



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
JUDGMENT

Reportable

Case no: 122/2024

In the matter between:

NALEDI LOCAL MUNICIPALITY	FIRST APPELLANT
NALEDI LOCAL MUNICIPAL COUNCIL	SECOND APPELLANT
CLLR PG GULANE N O	THIRD APPELLANT
CLLR GROEP N O	FOURTH APPELLANT
MR MODISENYANE SEGAPO N O	FIFTH APPELLANT

and

THABO APPOLUS	FIRST RESPONDENT
CLLR LORATO SETHLAKE	SECOND RESPONDENT
CLLR LEBOGANG JACOBS	THIRD RESPONDENT
CLLR VUYISWA MORAKILE	FOURTH RESPONDENT
THE MEC FOR COOPERATION OVERNANCE HUMAN SETTLEMENT AND TRADITIONAL AFFAIRS, NORTHWEST PROVINCE	FIFTH RESPONDENT

Neutral citation: *Naledi Local Municipality and Others v Appolus and Others*
(122/2024) [2025] ZASCA 171 (14 November 2025)

Coram: MOTHLE, KGOELE, BAARTMAN JJA and HENNEY and CHILI
AJJA

Heard: 21 August 2025

Delivered: 14 November 2025

Summary: Local Government: Municipal Systems Act 32 of 2000 – interpretation of s 54A – review of the appointment of a Municipal Manager – whether grounds for review established – principles of legality applicable.

ORDER

On appeal from: North West Division of the High Court, Mafikeng (Reid J, sitting as court of first instance):

- 1 The appeal is dismissed.
- 2 The third to fifth appellants are ordered to personally pay the costs of this appeal, including the costs of the application for leave to appeal on a party and party scale, jointly and severally, the one paying the others to be absolved. Such costs to include costs of two counsel where so employed.

JUDGMENT

Kgoele JA (Mothle and Baartman JJA, Henney and Chili AJJA concurring)

[1] This appeal is against the judgment and order of the North West Division of the High Court, Mafikeng (the high court), which reviewed and set aside the appointment of the fifth appellant, Mr Modisenyane Segapo N O (Mr Segapo) who had been appointed as a Municipal Manager. The high court ordered the first appellant, the Naledi Local Municipality (the Municipality), and the second appellant, the Naledi Local Municipal Council (the Council), to initiate a new recruitment process for the appointment of a Municipal Manager. The appeal is with leave of the high court.

[2] The appeal originates from an urgent application that was initiated by the first to fourth respondents. The first respondent, Mr Thabo Appolus (Mr Appolus), serves as a Director of Corporate Services in the employ of the Municipality. The second to fourth respondents, Ms Lorato Sethlake, Mr Lebogang Jacobs and Ms Vuyiswa Morakile, are Councillors of the Municipality. For convenience, the first to fifth appellants and the first to fifth respondents will be collectively referred to as appellants and respondents respectively, except where the context dictates otherwise. When the urgent application served before the high court, the former Acting Municipal Manager, Mr Nelson Mongale; the Speaker, Mr P G C Gulane; the Mayor, Mr Clifton John Groep; the Member of the Executive Council for the Department of Co-operative Governance Human Settlement and Traditional Affairs, North West Province (the MEC); the South African Local Government Association (SALGA) and the Provincial Treasury, North West Province (Treasury) were also cited as the respondents.

[3] The urgent application sought the setting aside of the appointment of Mr Segapo as the Municipal Manager. Among other ancillary relief, the respondents also sought a declaration that the meeting of 10 March 2023 (the Special Council meeting), at which a resolution to appoint Mr Segapo was passed, was unlawful and invalid.

[4] The impugned appointment was Mr Segapo's third term as a Municipal Manager. His initial appointment spanned from 2011 to 2016, followed by a reappointment on 1 September 2021. The second tenure was limited to one year. It was terminated by the election of the new Council, which legally brought his appointment to an end. The process regarding his third tenure commenced in October 2022, when the Council declared a vacancy that initiated a recruitment

process. Eight candidates submitted applications to fill the vacancy advertised on 4 September 2022.

[5] Mr Segapo and Mr Appolus were the only candidates shortlisted out of the eight applicants. Mr Appolus subsequently withdrew his candidacy. Since Mr Segapo was still the Municipality's Accounting Officer when the position was advertised, he sought a legal opinion from Modiboa Attorneys Inc. on the legitimacy of interviewing only one candidate. The legal opinion advised the Municipality to re-advertise the vacancy to prevent the process from appearing biased, unfair, or anti-competitive. It also recommended the appointment of an Acting Municipal Manager in the interim.

[6] The legal opinion received led to a Council meeting that was held on 20 October 2022, during which a resolution was passed to re-advertise the position. It was further resolved that the panel appointed for the recruitment process of the initial advertisement be reinstated. The panel comprised of the Mayor, Councillor Hendriëtte Van Huysteen, Mr Katlego Gabanakgosi, who was the Municipal Manager from Greater Taung Local Municipality (Mr Gabankosi), Provincial Treasurer Mr L Mokoena, and Mrs Desiree Tlhoale from SALGA. Mr Gabanakgosi was subsequently replaced by Mr Rantsho Gincane. A total of 13 applications were received, and five candidates were shortlisted. Mr Segapo was amongst the five shortlisted. Following the interviews conducted, Mr Segapo was recommended for appointment as the Municipal Manager. On 10 March 2023, a Special Council meeting resolved to appoint him.

[7] According to the respondents, as the recruitment process unfolded, they became aware of certain irregularities during the recruitment process. The initial

irregularities pertained to the involvement of the Mayor in the panel, in violation of Regulation 12(5) and (6) of the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers (the regulations),¹ which regulates the disclosure by panel members, of ‘any interest or relationship with shortlisted candidates during the shortlisting process’. The second set of irregularities concerned the procedures followed during the interview process. The irregularities form the crux of this appeal, the specifics of which will be addressed later in the judgment. It is sufficient to note that, dissatisfied with these irregularities, the second respondent sent an email to the Mayor on 10 November 2022 detailing the specifics of the irregularities. Nonetheless, the Mayor proceeded with the recruitment process, which ultimately resulted in Mr Segapo being recommended for the position of the new Municipal Manager at the Special Council meeting.

[8] The Special Council meeting and the resolution adopted during that meeting are what broke the camel’s back. This prompted the respondents to file an urgent application, alleging that the entire recruitment process, including Mr Segapo’s appointment, was riddled with apparent irregularities that could not withstand legal scrutiny. I pause here to note that, there is no need to summarise the particulars of the irregularities the respondents complained about relating to the Special Council meeting in this judgment, since the high court declined to grant the relief sought that was aimed at setting aside the said meeting inclusive of the related resolutions. Furthermore, the respondents did not pursue a cross-appeal of that order. Nothing more will be said about them in this judgment.

¹ Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers published in No 21, published *Government Gazette* 37245 on 17 January 2014.

[9] The urgent application to nullify Mr Segapo's appointment was initially filed in the high court, prior to the MEC being provided with a recruitment report pursuant to s 54A(7)(a) and (b)² of the Local Government: Municipal Systems Act 32 of 2000 (the Municipal Systems Act). For that reason, it was struck from the roll. After the MEC received the report and declined to grant approval for the appointment, the application was re-enrolled and heard by Reid J. The respondents argued that the recruitment process was fundamentally flawed from the outset, both procedurally and substantively, due to the irregularities that were highlighted in the correspondence sent to the Municipality. They further relied on a letter from the MEC, which outlined numerous irregularities in the appointment process and wherein he declined to sanction the appointment.

[10] In opposition, the appellants contended that the matter was not urgent and that the respondents failed to establish grounds for review to sustain their application. Three preliminary points were also raised: that the respondents lacked the requisite *locus standi* to challenge the appointment; that the MEC's inaction rendered the respondents' application premature; and that the MEC's concerns had already been addressed.

[11] On 19 September 2023, Reid J dismissed the appellants' opposition together with the preliminary points raised and set aside Mr Segapo's appointment. The dismissal sparked a litany of applications and counter-applications that culminated in a two-stream appeal process: the application for leave to appeal against the main judgment and order (the regular appeal stream), and an automatic appeal (the s 18(4)

² This section provides that:

'(7)(a) The municipal council must, within 14 days, inform the MEC for local government of the appointment process and outcome, as may be prescribed.

(b) The MEC for local government must, within 14 days of receipt of the information referred to in paragraph (a), submit a copy thereof to the Minister.'

appeal stream). The details of the latter are fully dealt with hereunder. Some of these applications were finalised and others remained active until the hearing of this matter. The appellants were first to apply for leave to appeal Reid J's order on 29 September 2023. On 17 October 2023, the respondents reacted and filed an enforcement application under s 18(3) of the Superior Courts Act 10 of 2013 (the Superior Courts Act),³ which Reid J granted on 17 November 2023. Leave to appeal to this Court was only granted on 26 January 2024. In response to the enforcement order granted, the appellants initiated an automatic right of appeal, pursuant to s 18(4)(a)(ii) of the Superior Courts Act.⁴ On 28 April 2024, the respondents issued a writ to put into operation the enforcement order by removing Mr Segapo from his office, as he continued to report for work. The writ was executed, and he was consequently removed from his position.

[12] As if that was not enough, the appellants filed an urgent application to set aside the writ of execution. This application was eventually dismissed. Mr Segapo

³ Section 18 of the Superior Courts Act 10 of 2013 (the Superior Courts Act) provides:

'Suspension of decision pending appeal

(1) Subject to subsections (2) and (3), and unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision which is the subject of an application for leave to appeal or of an appeal, is suspended pending the decision of the application or appeal.

(2) Subject to subsection (3), unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision that is an interlocutory order not having the effect of a final judgment, which is the subject of an application for leave to appeal or of an appeal, is not suspended pending the decision of the application or appeal.

(3) A court may only order otherwise as contemplated in subsection (1) or (2), if the party who applied to the court to order otherwise, in addition proves on a balance of probabilities that he or she will suffer irreparable harm if the court does not so order and that the other party will not suffer irreparable harm if the court so orders.

(4)(a) If a court orders otherwise, as contemplated in subsection (1)-

(i) the court must immediately record its reasons for doing so;

(ii) the aggrieved party has an automatic right of appeal to the next highest court;

(iii) the court hearing such an appeal must deal with it as a matter of extreme urgency; and

(iv) such order will be automatically suspended, pending the outcome of such appeal.

(b) **Next highest court'**, for purposes of paragraph (a) (ii), means-

(i) a full court of that Division, if the appeal is against a decision of a single judge of the Division; or

(ii) the Supreme Court of Appeal, if the appeal is against a decision of two judges or the full court of the Division.

(5) For the purposes of subsections (1) and (2), a decision becomes the subject of an application for leave to appeal or of an appeal, as soon as an application for leave to appeal or a notice of appeal is lodged with the registrar in terms of the rules.'

⁴ Ibid footnote 3.

nevertheless continued with his duties as a Municipal Manager during these applications. When the papers were filed in this Court, the respondents were also preparing a contempt of court application against the appellants, which, as we were informed during oral arguments, Djadje DJP, dismissed on 06 June 2025. Additionally, we were told that Mr Segapo is still reporting for duty.

[13] Although these litany of applications are not part of the current appeal, the respondents raised the status of the s 18 appeal stream in their oral arguments, to the extent that it had a bearing on the regular appeal against the main judgment and order of Reid J. The conundrum is created by the fact that it remains pending in the office of the Judge President of that Division. I will thus divert to briefly refer to the status of the s 18 appeal and thereafter return to deal with the appeal before us.

[14] Section 18(4)(a)(ii) is a distinct provision establishing a unique category of appeals, designed explicitly for orders made under s 18(3). Moreover, the application in terms of s 18(3) serves, by its nature, to regulate the interim position between litigants from the time that an order is issued until the final judgment on appeal is handed down. In addition, the s 18(4) appeal specifically allows for a single right of appeal, indicating that multiple appeals are not permitted under the section.⁵ In my view, once the judgment of this Court on the main appeal is handed down, irrespective of the outcome thereof, the s 18(3) order and the automatic appeal in terms of s 18(4)(a)(ii) will automatically fall away. I now revert to the appeal in this Court.

⁵ *Tshwane Metropolitan Municipality v Vresthena (Pty) Ltd and Others* [2023] ZASCA 104; 2023 (6) SA 434 (SCA) paras 14-16, 18 and 21-23.

[15] The crisp issue before this Court is whether the respondents established review grounds for setting aside the appointment of Mr Segapo. The appellants' main contention is that on a proper interpretation of s 54A(7)(a) and (b), (8), (9), and (10) of the Municipal Systems Act, the respondents failed to establish the grounds to set aside the impugned appointment. To bring context to this argument, it is necessary to skim through the section and its subsections.

[16] The first point of reference is s 54A (1) of the Municipal Systems Act, which provides for the appointment of a Municipal Manager as head of the Council's administration.⁶ Sections 54A (7)-(10) of the Municipal Systems Act provides that: '(7)(a) The municipal council must, within 14 days, inform the MEC for local government of the appointment process and outcome, as may be prescribed.

(b) The MEC for local government must, within 14 days of receipt of the information referred to in paragraph (a), submit a copy thereof to the Minister.

(8) If a person is appointed as municipal manager in contravention of this section, the MEC for local government must, within 14 days of receiving the information provided for in section (7), take appropriate steps to enforce compliance by the municipal council with this section, which may include an application to a court for a declaration order on the validity of the appointment, or any other legal action against the municipal council.

(9) Where an MEC for local government fails to take appropriate steps referred to in subsection (8), the Minister may take the steps contemplated in that subsection.

(10) If the MEC for local government fails to respond to the appointment process and outcome within the timeframe, as contemplated in subsection (8), or the Minister fails to respond as contemplated in subsection (9), the appointment of the municipal manager will be deemed to be in compliance with this Act: Provided the municipal council submitted all relevant documents, as prescribed.'

⁶ Section 54A(1) of the Municipal Systems Act provides:

'The municipal council must appoint –

(a) a municipal manager as head of the administration of the municipal council; or

(b) an acting municipal manager under circumstances and for a period as prescribed.'

[17] Whilst the appellants pin the colours of their mast in the Municipal Systems Act, sight should not be lost of the fact that it is trite that an appointment of a Municipal Manager is a constitutional issue.⁷ The Constitutional Court confirmed that any exercise of public power, as in the present instance, must be within the confines of the law and that a court is entitled, relying on the principle of legality, to review the exercise by a functionary of public power.⁸ This principle applies to the exercise of all public power and is not limited to the narrow realm of administrative action.⁹ Therefore, s 172(1) of the Constitution serves as the second relevant point of reference to be considered in this matter, which provides:

‘When deciding a constitutional matter within its power, a court-
(a) must declare that any law or conduct that is inconsistent with the constitution is invalid to the extent of its inconsistency; and

....’

[18] To substantiate their grounds of appeal, the appellants argue that the respondents, as municipal employees and councillors, lacked the standing to challenge the Municipal Manager’s appointment. They contend that the statutory enforcement under s 54A (7)-(9) is exclusive to the MEC, then the Minister. Further that, the Municipality notified the MEC about the appointment of Mr Segapo but failed to take appropriate steps to enforce compliance within 14 days after raising concerns as required by s 54A (8). The appellants also claim that the MEC’s inaction

⁷ *Member of the Executive Council for the Department of Cooperative Governance and Traditional Affairs, KwaZulu-Natal v Nkandla Local Municipality and Others* [2021] ZACC 46; (2022) 43 ILJ 505 (CC); 2022 (8) BCLR 959 (CC) para 10. See also *Notyawa v Makana Municipality* [2019] ZACC 43; (2020) 41 ILJ 1069 (CC); 2020 (2) BCLR 136 (CC); [2020] 4 BLLR 337 (CC) para 31.

⁸ *Pharmaceutical Manufacturers Association of SA and Another: In re Ex parte President of the Republic of South Africa and Others* 2000 (2) SA 674 (CC); 2000 (3) BCLR 241 (CC); 2000 (2) SA 674 (CC) paras 17 and 20.

⁹ See *Judicial Service Commission and Another v Cape Bar Council and Another* [2012] ZASCA 115; 2013 (1) SA 170 (SCA); [2013] 1 All SA 40 (SCA); 2012 (11) BCLR 1239 (SCA) para 21.

rendered the appointment compliant with the presumption in s 54A (10) and the respondents' attempt to bypass this process was premature and unlawful.

[19] The appellants further challenge the validity of the review grounds upon which the high court relied to dismiss their opposition. They contend that the MEC's initial objections articulated in his correspondence, such as the purported delays in candidate screening and incomplete documentation, were thoroughly addressed by the Mayor in the response letter dated 10 May 2023, which the high court failed to consider. Concerning the irregularities associated with nepotism, the appellants assert that the respondents' case was founded on speculative assertions rather than substantiated irregularities, and that the high court erred in neglecting to consider the Mayor's rebuttal of same.

[20] I choose to promptly dismiss the grounds of appeal concerning the preliminary points raised by the appellants first, which primarily concern section 54A of the Municipal Systems Act. Firstly, the appellants' assertion that the correct interpretation of sections 54A (7) and (8) is that only the MEC has the legal standing to initiate proceedings to nullify the appointment of the Municipal Manager is unfounded. Section 34 of the Constitution affirms the right of every individual to have disputes resolved by a court of law. This matter relates to the principle of legality; therefore, constraining the Municipal Systems Act to imply that only the MEC has the standing to file a review application would lead to absurdity. The Constitution overrides the Municipal Systems Act. This conclusion also effectively addresses the appellant's delegated argument that the respondents lacked the authority to act on behalf of the MEC. An interpretation that strips the respondents of their standing to challenge a principle of legality cannot be sanctioned by our courts.

[21] The appellants' contention that the MEC's failure to act under s 54A (10) renders the review premature, is unpersuasive. Likewise, the assertion that the Mayor's letter dated 10 May 2023 fully addressed the irregularities, is unfounded. In my view, the high court was justified in intervening solely based on the MEC's failure to approve Mr Segapo's appointment. The MEC's failure to respond to the appellants' delayed submissions could not constitute an absolute obstacle to the high court's examination of significant statutory violations within the recruitment process. Additionally, there are other significant irregularities that will be discussed later, requiring urgent judicial intervention despite the high court's failure to address them explicitly. Neither the councillors nor the community should passively allow bureaucracy to override legality in their oversight role.

[22] I now address the key issue before this Court, which is whether the respondents succeeded in establishing review grounds to sustain their application before the high court. In my view, this question must be answered in the affirmative. As it will be apparent below, the respondents achieved this within the confines of the statutory, regulatory, and constitutional frameworks governing the local government.

[23] As already indicated, beyond the irregularities identified by the MEC, there are additional significant irregularities in the respondents' founding affidavit submitted to the high court, which this Court must consider. They originate from a letter written by the second respondent to the Mayor, in which she raised concerns about nepotism. The allegations involved the Mayor's close relatives and questioned his impartiality in the recruitment process. Central to these allegations is that Mr Segapo promoted the Mayor's twin brother, Mr. Arthur Groep, from swimming pool

attendant to finance clerk on 2 November 2012, and shortly thereafter, to a debt collector. Furthermore, Mr Segapo hired the Mayor's sister-in-law within a year of his tenure. These promotions occurred while the Mayor was serving as the ANC's Chief Whip. The letter also urged the Mayor to recuse himself from the recruitment process. A similar letter was sent to the Acting Municipal Manager, the Mayor, MMC Finance and Corporate Services, and the Chief Whip, outlining these irregularities. To ensure fairness and prevent conflicts of interest, the letter suggested the appointment of a recruitment agency to oversee the process, as required by Regulation 10(4).¹⁰ However, as indicated earlier, these letters were ignored, and the Mayor proceeded with the process despite these concerns.

[24] Notably, in their answering affidavit, the appellants did not challenge the allegations made regarding these appointments. Instead, they characterised the concern raised by the respondents as 'a perceived indebtedness' and dismissed it as 'pure malice' and 'speculation'. Additionally, the appellants completely overlooked the issue raised regarding the perceived conflict of interest and recusal, which, on its own, casts an unsavoury light on the recruitment process as a whole.

[25] Regulation 12(5) and (6) provides:

'(5) A panel member must disclose any interest or relationship with shortlisted candidates during the shortlisting process.

(6) A panel member contemplated in sub-regulations (3) and (4)¹¹ must recuse himself or herself from the selection panel if-

¹⁰ It provides that:

'A municipality may utilise a recruitment agency to identify candidates for posts: Provided that the advertising, recruitment and selection procedures comply with these regulations.'

¹¹ These sub regulations provide as follows:

'(3) The selection panel for the appointment of a municipal manager must consist of at least three and not more than five members, constituted as follows-

(a) the mayor, who will be the chairperson, or his or her delegate;
 (b) a councillor designated by the municipal council; and

- (a) his or her spouse, partner, close family member or close friend has been shortlisted for the post;
- (b) the panel member has some form of indebtedness to a short-listed candidate or *vice versa*; or
- (c) he or she has any other conflict of interest.’

[26] What we observe from the above, indicates a legitimate concern regarding a possible conflict of interest involving the Mayor and Mr Segapo. The Mayor’s attempt to dismiss these allegations by asserting in the papers filed by the appellants that he did not reciprocate any favours to Mr Segapo, is inadequate to counter the undisputed claims of nepotistic appointments. According to the *Plascon-Evans* principle,¹² such denial does not satisfy the requirement of a genuine factual dispute. The reasonable perceived conflict of interest, as envisioned by the regulation, warranted a recusal or, at the least, disclosure by the Mayor. This inept conduct, regrettably, tarnished the entire recruitment process far beyond the irregularities identified by the MEC, raising eyebrows about the Mayor’s impartiality in his role as a member of the recruitment panel that appointed Mr Segapo. These irregularities are within the personal knowledge of the respondents in their capacity as councillors and can be legally challenged or raised by them. In my view, the respondents were correct to persist in their argument that the Mayor’s apparent indebtedness to Mr Segapo, stemming from these appointments, was an important factor that must not be overlooked.

(c) at least one other person, who is not a councillor or a staff member of the municipality, and who has expertise or experience in the area of the advertised post.

(4) The selection panel for the appointment of a manager directly accountable to a municipal manager must consist of at least three and not more than five members, constituted as follows-

- (a) the municipal manager, who will be the chairperson;
- (b) a member of the mayoral committee or councillor who is the portfolio head of the relevant portfolio; and
- (c) at least one other person, who is not a councillor or a staff member of the municipality, and who has expertise or experience in the area of the advertised post.’

¹² *Plascon-Evans Paints (TVL) Ltd v Van Riebeck Paints (Pty) Ltd* 1984 (3) SA 623 (A); [1984] 2 ALL SA 366 (A); 1984 (3) SA 623; 1984 (3) SA 620.

[27] A sum total of all the above is that the appellants didn't have a leg to stand on for this Court to overturn the high court's order. In fact, the high court had ample reasons to set aside the appointment of Mr Segapo. Therefore, the appeal must fail.

[28] Regarding costs, this Court notes that the respondents argued for a punitive costs order but on an ordinary scale due to the protracted and unnecessary litigation between the parties. However, this Court acknowledges that awarding costs is a discretionary matter. While the reasons provided by the respondents for a punitive costs order have merit, this Court cannot be oblivious to the fact that the Municipality will effectively bear the costs on behalf of the other appellants if the respondents' submission is granted. There are several significant concerns aside from those expressed by the respondents that merit consideration. These are:

- (a) The high court urgently issued the order, recognising that it involves a matter of public interest.
- (b) The high court's order was minimally burdensome, merely directing the Municipality to re-advertise.
- (c) It is clear that the Municipality has been using public funds since 2023 to date to support the indefensible.
- (d) The third to fifth appellants are clinging to the benefit of the fees paid by the Municipality on their behalf, while funds that could be used by the Municipality for service delivery are clearly being drained by ongoing litigation. On the other hand, the respondents have been covering expenses out of their own pockets so far.
- (e) The Municipality and the other appellants are committed to supporting an appointment that the MEC did not approve.
- (f) The inaction of the MEC, which the appellants are clinging on to avoid addressing the ongoing occupation of the Municipal Manager's office by Mr Segapo up to this date, even after the enforcement order was granted, including their failure

to withdraw or prosecute the appeal under s 18(4)(a)(ii), serves as a sticking point that leaves a distasteful impression of their approach to resolving the disputes.

(g) This conduct is reprehensible as it indicates a flagrant abuse of office or positions by public officials, who are acutely aware of the egregious breaches of the legal frameworks governing the local government sphere.

[29] In light of the foregoing considerations, this Court is of the view that it would be fair and consistent with the interests of justice, including the welfare of the general public, to safeguard the public purse by ordering the third to fifth appellants to personally bear the costs of this appeal and that of the application for leave to appeal. The costs should be on a party and party scale.

[30] The following order is thus made:

1 The appeal is dismissed.

2 The third to fifth appellants are ordered to personally pay the costs of this appeal, including the costs of the application for leave to appeal on a party and party scale, jointly and severally, the one paying the other to be absolved. Such costs to include costs of two counsel where so employed.

A M KGOELE
JUDGE OF APPEAL

Appearances

For the appellants: E Mokutu SC (with J H Mollentze)
Instructed by: Du Plessis Viviers Inc., Mahikeng
Phatshoane Henney Incorporated,
Bloemfontein

For the first to fourth respondents: C Z Muza (with B J Maboera)
Instructed by: Mabapa Attorneys Inc., Pretoria
Matlho Attorneys Inc., Bloemfontein.