

REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

**Case no: 14370/2019
31328/2019**

(1)	REPORTABLE: no
(2)	OF INTEREST TO OTHER JUDGES: no
2024/03/27	
DATE	SIGNATURE

In the matter between:

AFRIFORUM

First Applicant

and

THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

First Respondent

**THE CHAIRPERSON: BONGANI
CHRISTOPHER MAJOLA N.O**

Second Respondent

COMMISSIONER PRISCILLA JANA N.O

Third Respondent

JULIUS MALEMA

Fourth Respondent

ECONOMIC FREEDOM FIGHTERS

Fifth Respondent

And,

In the matter between:

FREDERIK WILLEM DE KLERK N.O

First Applicant

DAVID WHITEFOORDT STEWARD N.O

Second Applicant

HERMAN BAILEY N.O

Third Applicant

BEN COETZEE BESTER N.O

Fourth Applicant

WARREN ALEXANDER MORTEN CLEWLOW N.O

Fifth Applicant

ELIZABETH DE KLERK N.O

Sixth Applicant

THEUNIS ELOFF N.O

Seventh Applicant

DEENADA YALEN KONAR N.O

Eighth Applicant

FORTUNATE MASHEBU MATHEBULA N.O

Ninth Applicant

And

THE SOUTH AFRICAN RIGHTS COMMISSION

First Respondent

**THE CHAIRPERSON: BONGANI
CHRISTOPHER MAJOLA N.O**

Second Respondent

COMMISSIONER PRISCILLA JANA N.O

Third Respondent

JULIUS MALEMA

Fourth Respondent

ECONOMIC FREEDOM FIGHTERS

Fifth Respondent

This judgment for application for leave to appeal has been delivered by uploading it to the caselines digital database of the Gauteng Division of the High Court of South Africa, Johannesburg, and by email to the attorneys of record of the parties on 27 March 2024.

JUDGMENT ON LEAVE TO APPEAL

Sutherland DJP:

- [1] In this matter is an application for leave to appeal, and an application on a conditional basis for leave to cross- appeal.
- [2] After hearing counsel I am satisfied that its appropriate that leave to appeal be granted and that the application for leave to cross-appeal similarly be granted.
- [3] Therefore, I make the following order:
 - (1) Leave to appeal is granted to the South African Human Rights Commission against the order.
 - (2) Leave to appeal is granted to the first applicant (Afriforum) in terms set out below:
 - 2.1 That, conditional on the appeal court finding that the finding/decision of the South African Human Rights Commission (SAHRC) of 8 March 2019 constitutes a decision of the type that is reviewable, Afriforum be granted leave to cross appeal against the order contained in paragraph 2 of the High Court order in order to seek an order on appeal:
 - 2.1.1 Granting the relief contained in the notice of motion of Afriforum, specifically that the decision of the SAHRC of 8

March 2019 be reviewed and set aside; alternatively be reviewed and corrected; alternatively

2.1.2 Remitting the case to the High Court for the further hearing of the matter on such terms as the appeal court may determine.

- (3) The costs of the appeal and the cross appeal shall be costs in the appeal itself.



Roland Sutherland

Deputy Judge President, Gauteng Division,
Johannesburg.

Heard: 27 March 2024

Judgment: 27 March 2024

Appearances:

For Afriforum:

Adv C Woodrow SC

Instructed by Hurter Spies Incorporated

For South African Human Rights Commission:

Adv K Pillay,

With her, Adv K Hardy

Instructed by South African Human Rights Commission