

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case No: 11595/2022

In the matter between:

HERMAN COMBRINK

Applicant

and

**SOUTH AFRICAN PRACTICAL SHOOTING
ASSOCIATION**

1st Respondent

JAN VAN DEN BERG N.O.

2nd Respondent

JACOBUS PETRUS BREYTENBACH N.O.

3rd Respondent

**REPORTABLE: YES / NO
OF INTEREST TO OTHER JUDGES: YES / NO
REVISED.
DATE: 8 February 2024**

JUDGMENT

HF JACOBS, AJ:

INTRODUCTION

[1] The applicant, Mr Combrink, applies for the review and setting aside of disciplinary proceedings, decisions and a sanction imposed by the disciplinary committee of the first respondent and for an order reinstating him as a full member of the first respondent with rights and privileges *ex tunc* (7 February 2022) claiming, initially, that the disciplinary proceedings were irrational, unlawful, procedurally unfair, arbitrarily arrived at and materially influenced by an error of law and that

certain considerations relevant to the disciplinary proceedings were not considered at all and later, that the disciplinary body did not have authority to prosecute him.¹

[2] The application is brought in terms of the Promotion of Administrative Justice Act No 3 of 2000 (the PAJA) alternatively the common law. The first respondent is a voluntary non-profit association known as The South African Practical Shooting Association. It has a constitution. The constitution and its terms are not in dispute and copy of the constitution is attached to the founding papers. The first respondents' functions as the national body that represents the practical shooting sport of the Republic of South Africa at the International Practical Shooting Confederation. One of the provincial bodies affiliated with the first respondent is the North Gauteng Practical Shooting Association (NGPSA). The applicant was the former chairperson of the NGPSA.

[3] During 2021 the first respondent through its officials initiated disciplinary proceedings against the applicant. The disciplinary proceedings were triggered by an anonymous letter the applicant transmitted by electronic mail under an alias "*Citizen with a Broken Heart*" to a host of institutions, officials and members of the news media. It later appeared that the applicant published the letter on 11 May 2021. He does not dispute that. At the time of transmission and distribution of the anonymous letter the applicant was a member of the first respondent but soon thereafter resigned. When the first respondent initiated the disciplinary proceedings against the applicant, he had legal representation and, although he was no longer a member, participated in the pre-hearing processes duly assisted by his legal

¹ Counsel noted in their heads of argument that condonation for the filing of further affidavits and the late delivery of affidavits in response thereto would not be an issue in the application.

representative in view of the imminent disciplinary hearing. The applicant requested information and documents from the first respondent prior to the hearing. More about that presently.

[4] The hearing took place on 11 November 2021 and on 26 January 2022. After the hearing on 11 November 2021 the applicant brought an urgent application in which he challenged the disciplinary proceedings. The application was dismissed on 1 December 2021 and on 26 January 2022 the hearing continued. When the disciplinary hearing commenced on 26 January 2022, the applicant appeared in person. He submitted himself to the disciplinary process despite the fact that he no longer was a member of the first respondent. During argument counsel for the applicant informed me that the applicant consented to the disciplinary process and the disciplinary hearing took place as if he was still a member of the first respondent and that the application should be considered accordingly.

THE CHARGE

[5] The charge sheet reads as follows:

“Charges

It is alleged that you have made yourself guilty of unacceptable behaviour in that:-

You have drafted or initiated others to draft an inappropriate and “Anonymous letter” See Annexure 1 and you e-mailed this letter to the following persons and or public institutions on or about 11 May 2021 at about 12:55

To: [d\[...\]@t\[...\]co.za](mailto:d[...]@t[...]co.za)

Cc: [\[m...@d...\].co.za](#); [m...@d...\].gov.za](#); [l...@d...\].co.za](#); [c...@m...\].24.com](#); [i...@i...\].co.za](#); [m...@e...\].co.za](#); [i...@d...\].co.za](#); [e...@c...\].org](#); [a...@s...\].co.za](#); [t...@h...\].com](#); [t...@e...\].com](#); [s...@t...\].net](#); [h...@t...\].net](#); [H...@c...\].gov.za](#); [t...@t...\].co.za](#); [i...@t...\].co.za](#); [w...@o...\].com](#); [S...@t...\].gov.za](#); [i...@i...\].org](#); [m...@f...\].org](#)

1. Following from this letter you **required action** to be taken from government institutions /companies and individuals like:-

- a. Denel
- b. SASSCO
- c. SASCO
- d. Minister of Sport

To take actions against SAPSA/ its members or club(s) which could have the result of litigation / cancelation of contracts/ termination of positions etc without you following internal process and or procedures of the Federation like following internal grievance procedures / arbitration processes etc before embarking on this process.

2. With the publishing of this anonymous letter you have brought the Sport / Federation / Clubs and individual members good name in disrepute by making allegations like :-

SAPSA's organizations is a mess;

- A. Allegations of structures within SAPSA to be illegal;
- B. Making allegations that individuals / clubs were driven by Financial and personal greed to achieve certain goals and or results.
- C. That an individual on his own and or with the assistance of a private company has resulted in a hostile take-over of a club.
- D. SAPSA's inability to manage their internal affairs
- E. The allegation of the possible inappropriate involvement or lack of control of SAPSA's Chairperson.
- F. The issuing of National Colours by SAPSA to be inappropriate and with this you have discredit the process /procedures / selection and the integrity of members being part of these selection processes.
- G. A suggestion of inappropriate conduct by the Evans Family.

*H. A suggestion of inappropriate conduct by Bernhard Agencies both as a dealer and or Nick Bernhard in his personal capacity
Publishing private and or confidential information of members of the Federations to a undisclosed number of people including contact numbers, positions of members of the Federations in contradiction to legislation like the POPI Act.”*

THE PLEA

[6] The applicant pleaded guilty to the charges against him on 26 January 2022. The third respondent who was the pro-forma prosecutor informed the chairperson of the disciplinary hearing as follows:

“It does not necessitate me to present now further evidence in terms of the merits, so maybe we should ask Mr Combrink to explain his plea of guilty and we will give him an opportunity to explain that.”

[7] The chairperson responded in agreement whereafter the applicant addressed the disciplinary committee at length confessed to what he had done and expressed his view that the proceedings against him were fair.

THE SANCTION

[8] The disciplinary committee adjourned and published the following sanction on 30 January 2022:

Charges against Mr Combrink

“It is alleged that you have made yourself guilty of unacceptable behaviour in that:-

You have drafted or initiated others to draft an inappropriate and “Anonymous letter” See Annexure 1 and you e-mailed this letter to the following persons and or public institutions on or about 11 May 2021 at about 12:55

With the publishing of this anonymous letter you have brought the Sport / Federation / Clubs and individual members good name in disrepute by making allegations like :-

SAPSA’s organizations is a mess;

- A. Allegations of structures within SAPSA to be illegal;*
- B. Making allegations that individuals / clubs were driven by Financial and personal greed to achieve certain goals and or results.*
- C. That an individual on his own and or with the assistance of a private company has resulted in a hostile take-over of a club.*
- D. SAPSA’s inability to manage their internal affairs*
- E. The allegation of the possible inappropriate involvement or lack of control of SAPSA’s Chairperson.*
- F. The issuing of National Colours by SAPSA to be inappropriate and with this you have discredit the process /procedures / selection and the integrity of members being part of these selection processes.*
- G. A suggestion of inappropriate conduct by the Evans Family.*
- H. A suggestion of inappropriate conduct by Bernhard Agencies both as a dealer and or Nick Bernhard in his personal capacity*

Publishing private and or confidential information of members of the Federations to a undisclosed number of people including contact numbers, positions of members of the Federations in contradiction to legislation like the POPI Act.”

Proceedings

The Disciplinary Hearing was initiated on 11 November 2021 and concluded on 26 January 2022.

The Disciplinary Meeting was initiated on 11 November 2021 where arguments were led by his legal representatives that the South African Practical Shooting exceeded the period for the initiation of disciplinary action against Mr Combrink (Section 14.3 of the Constitution of the Practical Shooting Association of South Africa) before a plead could be entered. The Disciplinary Committee found that not to be the case and that the Disciplinary Meeting may continue. This decision was not accepted by Mr Combrink and his legal team and Mr Combrink exercised Right of Appeal/Arbitration (as per Section 15 of the Constitution of the Practical Shooting Association of South Africa). Mr Combrink then lodged an urgent application to the High Court of South Africa, Gauteng Division, to have the decision of the Disciplinary Committee set aside. The matter was heard on 30 November 2021 and judgement was delivered on 1 December 2021. The judgement stated that the Disciplinary Committee did not commit an error and the application was dismissed (articles (39) and (40) of the judgment). Judgment is attached.

As such, the Disciplinary Meeting was reconvened on 26 January 2022. Mr Combrink represented himself at this meeting and pleaded guilty to all charges as per the charge sheet as set out above and as per the attached Notification to participate in the conductiong of a Disciplinary Hearing/Enquiry.

Mr Combrink did not dispute that he was the author of the anonymous e-mail. Although extensive submissions were made at the meeting of 11 November 2021, only certain portions of the documentation was examined during the meeting of 26 January 2022 due to the admission by Mr Combrink. These documents will, however, be included in the full report to be submitted to SAPSA as this forms part of the Disciplinary Hearing.

The remedy and sanction imposed by the Disciplinary Committee needs to be seen in the context set out below.

The position that Mr Combrink was occupying at the time of writing the e-mail is of significance to the charge. At the time Mr Combrink was the Chairperson of Northern Gauteng Practical Shooting Association, In that capacity he was a member of the Executive Committee of the South African Practical Shooting Association. (SAPSA Constitution 7,1.2) Section 7 of the Constitution describes the management structure of SAPSA and 7.1 describes the Executive Council which is the highest decision-making body within SAPSA as per clause 7.15 of the Constitution.

Clause 7.15 of the Constitution states "The management, control and administration of affairs of the Federation...."

This means that all affairs of the Federation will be conducted at Executive Committee level. It implies therefore that, should affairs not be resolved to the satisfaction of a member or members of the Executive Committee of the Federation, it nevertheless remains the place where affairs are conducted and decided upon. However, should a dispute arise between a member organization or individual member, section 15 provides for Arbitration. This appears to be the only alternative to the resolution of differences found at the level of the Executive Committee.

Definition of "disrepute" is the absence or loss of reputation, discredit or disgrace, a state of being held in low esteem. *The address list of the e-mail, as per the attachment, clearly brought an internal management issue into the public domain and the contents of the e-mail cast aspersions on not only members of the Federation; many of them members of the Executive Committee. The content can be described as malicious in nature. The inclusion of public entities such as Carte Blanche and Daily Maverick, amongst others, was intended to attempt to publicize the perceived discontent of Mr Combrink even though he made no attempt to have the matter that caused him concern to be resolved at Executive Committee level. This was readily conceded by Mr Combrink in the Disciplinary Meeting.*

It is of significance that Mr Combrink, in his capacity as Chairman of Northern Gauteng Practical Shooting Association, signed a letter (dated 21 May 2021)

headed "DEFAMATORY STATEMENTS; ANONYMOUS LETTER...." In which he stated under point 4 of the letter "Be that as it may, NGPSA does not align itself with such nefarious behavior." He therefore readily typified the contents of the e-mail while fully aware of the identity of the author of the letter. (Appendix G of the documents submitted by the team of Mr Combrink to the meeting of 11 November 2021).

Members of the Executive Committee have a Fiduciary Duty towards the Federation in the execution of their duties on the Executive Committee. A fiduciary duty is **a legal obligation of one party to act in the best interest of another**. A fiduciary is therefore an individual in whom another has placed the utmost trust and confidence to manage and protect his property, money or affairs. A fiduciary duty requires total trust, good faith and honesty.

MR Combrink furthermore conceded during the Disciplinary Meeting that he did not, address the problems that led to him constructing the anonymous e-mail **at any stage** to the Executive Committee of the South African Practical Shooting Association. He also did not make use of section 13 of the Constitution which provides for Dispute Resolution.

It is imperative and incumbent upon members of the Executive Committee to uphold the responsibility for maintaining the integrity of the management and decision-making process as per the Constitution, in addition to ensuring that fiduciary duty and obligations are maintained. The management structure of the South African Practical Shooting Association would therefore indicate the following flow of decision making:

- Provincial matters resolved at provincial level by the provincial structures.
- Escalation to Executive Committee level should matters not be concluded or resolved at provincial level.
- Escalation to Dispute Resolution level should matters not be concluded or resolved at
- Executive Committee level.

Mr Combrink, in his capacity as the Chairperson of Northern Gauteng Practical Shooting Association, violated these principles in his behaviour by publishing the anonymous e-mail and this action caused harm to the standing of the Federation and placed the reputation of the Executive Committee in disrepute. It should be reiterated that he readily conceded to this aspect in the Disciplinary Meeting. Actions such as these by members of the Executive Committee cause harm to the Federation and is in violation of the fiduciary duty incumbent upon members of the Executive Committee. Should such behaviour occur in the future, it should hold serious ramifications for members taking similar action to that taken by Mr Combrink and his violation of procedure. Resolution of such actions are extremely time consuming and come at a monetary cost to the Federation as was experienced in this instance.

Remedy and Sanction

The loss of reputation to the South African Practical Shooting Association deserves a form of remedy or restitution to ensure that the integrity of its management processes is respected. In this regard MR Combrink is ordered to address a letter to the Executive Committee of the South African Practical Shooting Association retracting all statements made in the anonymous e-mail and offer an apology to the Federation. This letter is to become part of the record of proceedings of the Annual Council meeting to be held on 26 February 2022. Should the letter not be submitted timeously, Mr Combrink will be barred from membership of the South African Practical Association for life.

Upon submission of the letter of apology Mr Combrink will be barred from being a member of the South African Practical Shooting Association for a period of five years of which three years will be suspended for the five year period on the basis that he does not commit any actions that may bring the Federation in disrepute.

The Disciplinary Committee felt, however, that Mr Combrink deserves an opportunity to prove a measure of good behaviour. Should Mr Combrink NOT participate in any JPSC matches hosted anywhere in South Africa by any club at levels 1 to 5 over the first 12 months, he can submit for reprieve and be

allowed to apply for membership upon review by the Executive Committee of the South African Practical Shooting Association. Should he, however, participate in any such activity, the ban from being a member remains in place for the FULL TWO YEARS as per the previous paragraph.”

THE DOMESTIC REMEDY

[9] The constitution of the first respondent provides in clause 14.9 as follows:

“Any individual member or member organisation against whom disciplinary action is taken shall have the right of appeal in accordance with Clause 15.”

[10] Clause 15 of the first respondent’s constitution reads as follows:

“15. Right of appeal / arbitration

15.1. Any dispute between the Federation and any member organisation or individual member, arising out of or in relation to this Constitution or any of the Federation’s Policies, shall be settled by Arbitration.

15.2. An Arbitrator shall be appointed by the Arbitration Foundation of Southern Africa.

15.3. The Arbitrator shall determine the conduct of the arbitration proceedings, which determination shall be binding on both parties.

15.4. The decision of the Arbitration shall be final and binding on both parties.

15.5. Any costs relating to arbitration shall be for the account of the party requesting arbitration, unless the Arbitrator upholds the appeal, in which case the costs shall be for the account of the defending party.”

[11] Section 72(a) and (b) of the PAJA reads as follows:

“(2)(a) Subject to paragraph (c), no court or tribunal shall review an administrative action in terms of this Act unless any internal remedy provided for in any other law has first been exhausted.

(b) Subject to paragraph (c), a court or tribunal must, if it is not satisfied that any internal remedy referred to in paragraph (a) has been exhausted, direct that the person concerned must first exhaust such remedy before instituting proceedings in a court or tribunal for judicial review in terms of this Act.”

[12] The application is brought under both the PAJA and the common law, in the alternative. If the proceedings under review constitute administrative action and the PAJA applies, the application must fail in terms of section 7(2) of the PAJA as the internal remedy provided for by the first respondents constitution had not been exhausted and exceptional circumstances do not exist to exempt the applicant from first exhausting the domestic remedy as contemplated by section 7(2)(c) of the PAJA. Counsel for the respondents submitted on authority of *Caliber Clinical Consultants*² that the PAJA does not apply, and that the application should be decided in terms of the common law.³

[13] Under the common law the duty to exhaust domestic remedies is applied sparingly. Even where a clear contractual intention imposing an internal remedy appears from the agreement that constitutes the authority to institute disciplinary proceedings in clear terms (as is the position here), the review court may do away with the common law duty to exhaust domestic remedies.⁴

[14] By reason of the grounds of review here relied on, I am of the view that it would not be in the interests of justice to hold that the applicant must be denied

² *Caliber Clinical Consultants (Pty) Ltd and Another v National Bargaining Counsel for the Road Freight Industry and Another* 2010 (5) SA 457 SCA

³ I have not been asked to rule on whether the review resort under PAJA or the common law and do not deal with that aspect any further.

⁴ See *Mtamane v MEC for Social Development, Eastern Cape* 2005 (6) SA 248 (E); *Welkom Village Management Board v Leteno* 1958 (1) SA 490 (A) at 503B; Hoexter, *Administrative Law in South Africa* Third Edition page 745; Burns, *Administrative Law*, Fourth Edition page 508

access to judicial review because he did not exhaust the domestic remedies provided for by the first respondent's constitution.

COMMON LAW

[15] The reviewability of the decisions of domestic tribunals under common law are consistently applied since *Turner v Jocky Club of South Africa*⁵. The conduct under review must be measured against the fundamental principles of justice which our Constitution and our common law allow and require, and which are tacitly included in the rules, constitution and policy documents of the first respondent. The circumstances of each case will determine what will be required to ensure that the process concerned would be just, equitable and fair. The nature of the enquiry, the rules that find application and the subject matter determines the circumstances that will prevail. Strict procedural rules are not required, and technical rules of evidence are not observed. The procedure followed must afford a person a proper hearing and an opportunity to produce evidence of correcting and contradicting any prejudicial statement or allegation against him or her. Fair play must be applied, and the tribunal must discharge its duty honestly and impartially on a *bona fide* manner to arrive at findings that are rational in relation to the evidence before it and, generally speaking, the non or wrong performance of a power entrusted to exercise that power will entitle persons injured thereby to seek relief in the form of common-law review⁶.

THE FIRST RESPONDENT'S CONSTITUTION

⁵ 1974 (3) SA 633 A; *Advertising Regulatory Board NPC and Others v Bliss Brands (Pty) Ltd* 2022 (4) SA 57 (SCA) at [55]; *Public Protector and Others v President of RSA and Others* 2021 (6) SA 37 (CC) at [130]

⁶ *Hira and Another v Booysen and Another* 1992 (4) SA 69 (AD) at 93A-B

[16] The first challenge the applicant raises (I deal with the grounds of review in the chronological order the events took place and not in the sequence they were raised in these papers) is at the authority of the first respondent as organisation to have instituted the disciplinary proceedings against the applicant. The first respondent's constitution is the starting point. Clauses 2.3.1, 2.3.8, 2.3.11, 2.3.12, 2.3.13, 2.3.26; 4.3 and 14 of its constitution, contextually and purposively interpreted, provide that:

[16.1.] Its Executive Counsel may institute a disciplinary process subject thereto that:

[16.1.1.] if the disciplinary process is initiated by the first respondent's management committee (a committee mentioned and composed as stated by clauses 7.1.1 and 7.2 of its constitution), the decision must be unanimous and subject to ratification by the Executive Committee at its "*next Executive Council meeting*".

[16.1.2.] If the disciplinary process is initiated by the Executive Committee as contemplated by clauses 7.1.2 to 7.1.4 (in other words by the entities mentioned in those sub-clauses), the relevant counsellors must submit a written request, fully described and motivated, for consideration in terms of one of the three annexures to the constitution.

THE FIRST CHALLENGE

[17] To a supplementary affidavit delivered by the applicant after the replying affidavit had been delivered is an affidavit of Mr Loupellis attached. Mr Loupellis states that he is a member of the first respondents Executive Committee. During

2021 and 2022 when the disciplinary proceedings against the applicant were afoot, he was a member of the Executive Committee and the first respondent's management committee and he as member of the Executive Committee of the first respondent never voted in support of a decision to initiate disciplinary proceedings against the applicant.

[18] The record shows that the applicant's legal representatives (while they were still on brief for the applicant) requested in writing information from the first respondent about and concerning the decision taken by the first respondent as contemplated by its constitution to initiate the disciplinary process against the applicant. The request was made on 21 July 2021.

[19] The first respondent's constitution requires that the preconditions or conditions precedent mentioned in the clauses referred to above must exist prior to the exercise of the power and procedures the said constitution provide for in respect of the disciplinary process. Those conditions constitute jurisdictional facts. Our common law distinguishes between "jurisdictional facts" as "*substantive*" and "*procedural*". The constitution of the first respondent imposes, in my view, jurisdictional facts that must exist before a disciplinary process may be instituted.

[20] The facts are jurisdictional because the exercise of the disciplinary powers the first respondent has as institution depend on the existence and observance of those facts.⁷ Professor Hoexter states that: "*If the jurisdictional facts are not present or observed (or, to put it differently, if the administrator makes a mistake of fact about*

⁷ See *Meyer v South African Medical and Dental Council* 1982 (4) SA 450T at 454E – H; *Union of Refugee Woman v Director: Private Security Industry Regulatory Authority* 2007 (4) SA 395 (CC) at [78]

*their presence or observance), then the exercise of the power will, as a general rule, be unlawful. To hold otherwise, the courts have reasoned, would be to allow administrators to arrogate powers to themselves to inflate their own jurisdiction. The same reasoning is applied to non-administrative action, such as a judge's decision to issue a search warrant, through the courts are likely to exercise more deference in evaluating the presence of the jurisdictional facts."*⁸

[21] The existence or absence of jurisdictional facts has to be judged objectively and *"If the Court finds that objectively the fact did not exist, it may then declare invalid the purported exercise of the power"*.⁹ I will now turn to the facts on this aspect.

[22] The first respondent states that the decision to prosecute the applicant took place during the restrictions imposed during the Covid-19 pandemic and contend that the applicant relies on a *"foot fault"* of the first respondent to avoid the consequences of his earlier admission of guilt and that no *"unfair administrative conduct"* appear from the record. The first respondent further submits that the decision to initiate the disciplinary process had been *"plainly ratified"* to the extent that it may be found not have been taken in a manner contemplated by the constitution of the first respondent.

[23] The first respondent explains that the decision of the first respondents executive committee took place on 29 May 2021 when it was decided, without the culprit having been identified, that disciplinary steps ought to have been taken

⁸ See Hoexter and Penfold, Administrative Law in South Africa, Third Edition page 402; Burns Administrative Law, Fourth Edition page 391; Baxter, Administrative Law page 457 - 461

⁹ See *DA v President of RSA* 2012 (1) SA 417 (SCA) at [118]

against the, at the time, unidentified individual who authored the anonymous letter. Mr Loupellis was a member of the executive committee and present at the meeting. Two days later the first respondents vice chairperson received a report from an independent investigator. It was in this report that the applicant was identified as the person responsible for publication of the anonymous letter. On the same day the vice chairperson circulated an email to the members of the management committee of the first respondent seeking the unanimous vote for the process of disciplinary hearing to commence. In paragraph 24 of the first respondents answering affidavit to the applicant's supplementary affidavit the relevant passage of the letter on which the first respondent relies, is quoted. In that letter the name of the applicant is not mentioned. Reference is still made to the person responsible as "an individual". The letter that was transmitted by electronic mail was repeated in Whatsapp messages which were addressed to, inter alia, Mr Loupellis. To this Whatsapp Mr Loupellis responded on the Whatsapp group as follows: "*Good with that. Regards John*".

[24] The first respondent relies on a blanket decision to institute disciplinary proceedings against the "*individual*" concerned when his or her identity was not known. Mr Loupellis denies that he as member of the executive committee of the first respondent voted or resolved to proceed against the applicant. I cannot find any agenda item, email or other document that expressly informed the management of the first respondent that the decision as contemplated by clause 14 of its constitution was required in connection with the applicant. I infer that the reason for the failure on the part of the first respondent to supply the applicant's legal representatives with the information they requested on 21 July 2021 is that the information could not be supplied at the time.

[25] In my view the first respondent did not comply with its own constitution and that the jurisdictional fact its constitution requires to exist prior to the institution of disciplinary proceedings, was not satisfied. Under the circumstances the members of the executive of the first respondent could not by unanimous consent or agreement have authorised the disciplinary action against the applicant

[26] Under the circumstances it is not necessary to deal with the other grounds of review raised by the applicant. The applicant seeks an order restoring his membership. He was not a member at the conclusion of the disciplinary process. He resigned. Under those circumstances an order cannot be made in that respect. It my view costs must follow the event in these proceedings.

ORDER

The following order is made:

1. The disciplinary proceedings, decisions and sanction by the first respondent in respect of the applicant are reviewed and set aside;
2. The first respondent is ordered to pay the applicants costs of this application.

**H F JACOBS
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA**

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail. The date and time for hand-down is deemed to be 14h00 on the 8th February 2024.

APPERANCES

Applicants' counsel: Adv Z Pansegrouw

Applicants' attorneys: Pritchard Attorneys

Respondent's counsel: Adv J G Botha

Respondent's attorneys: Peter Le Mottée Attorneys