

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 045588/2023

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
05 September 2023 Date	
 Signature	

In the matter between:

NASHEEL HIRAMUN

Applicant

And

SEFAKO MAKGATHO HEALTH SCIENCES UNIVERSITY

Respondent

JUDGMENT

Munzhelele J

[1] The applicant approached this court on an urgent basis for an order on the following:

1.1 Dispensing with the forms and service requirements provided for in the Uniform Rules and allowing this application to be heard as one of urgency in terms of Rule 6 (12).

1.2 Pending the determination of the appeal process, the order granted by the Honourable Madam Justice Kooverjie on Thursday, 25 May 2023 shall be implemented as follows:

1.2.1 The issue confirming the applicant's marks in respect of Obstetrics and Gynaecology module is referred to the School Examination Committee for their consideration in terms of Rule G22.3.1;

1.2.2 Upon arriving at the decision they are required to furnish the applicant by no later than close of business on 26th June 2023 of his marks and/or percentage as well as written explanation as to how the calculation was arrived at in respect of the said module;

1.2.3 The School Examination Committee are further required to consult with the applicant confirming his final mark/percentage by no later than close of business on 26 May 2023 in respect of the said module;

1.2.4 In the event that the respondent and or the School Examination Committee deems it necessary the issue confirming the premature registration for year six (6) be referred to the Senate for determination in terms of Rule G27.3.1 read with Rule 3.10.

1.2.5 That the costs occasioned for the relief sought of this notice of motion be borne by the respondent.

[2] The matter was contested by the respondent, who subsequently submitted their responding affidavit, articulating the following:

2.1 The respondent asserts that there have been no substantial changes to the application, except for the fact that the applicant has received an extension regarding the commencement date for the internship offered by the National Department of Health. However, this extension is contingent upon the applicant successfully completing his qualification.

2.2 Regarding the matter of urgency, the respondent contends that there is no genuine urgency stemming from the contents of the letter, as the internship opportunity remains open to the applicant as long as he qualifies after completing his degree. This is the sole reason for the applicant's reinstatement of the urgent application, which had been removed from the roll on 31 May 2023, due to lack of urgency.

[3] Conversely, the applicant contends that the matter should be deemed urgent, citing the reason that he has secured an internship set to commence on 1 July, 2023. However, from the first glance and perusal of this letter referred to by the applicant, the applicant has inaccurately quoted both the date and the contents of the letter.

[4] It is a well-established principle that the applicant must demonstrate the existence of urgency to gain a hearing on the substantive matter. In this context, to prove urgency, the applicant has attached a letter, which explicitly indicates that the province has assigned him for an internship at Helen Joseph Hospital in Gauteng Province, with the stipulation that he may commence the internship upon submission of the required documentation confirming the completion of his qualifications and an active registration with the Health Professional's Council of South Africa. Dr. Hiramun's failure to fulfil these requirements on or before 30 June 2023, would result in the forfeiture of the internship opportunity, as the department has started with the allocation process for mid-year placements.

[5] The applicant has presented the aforementioned as the sole ground for asserting urgency. Firstly, it is important to note that the letter in question does not explicitly state that the applicant will be granted the internship on 1 July 2023. Instead, it serves as an open-ended communication, signifying that allocation will proceed once the applicant substantiates his qualification status. This letter is essentially a standard acknowledgment that the department acknowledges the student's eligibility for the internship.

[6] Secondly, it is worth highlighting that the applicant easily secured an extension of the internship commencement date to 30 June 2023, following the initial date of 31 May 2023, as indicated in the supplementary affidavit. This clearly indicates the readiness of the health department to allocate internships to students once they validate their qualifications. Moreover, it underscores that Section 18 application cannot genuinely be considered urgent under these circumstances. The application can be suitably scheduled for a hearing as part of the opposed motion in accordance with the court rules, without any detriment to the applicant, as the department can consistently extend the internship commencement date.

[7] Thirdly, it is pertinent to note that the applicant will still awaits a decision from the examination committee and, subsequently, the Senate's deliberation on his matter, as outlined in the court order by Honorable Justice Kooverjie. If the applicant remains dissatisfied with the examination committee's decision, the Senate must further review his case and render a decision. Consequently, this is an extended process that cannot be swiftly resolved, negating the assertion of urgency in the applicant's Section 18 application. Resolving the applicant's grievances will inherently take time, rendering this matter non-urgent. Therefore, the application is removed from the roll due to lack of urgency, with no order as to costs.



M Munzhelele J

Judge of the High Court, Pretoria

Heard On: 20 June 2023

Delivered On: 5 September 2023

APPEARANCE:

For the Appellant: Adv N Raedani

Adv L Moela

Instructed by: Hlongwane Mavhase Inc

For the Respondent: Adv P Ngutshana

Instructed by: Mogaswa & Associates Inc