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|------------------------------------|----------|
| Reportable:                        | YES / NO |
| Circulate to Judges:               | YES / NO |
| Circulate to Magistrates:          | YES / NO |
| Circulate to Regional Magistrates: | YES / NO |
| NO                                 |          |

# IN THE HIGH COURT OF SOUTH AFRICA

(Northern Cape Division)

**Case Nr: 950/2004**

**Case Heard: 24/03/2006**  
**Date delivered: 30/03/2006**  
 In the matter:

**K S Solani**

**Applicant**

versus

**Liquor Board: NC** **1<sup>st</sup> Respondent**  
**Chairman of the Liquor Board: NC** **2<sup>nd</sup> Respondent**

**Coram:** Kgomo JP et Williams J

## JUDGMENT

**KGOMO JP:**

1. The applicant, Ms Keitemogetse Susan Solani, an adult female of Stand No 12300, Phomolong, Galeshewe, Kimberley, brings a Rule 53 Review Application in which she seeks the following relief (rephrased for better comprehension):
  - 1.1. That it be declared that the re-hearing by the Northern Cape Liquor Board (First Respondent) of the applicant's application for a Special Liquor Licence (on-consumption) (on the 14<sup>th</sup> April 2005) was *ultra vires* the powers of the Liquor Board;
  - 1.2. That the decision of the Liquor Board of the 14<sup>th</sup> April 2005 in respect of which it re-heard the applicant's application in para 1.1 (above) be reviewed and set aside;
  - 1.3. That a declaratory order be issued that the (initial) decision of the Liquor Board by virtue whereof it issued a Special Liquor Licence (on-consumption) on the 22<sup>nd</sup> February 2005 is still valid;

1.4. That the Liquor Board and/or the Chairman of the Liquor Board (Second Respondent) be ordered to issue the Final Special Liquor Licence which the applicant applied for in that the applicant has complied with all the conditions prescribed by the Liquor Board in Annexure "C" to the Founding Affidavit;

1.5. That the respondents be ordered to pay the costs of this application jointly and severally.

2. The conditional Special Liquor Licence alluded in para 1.4 (above) as contained in Annexure "C" and issued by the Liquor Board is dated the 23<sup>rd</sup> February 2005 and reads as follows:

2.1. "Dear Ms Solani

Application in terms of section 19, Act 27 of 1989: Lerato's Tavern, Phomolong, Galeshewe

The abovementioned application has reference.

The Special Licence (Tavern) will be issued upon receipt of a certificate by the designated police officer, within 24 months from date hereof, certifying that-

The premises have been completed in all respects in accordance with the plan submitted with the application or any other plan subsequently approved and that it has been completely furnished and equipped to conduct the business for which the premises will be licensed; and

The conditions/requirements regarding the premises as indicated below (if any) have been complied with.

The following conditions/requirements have been imposed and shall be complied with before the licence will be issued: Structural Alterations must be affected within six months from date hereof.

Kindly note: The following general/special conditions will be imposed if the licence is issued: As stipulated in Annexure 'A'.

2.2. The Annexure "A" of the Liquor Board referred in the closing paragraph of the letter of authority quoted in para 2.1 immediately above has been omitted by the applicant from her papers. Applicant's counsel could not advance any cogent reason why Rule 35 (13) of the Rules of Court was not invoked to procure the missing document. See: **Pieters v Administrateur, Suidwes Afrika** 1972 (2) SA 220 (SWA) at 228A. We are accordingly left in the dark as to what these envisaged conditions were.

3. Section 32 of the Intoxicating Liquor Act, No 27 of 1989, does empower the Liquor Board to attach suitable conditions to the licence issued. This section stipulates that:

**“32 Licences (excluding temporary liquor licences and occasional licences)”**

(1) After the Board has granted an application under section 15(1)(a) (iii) or 22(1) (b), the chairperson shall, subject to sections 33 and 35, issue the licence to a person named in the licence, to sell any liquor, or the kind of liquor provided for in this Act in respect of the kind of licence concerned, or in the case of a special licence, the kind of liquor determined by the Board, on premises the plan of which has been approved by the Board, but which premises shall not for the purposes of the licence include such place or places thereon as it has in its discretion specifically excluded therefrom.

(2) A licence issued under subsection (1) shall be subject to such conditions set out in the licence as the Board may in its discretion impose.

(3) The Board may, in respect of a sorghum beer licence, special licence or producer's licence, in addition to the imposition by it of any condition or further condition under this section, declare in the licence concerned or in a notice delivered or tendered to the holder of the licence that such provisions of this Act as do not in themselves relate to the licence concerned and as are set out in the licence or notice, shall *mutatis mutandis* apply to that licence.

(4) The chairperson may at any time after the issue of a licence under subsection (1) or section 32A (1), by a notice delivered or tendered to the holder of the licence concerned-

(a) declare the licence to be subject to such conditions or further conditions set out in the notice as he or she may in his or her discretion impose;

(b) suspend, withdraw or amend any condition or declaration imposed or made by him or her or the Board under this section. ...

**33 Incomplete premises**

(1) If an application for a licence (excluding a temporary liquor licence and an occasional licence) is granted by the Board in respect of premises not yet erected, or premises requiring any structural alteration, addition or reconstruction to be effected so as to make them suitable for the purposes for which they will be used under the licence, the chairperson shall issue a notice to the applicant concerned in which he or she shall be ordered to comply with such conditions or requirements, referred to in the notice, with regard to those premises as the chairperson may determine, within such period as may likewise be determined and referred to.

(2) The chairperson may at any time after the issue of such a notice, on application by the applicant concerned-

(a) withdraw or amend any condition or requirement determined under subsection (1);

(b) extend the period determined under subsection (1); .....

(c) ..... (d) approve an amended plan in respect of the premises.

(3) .....

(4) When the chairperson is satisfied that the premises in respect of which a notice has been issued under subsection (1), have been completed in accordance with the plan thereof approved by the chairperson or the Board, as the case may be, the conditions and requirements determined by the chairperson have been complied with and the premises are suitable for the purposes for which they will be used under the licence concerned, he or she shall issue the licence in accordance with section 32 (1)-. ....

4. After the applicant was granted the conditional authority quoted in para 2.1 (above) acting in terms of section 32 (above) members of the local community strenuously objected to the issuing of the licence to the

applicant. The designated police officer, Capt M P Dikgetsi, incorporated these objections in his report dated the 8<sup>th</sup> March 2005, to the Board. The impediments that he raised as regards the building are peripheral and will be ignored for purposes of this application as same may be remedied. However, the contentious issues in his report read:

4.1.“3. This office is having an objections to the granting of the licence. There had already been three murders at the premises as it is operating as a shebeen. The operator of this is playing loud music throughout the week and does not to reduce (the volume) if requested.

4. *There is no school in the immediate vicinity of the premises.*

5. *Find attached copies of meetings held by the community and letters from the The Free Reformed in SA and The Bird's of Church and a petition from the community of Phomolong.*

6. *The following types of licences already exist in the Kimberley District: Club Drink Licences: 2*

7. *This office is opposed to the granting of the licence.”*

4.2.Symptomatic of this application the applicant has, once again, omitted these very material annexures through which objections are raised. Adv W Coetzee, on behalf of the applicant, had no explanation for this conspicuous omission. I have no doubt that the reason why the annexures have not been appended has to do with their unfavourable tenor. The applicant has therefore failed to make a full and frank disclosure in this application, which reflects very badly on the applicant's *bona fides*.

5. In the light of these complaints the Liquor Board convened a meeting of the Board on the 14<sup>th</sup> April 2005 at which the applicant was represented by one Mr Lodewikus Jacobus Smith, a liquor consultant and former section 139 designated officer. Mr Smith raised three worthwhile points *in limine*:

5.1.Firstly, that the period for raising objections, in terms of the Regulations proclaimed pursuant to the Liquor Act, has expired (in January 2004 because the application was filed with the Magistrate's office in December 2003) and that the objections came more than a year late;

5.2.Secondly, that the Liquor Board was *functus officio* because it has already made a determination in terms of the already quoted section 32 of the Liquor Act;

5.3.Thirdly, that the only option open to the Board was to authorize the issue of the final licence and could later invoke its powers in terms of section 11 and 15 of the Liquor Act or suspend or withdraw the final licence.

6. As to point 5.1 Regulation 7 (1) States:

“7(1) Not later than 28 days after the application was lodged with the magistrate, any person may lodge-

- a) *a written objection to or petition against; or*
- b) *written representations or a petition in support of,*  
*any such application with him and shall provide conclusive*  
*proof that a copy has been forwarded to-*
  - i) *the person who prepared the application; and*
  - (ii) *the designated police officer.”*

As has been shown in section 32 (para 3 above) and will be demonstrated hereinafter, certain provisions of the Liquor Act allow for complaints etc to be lodged with the Liquor Board even after a final liquor licence has been issued.

7. At the hearing on the 14<sup>th</sup> April 2005 the Liquor Board ruled that it was invoking its powers set out in section 12 of the Act to hear further representations and/or evidence and denied that it was *functus officio*, pointing out that the initial authority (of 23/02/2005) was “informal” and “conditional” and the subsequent hearing (of 14/04/2005) was “formal” and “final”. It is unclear what the Board meant by “informal” and “formal”, but this is of no moment really. What is significant is the conditional authority granted because the applicant’s contention is that the condition precedent to the completion of the building was fulfilled as the work was done according to the required specifications.

8. At the hearing of the 14<sup>th</sup> April 2005 part of the exchange between the Board and Mr Smith went as follows:

“Board member: The Board if it decided to withdraw the conditional authority if it finds that ... there is substance in these allegations.

*Mr Smith: Meneer die Voorsitter, ja maar my punt is dat om net summier die lisensie terug te trek ... om die goedkeuring terug te trek is nie die regte proseudre nie. Die regte procedure sal om in artikel 11 [onhoorbaar]. Maar dan moet u eers ... moet hierdie lisensie eers in bedryf kom en dan daarna gekyk word. Ek voel rêrigwaar, meneer die Voorsitter, ek meen dit is ... ek rus by u besluit, maar dit is my standpunt.*

*Chairperson: Okay, I understand your standpoint. But the Board already has got*

*allegations put before it. So we cannot say: We've granted the licence, let's ... (perhaps "ignore" them?) ..., that would be totally wrong."*

9. Adv E Mokutu who appeared for the Liquor Board argued that the Board was not *functus officio* as no final decision had been taken yet and submitted that it acted within its mandated powers.
  
10. The Liquor Board called one Ms Rachel Mathaba and the designated officer to give evidence on the police report belatedly produced. It is unnecessary to dwell on the contents of the entire report. I am prepared to accept that some of the allegations were not substantiated by them. However, the following matters were either common cause or not disputed or substantiated (Mr Smith did not call any witnesses in rebuttal):
  - 10.1. The proposed premises have been run as a shebeen (an illegal liquor trade) for a considerable time;
  - 10.2. Three people were murdered on the premises (and three other murders were committed in its immediate vicinity);
  - 10.3. Loud music is played almost throughout the night and no amount of negotiations and complaints by the community, church leaders and other community based organizations quelled the noise or had the desired effect. The overwhelming evidence points to "the owner of the premises", being the applicant's husband as unco-operative, rude and confrontational and the applicant taking no responsibility.
  - 10.4. Underage children patronize the shebeen and the applicant's husband's attitude is that *"die kinders bring geld"*.
  
11. At the conclusion of the hearing the Chairman, on behalf of the Liquor Board gave these ex-tempore reasons for refusing to grant applicant's final licence:
 

*'The Board, during the break, deliberated on the merits of this case. ....*

*Now, this is an application where actually these objections are out of time. But that, and [inaudible words] that does not mean that the Board cannot call those people who have objected if it feels those people, are both objectors, will help, you know, in ... like licensing issues and coming to a [inaudible] decision.*

*Now, the Board had during February granted a conditional authority to*

*the applicant. The conditional authority is not an authority to sell liquor, it relates to, in most cases, the applicant having to put up the premises in accordance with a plan, so that when the police come with a final report, the Board will be put in a position where it will say, the premises satisfy the requirements, and the Board can then grant a licence. So conditional means on certain conditions. If those conditions are met then the Board can do that.*

*But in the meantime we have heard now, I mean during this period, or after the conditional authority was granted, the police came up with a report in March. The report is not positive, the report is not positive in the sense that attached to it was a document involving all these objections that were put forward on behalf of the different structures by Rachel Mathaba.*

*And, lastly, the report mentions that the police are opposed to the granting of the licence. That is one leg of the whole matter.*

*The second leg, which I think is very much important, is the concerns raised by the community. It is not necessary for me to repeat all those concerns, but all what these concerns boiled down to is that the community is not interested in having this outlet licensed. And the concerns of the community means in terms of the Liquor law, public interest.*

*Now whilst we were deliberating, all members of the Board, the unanimous feeling was that who are we, as members of the Board, from the comfort of our offices, to deny, or to disregard, or not to consider what the people on the ground are experiencing. Because if we are asked to give reasons why we disregarded the concerns of the community, I don't think we'll be in a position to give any satisfactory explanation.*

*So, basically what I am saying is that the interest of the community always outweigh the interests of the individual.*

*So it is, therefore, unfortunate for the applicant, that the Board cannot see its way clear in granting this application. And it is accordingly refused."*

12. The Liquor Board, as a creature of statute, must act within the four corners of such an empowering statute. Consequently, and as a general principle of legality, it is required that an administrative act performed by it must fall within the scope of the conferred powers and the prescripts embodied in the empowering legislation or else fall foul of the *ultra vires* principle. See: **Fedsure Life Assurance Ltd & Others v Greater Johannesburg Transitional Council & Others** 1999 (1) SA 374 (CC) at 400D-401A (paras 58 and 59); **Pharmaceutical Manufacturers Association of SA & Another: In re Ex Parte President of the RSA** 2000 (2) SA 674 (CC).
13. I now proceed to examine more closely what it is that the relevant provisions of section 11 of the Liquor Act permits the Liquor Board to do:

13.1.A meeting must be convened to consider applications for licences made in terms of sections 22 (1) of the Liquor Act;

13.2.If a report worthy of consideration has been submitted to the chairperson of the Board in terms of sections 141 and 142 of the Liquor Act a meeting must be convened. Section 141 enjoins a designated police officer to report promptly to the Board any failure by a licence holder to discharge obligations attached to its licence or becomes disqualified or incompetent to hold same or may report “any other matter” of substance;

13.3.A meeting may also be convened if a complaint is received in respect of the licensed premises or an objection is raised from members of the local community or a licence holder in the same district;

13.4.The Board is also entitled to convene a meeting “on any matter which (it) may of its own accord consider necessary”.

14. I am therefore satisfied that the Board was not only entitled but in fact duty-bound, in the circumstances of this case, to convene the meeting of the 14<sup>th</sup> April 2005 and to consider both the report of the designated officer and the complaints emanating from members of the community. The requisite notices and/or summonses contemplated in sections 12 of the Act were issued to the interested parties, they were afforded sufficient time to attend the hearing and, as reflected hereinbefore, a due process was instituted. Counsel for the applicant indeed raised no objection before us as regards the propriety or impropriety of the Board’s adopted procedure. Of course, the nature of the decisions the Board is entitled to make consequent upon such a hearing is a different matter, which falls to be examined shortly.

15. The Liquor Board of a province is a very important and a responsible body which fulfils a significant function. It is empowered to exert substantial control over the liquor trade. In terms of section 6 of the Liquor Act it has to advise the MEC under whom it resorts and even furnish him/her with prescribed reports or make recommendations to the MEC for consideration arising from the application of the Act or relating to the distribution or control of liquor in the province. In terms of section 15 of the Act the Board may also:

15.1.After the consideration of an application for a liquor licence grant or refuse the application concerned;

15.2.Suspend a licence for an indefinite time or such period as it may determine or withdraw it from a specific date. These powers also relate to a

licence which is the subject of a police report, a complaint or an objection;  
 15.3. Declare the licence concerned to be subject to such conditions or further conditions as it may in its discretion impose or take such steps as it may think fit.

16. The question which arises is if the Board is authorized and empowered to do all the things enumerated hereinbefore even where a final licence has been issued what provision or impediment then is there in the Liquor Act and Regulations or the Common Law which prohibits it from taking appropriate measures or steps when evidence is brought or comes to its attention that premises in respect of which the Board has given conditional approval is in fact “a den of iniquity” and lawlessness as already adverted to. Counsel could refer me to no provision or impediment nor am I aware of any.

17. It was common cause that the Liquor Board had not yet issued a final liquor licence in the sense that the issue thereof was contingent upon the fulfilment of the condition stipulated in the letter of authority of the 23<sup>rd</sup> February 2005 to the effect that the “Special Licence (Tavern) will be issued upon receipt of a certificate by the designated police officer” which required that the premises be complete in every respect in relation to structure and furnishing. I agree with Mr Coetzee that a re-hearing of the matter on the same facts was impermissible. However, as has been shown hereinbefore, this was not the case. New facts had come to light to the effect that:

17.1. The applicant is not of good character and was otherwise not fit to be the holder of a licence (See section 22 (2)(d)(i)(dd));

17.2. The granting of the licence was not in the public interest – as expressly stated by the chairman in his reasons quoted in para 11 of this judgment. See section 22 (2)(d)(i)(ee) and **Maharaj v Chairman Liquor Board 1997 (1) SA 273 (N)** at 281 H-J.

18. J R de Ville, Judicial Review of Administrative Action in South Africa (2003) under the subheading “Preliminary Decisions” at p69 para 2.2.2.2 states:

“As stated above an official is regarded as being functus officio only once a final decision has been taken. Before the actual exercise of the power in terms of the empowering provision, the public authority in question may at any time revoke a decision. [In **In Re War Damage Act 1943: Re 56 Denton Road, Twickenham, Middlesex [1952] 2 All**]

*ER 799 (CH) 802A-B the principle was expressed as follows: [W]here Parliament confers upon a body such as the War Commission the duty of deciding or determining any question, the deciding or determining of which affects the rights of the subject, such decision or determination made and communicated in terms which are not expressly preliminary or provisional is final and conclusive, and cannot, in the absence of express statutory power or the consent of the person or persons affected, be altered or withdrawn by that body’.] In **President of the Republic of South Africa and Others v South African Rugby Football Union and Others** 2000 (1) SA 1 (CC) para 37-128 it was alleged that the President had abdicated or unlawfully delegated his powers of appointing a commission of enquiry and of making the provisions of the Commissions Act 8 of 1947 applicable to the commission of enquiry so appointed, to the Minister of Sport. The court held that there was insufficient proof for this allegation. The court furthermore held that even should he have done so, the President would at any time before the actual appointment of the commission (by publishing a notice to this effect in the Government Gazette) have been able to revoke the delegation or abdication of powers. [**Administrator, Cape v Associated Buildings Ltd** 1957 (2) SA 317 (A) 323F-H] Another example of the exercise of the power to revoke preliminary decisions is to be found in **Union of Teachers’ Associations of South Africa and Another v Minister of Education and Culture, House of Representatives and Another; Isaacs and Others v Minister of Education and Culture, House of Representatives and Another** 1993 (2) SA 828 (c) at 840H-841D. In this case the court held that the decision to permit the appointment of substitute teachers had been a preliminary decision which conferred no rights on the applicants. [See also **Brown v Klerksdorp Town Council** 1955 (3) SA 599 (A) 602C-D; **Philipstown Divisional Council v du Toit** 1964 (4) SA 796 (C) 800D-F.] The decision was conditional (ie not final) and could therefore be revoked. However, in revoking the decision, the minister had not acted in a procedurally fair manner and the decision was set aside.”*

By parity of reasoning the same situation obtains in the matter at hand.

19. Even if I were to be wrong in my conclusion reached in para 18 (above) I have another fundamental problem with Mr Coetzee’s suggestion that the Liquor Board ought to have approved the final issue of the licence and instituted steps only thereafter to nullify the licence. He submitted that in

view of the Liquor Board's aforesaid failure we should do so by granting the relief sought in the Notice of Motion. In other words, the court is being brazenly asked to sanction or to give its stamp of approval to conduct that is evidently immoral or inimical to public policy or interest or expose the patrons of the tavern to potential but serious danger. Our courts have never done it in the past, are not doing so now and will not do so as long as we remain a civilized jurisdiction and a democracy with a doctrine entrenching the separation of powers. See: **S v Lawrence; S v Negal; S v Solberg** 1997 (4) SA 1176 (CC) at 1199F – 1200A (paras 54 & 55) whereat **Chaskalson P** (in a different context) said:

“[54] The excessive consumption of liquor is universally regarded as a social evil. It is linked to crime, disturbance of the public order, impairment of road safety, damage to health, and has other deleterious social and economic consequences. These are legislative facts of which this Court can take judicial cognizance.

*[55] The Liquor Act describes itself as an Act '(t)o provide for control over the sale of liquor; and for matters connected therewith'. The appellants did not dispute that the excessive consumption of alcohol is harmful and that some control over the sale of intoxicating liquor is needed. This much was common cause.”*

20. The Liquor Board says that if it was aware of these most serious allegations belatedly drawn to its attention in the police report it would not have granted the conditional licence. Why should they? In **Pepcor Retirement Fund v Financial Services Board** 2003 (6) SA 38 (SCA) at 48A (para 10) the Court held:

*[10] This Court has already held that if an administrative act has been performed irregularly - be it as a result of an administrative error, fraud or other circumstance - then, depending upon the legislation involved and the nature and functions of the public body, it may not only be entitled but also bound to raise the matter in a court of law, if prejudiced: **Transair (Pty) Ltd v National Transport Commission and Another** 1977 (3) SA 784 (A) at 792H - 793G.”*

At 58G – 59C (paras 46 and 47) the Court went on to hold:

“[46] The national legislation envisaged in s 33(3) of the Constitution has now been enacted in the Promotion of Administrative Justice Act 3 of 2000; ... s6(2)(e)(iii) provides that a Court has the power to review an administrative action, inter alia, if 'relevant considerations were not considered'. It is possible for that section to be interpreted as restating the existing common law; it is equally possible for the section to bear the extended meaning that material mistake of fact renders a decision reviewable.

*[47] In my view, a material mistake of fact should be a basis upon which a Court can review an administrative decision. If legislation has empowered a functionary to make a decision, in the public interest, the decision should be made on the material facts which should have been available for the decision properly to be made. And if a decision has been made in ignorance of facts material to the decision and which therefore should have been before the functionary, the decision should (subject to what is said in para [10] above) be reviewable at the suit of, inter alios, the functionary who made it - even although the functionary may have been guilty of negligence and even where a person who is not guilty of fraudulent conduct has benefited by the decision. The doctrine of legality which was the basis of the decisions in **Fedsure, Sarfu and Pharmaceutical Manufacturers** requires that the power conferred on a functionary to make decisions in the public interest, should be exercised properly, ie on the basis of the true facts; it should not be confined to cases where the common law would categorize the decision as ultra vires." (My emphasis)*

21. If we had found that that the decision of the Liquor Board was not conditional or provisional but final the Liquor Board would have been functus officio and its remedy would have been to bring an application to have its own decision reviewed and set aside on the **Pepcor Retirement Fund** principle. Alternatively, it may have brought a counter-application based on the same principle. However, for the reasons already adverted to the Liquor Board was fully entitled to revoke its interim or conditional or provisional decision of the 23rd February 2005 without offending against the *functus officio* principle. The Liquor Board's decision is therefore not reviewable.

#### THE DISOLUTION OF THE LIQOUR BOARD

22. It was common cause during the hearing that the MEC of Finance and Economic Affairs who administers the Liquor Act in this province has dissolved the Liquor Board on the 27<sup>th</sup> September 2005 for reasons he deemed necessary and has hitherto not appointed a new Liquor Board. Such a vacuous situation, for reasons that suggest themselves, is untenable and undesirable. The MEC is urged to remedy the vacuum without further delay.

#### THE REPEAL OF THE LIQOUR ACT 27 OF 1989 WITH THE LIQOUR ACT NO 59 OF 2003

23. The Liquor Act 27 of 1989 has been repeal by the Liquor Act 59 of 2003. The latter Act was assented to on the 20<sup>th</sup> April 2004 with its commencement date being the 13<sup>th</sup> August 2004. However, as far as could

be established Act 59 of 2003 has not been made applicable to the Northern Cape by the MEC as contemplated by the transitional provisions of the new Law. The responsible MEC may wish to look into this matter as well, for the sake of uniformity.

**ORDER:**

1. **In the result the decision of the Northern Cape Liquor Board taken on the 14<sup>th</sup> April 2005 is not reviewable.**
2. **The applicant, Ms Keitemogetse Susan Solani's, application is dismissed with costs.**

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**F D KGOMO  
JUDGE PRESIDENT  
NORTHERN CAPE DIVISION**

I concur:

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**C C WILLIAMS  
JUDGE  
NORTHERN CAPE DIVISION**

**For the Applicant:**                      **Adv W Coetzee**  
**Instructed by:**                        **Engelsman Mangabane**

**For the Respondents:**                **Adv E Mokutu**  
**Instructed by:**                        **Thiso Cengcani & Ass**