THE ELECTORAL COURT OF SOUTH AFRICA
(BLOEMFONTEIN)

Not Reportable

Case No: 0023/26EC

In the matter between:

REV DANZEL P VAN RENSBURG/POSE	**APPLICANT**

and

ELECTORAL COMMISSION OF SOUTH AFRICA	**FIRST RESPONDENT**
IEC EASTERN CAPE PROVINCIAL OFFICE	**SECOND RESPONDENT**
IEC NATIONAL OFFICE	**THIRD RESPONDENT**
SOUTH AFRICAN POLICE SERVICE (SAPS)	
ROBERT SOBUKWE STATION	**FOURTH RESPONDENT**
STATION COMMANDER ROBERT	
SOBUKWE STATION COLONNEL SOOI	**FIFTH RESPONDENT**
MARLON CALVINE OORMEYER	**SIXTH RESPONDENT**

Neutral Citation: *Rev Danzel P van Rensburg/Pose v Electoral Commission of South Africa and Others* (Case no 0023/26 EC) [2026] ZAEC 15 (03 November 2026)

Coram: ZONDI DP and STEYN and MANGCU-LOCKWOOD AJJ

Heard: 22 October 2026

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email, publication on the Electoral Court of South Africa website and release to SAFLII. The date and time for hand-down of the judgment is deemed to be 11h00 on 03 November 2026

Summary: Electoral Law – local government elections – objection regarding a ward candidate standing in a local election – Schedule 3 of the Electoral Act 73 of 1998 does not provide for objections to electoral candidacy – seeking factual and procedural clarification on candidate employment status.

ORDER

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1 The application is dismissed.

2 There is no costs order.

JUDGMENT

Steyn AJ (Zondi DP and Mangcu-Lockwood AJ concurring):

Introduction

[1] The applicant, Rev van Rensburg, approaches this Court for an order to obtain, inter alia, information concerning the candidacy of the sixth respondent, Marlon Calvine Oormeyer (Mr Oormeyer). He also seeks factual and procedural clarification as to whether Mr Oormeyer may have committed a policy or statutory contravention. The alleged misconduct relates to Mr Oormeyer's candidacy as a ward candidate in the intended municipal elections. The notice of motion is not a model of clarity, but I am mindful that the applicant is bringing the application in person.

[2] Mr Oormeyer is nominated as a ward candidate in the local upcoming elections for the African National Congress (the ANC). He has been nominated for a position in the Dr Beyers Naudé Local Municipality (the DBN-Municipality). The application is opposed by the first to third respondents.

[3] The members of this Court, having considered the papers filed in the application and all the issues raised by the parties, decided to dispose of the matter on the papers without hearing oral arguments. This decision accords with the directives issued by the Registrar.

Factual Background

[4] The applicant avers that he is the founder/representative of Protect Organise and Support Empower (POSE). He brings the application in the

public interest, concerning the integrity, transparency, and procedural correctness of the pending elections. His complaint relates to a candidate, Mr Oormeyer, who is a candidate in the DBN-Municipality, more specifically Ward 7. The relief sought by the applicant at times contradicts the averments made by him in the founding affidavit but not much turns on it, and it is unnecessary for purposes of this judgment to repeat these contradictions.

[5] At the outset, it is necessary to emphasise that the statutory duties of this Court are defined in s 20 of the Electoral Commission Act 51 of 1996 (the ECA) read with various sections of our Constitution.[1] This Court remains a specialist tribunal responsible for electoral justice in South Africa. When the entire affidavit filed by the applicant is, however, analysed, then he seeks guidance on policies and rules not relevant to electoral justice but to labour-related matters.

Legal Framework

[6] Section 158 of the Constitution[2] provides:

'Membership of Municipal Councils

(1) Every citizen who is qualified to vote for a Municipal Council is eligible to be a member of that Council, except-

(a) anyone who is appointed by, or is in the service of, the municipality and receives remuneration for that appointment or service, and who has not been exempted from this disqualification in terms of national legislation;

(b) anyone who is appointed by, or is in the service of, the state in another sphere, and receives remuneration for that appointment or service, and who has been disqualified from membership of a Municipal Council in terms of national legislation;

(c) anyone who is disqualified from voting for the National Assembly or is disqualified in terms of section 47(1)*(c)*, *(d)* or *(e)* from being a member of the Assembly;

(d) a member of the National Assembly, a delegate to the National Council of Provinces or a member of a provincial legislature; but this disqualification does not apply to a member of a Municipal Council representing local government in the National Council; or

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[1] See inter alia ss 19, 165 and 190 which form the constitutional core of this Court's functions.
[2] The Constitution of the Republic of South Africa, 1996.

(e) a member of another Municipal Council; but this disqualification does not apply to a member of a Municipal Council representing that Council in another Municipal Council of a different category;

(2) *A person who is not eligible to be a member of a Municipal Council in terms of subsection (1)(a), (b), (d) or (e) may be a candidate for the Council, subject to any limits or conditions established by national legislation.*

(3) Vacancies in a Municipal Council must be filled in terms of national legislation.' (Emphasis added.)

[7] The Public Service Act 103 of 1994 (the PSA) regulates the organisation and administration of the public service and the conditions of employment of members of that public service. Accordingly, s 36 of the PSA is central to the enquiry before this Court. The provision reads:

'**Employees as candidates for, and becoming members of, legislatures**

(1) An employee may be a candidate for election as a member of the National Assembly, a provincial legislature or a Municipal Council, subject to the code of conduct contemplated in section 41(1)*(b)*(v) and any other prescribed limits and conditions.

(2) An employee elected as a member of the National Assembly or a provincial legislature or a full-time member of a Municipal Council shall be deemed to have resigned from the public service with effect from the date immediately before the date, he or she assumes office as such member.

(3) An employee appointed as a permanent delegate of the National Council of Provinces shall be deemed to have resigned from the public service with effect from the date immediately before the date, he or she assumes office as such delegate.

(4) An employee elected as a member of a Municipal Council-

(a) may only remain an employee in the public service if he or she serves as a part-time member of the Council; and

(b) shall comply with section 30(1).'

[8] I turn now to the legislation that specifically regulates the activities of the South African Police Service (SAPS) employees. Section 46 of the South African Police Service Act 68 of 1995 (the SAPSA) governs the political activities of SAPS members. It reads as follows:

'Political activities of members

(1) No member shall-

(a) publicly display or express support for or associate himself or herself with a political party, organisation, movement or body;
(b) hold any post or office in a political party, organisation, movement or body;
(c) wear any insignia or identification mark in respect of any political party, organisation, movement or body; or
(d) in any other manner further or prejudice party-political interests.
(2) Subsection (1) shall not be construed as prohibiting a member from-
(a) joining a political party, organisation, movement or body of his or her choice;
(b) attending a meeting of a political party, organisation, movement or body: Provided that no member shall attend such a meeting in uniform; or
(c) exercising his or her right to vote.'

[9] What is apparent from the section is that it does not expressly prohibit a SAPS member from being nominated as a candidate in a municipal election. Whether the nomination of a candidate constitutes conduct prohibited by s 46 of the SAPSA need not be decided in this matter. Any breach of that section is primarily a matter between the individual SAPS member and SAPS as the employer. It is also not a matter that the Electoral Commission of South Africa (the Commission) is empowered to determine when it certifies the candidates.

[10] This brings me to s 21 of the Local Government: Municipal Structures Act 117 of 1998, which provides:
'**Qualifications for councillors**
(1) Every citizen who is qualified to vote for a particular municipal council has the right-
(a) to stand as a candidate in an election for that council, except a person disqualified in terms of section 158(1)*(c)* of the Constitution; and
(b) if elected, to become and remain a councillor, except a person disqualified in terms of section 158(1)*(a)*, *(c)*, *(d)* or *(e)* of the Constitution.'

[11] A plain reading of the section suggests that any person may be entitled to stand for election, even though, if elected, he or she would need to remove any disqualification before assuming office. In my view, the provision has to be considered through a constitutional lens, specifically s 158 of the Constitution. This section supports the notion that state employees are not

automatically barred from candidacy in local government elections; once elected, restrictions may arise regarding their ability to serve as councillors.

[12] The Commission's central argument before us is that it has neither a statutory duty nor the power to investigate a candidate's employment status or compliance with obligations owed to an employer before certifying a candidate for election. The responsibility for ensuring the eligibility of a candidate rests with the nominating party and the candidate, who must submit to the prescribed statutory declaration. The prescribed declaration, however, does not require disclosure of employment status. The Commission further explains that this approach is practical and necessary, given that in the relevant election cycle, over 142,000 candidates were nominated for proportional representation and ward elections.

[13] The election timetable in the Local Government: Municipal Electoral Act 27 of 2000 (the MEA) contains no procedure for objections to candidates before certification.[3] Schedule 3 to the MEA contains no procedure for the lodging and determination by the Commission of objections relating to the eligibility of ward candidates before their certification. Once the Commission certifies candidates in terms of the MEA, any challenge to their eligibility must ordinarily be pursued through appropriate court proceedings. A person seeking such a challenge must therefore approach the court promptly, within three days after the certification.

[14] The Commission submitted in its heads of argument that whether Mr Oormeyer breached his obligations as an employee of SAPS, if he is so employed, is not a question falling within the Commission's obligations. That issue remains to be an issue between the employee and the employer. The Commission further notes, quite rightly in my view, that this Court need not decide whether s 46 of the SAPSA prohibits a SAPS member from accepting nomination as a candidate, since that issue is not directly before this Court. The reason for this is that the applicant did not seek to set aside the

[3] See Schedule 3 of the Municipal Electoral Act, no provision is made for an objection to be lodged against candidates for the local elections.

nomination of Mr Oormeyer. Any determination on that question would therefore be academic and should be left for a future case.

[15] Accordingly, having considered all submissions from all parties, I am satisfied that the applicant's complaint before this Court is unsustainable. An analysis of the relief sought by the applicant shows that he is not seeking a review of any decision taken by the Commission, nor is he challenging the candidacy of Mr Oormeyer. I find no electoral dispute raised by the applicant. Effectively, he is seeking legal advice on the interaction between employment law and the electoral law. This Court does not provide legal guidance on matters falling outside its jurisdiction.

[16] This brings me to the issue of costs. In general, this Court does not order an unsuccessful party to pay costs, and there is no reason to deviate from this rule. The respondents also do not seek a costs order against the applicant.

Order

[17] The following order is issued:

1 The application is dismissed.

2 There is no costs order.

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EJS STEYN

Acting Judge of the Electoral Court

Appearances:

For the appellants:	Rev Danzel P van Rensburg
Instructed by:	In person
For the first, second and third respondents:	Adv De Beer
Instructed by:	Eversheds Sutherland (SA) Inc., Johannesburg Honey Attorneys, Bloemfontein