court is left in the dark regarding what occurred in the intervening period.

[26] Lastly, there is no case made out for the relief against the Municipality, and it is not clear why it was cited in these proceedings.

[27] In the result, the application is dismissed with no order as to costs.

N. MANGCU-LOCKWOOD
ACTING JUDGE OF THE ELECTORAL COURT

⁸ Annexure “LRP12”.

⁹ Annexure “MRM4”.

