



**IN THE HIGH COURT OF SOUTH AFRICA,
FREE STATE DIVISION, BLOEMFONTEIN**

Reportable:	NO
Of Interest to other Judges:	NO
Circulate to Magistrates:	NO

Case No: 5797/2022

In the matter between:

JONAH MORUDU

Applicant

and

THE UNIVERSITY OF THE FREE STATE

Respondent

HEARD ON: Matter disposed of without oral hearing in terms of section 19(a) of the Superior Court Act 10 of 2013.

JUDGMENT BY: MHLAMBI, J

DELIVERED ON: 20 AUGUST 2024

APPLICATION FOR LEAVE TO APPEAL

[1] On 20 October 2023, I granted the application and the following orders:

1. The respondent is ordered to perform all such acts as may be necessary in order to confer and bestow upon the applicant, at its next graduation ceremony or at such other time as may be convenient, a Diploma in Construction Science and Building Surveying.

2. Concomitant to the conferring, to issue to the applicant a Diploma confirming that the applicant had completed the said course and had qualified for conferral of such Diploma upon him.
 3. The respondent was ordered to pay the costs of the application.
- [2] The essence of the application for leave to appeal is that I did not find merit with the applicant's following arguments:
- 2.1 Section 65(D)(1) of the Higher Education Act prohibited the conferring of the Diploma;
 - 2.2 The applicant failed to comply with all the conditions/requirements for the Diploma and was therefore not entitled to specific performance; and/or
 - 2.3 Specific performance should have been refused on the basis that the relief sought would be practically impossible.
- [3] Though the application is opposed and the respondent contended that the applicant failed to discharge the onus of showing on proper grounds that reasonable prospects of success on appeal existed, he did not take issue with the appealability of the judgment.
- [4] I have traversed the grounds of appeal in my judgment. I agree that the matter is indeed of substantial importance to the parties and that it would be just and proper that a superior court should hear the appeal.
- [5] In the result the following order issues:

Order:

1. Leave to appeal is granted to the full bench of this division.
2. The costs will be costs in the appeal.


MHLAMBI, J

On behalf of the Applicant: Adv. JMC Johnson

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On behalf of the respondent: Adv. R Van Der Merwe

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