



Not reportable

**THE LABOUR COURT OF SOUTH AFRICA,
HELD AT JOHANNESBURG**

Case No: JR 1695/16

In the matter between:

LESEDI LOCAL MUNICIPALITY

Applicant

and

IMATU OBO MEMBERS

First Respondent

**COMMISSIONER M N S DAWSON
(NO)**

Second Respondent

**SOUTH AFRICAN LOCAL
GOVERNMENT BARGAINING
COUNCIL**

Third Respondent

Delivered: 24 January 2018

JUDGMENT ON APPLICATION FOR LEAVE TO APPEAL

LAGRANGE J

Introduction

- [1] This is an application for leave to appeal by the Lesedi Local Municipality against the judgment handed down in this matter on 7 September 2017 in a review application. I had dismissed the review application it had brought mainly on the grounds of its inexcusable non-compliance with the various time frames for prosecuting a review.
- [2] It wishes to appeal that decision based on the alleged misdirection of the arbitrator in deciding that the matter concerned an unfair labour practice rather than an interpretation and application of a collective agreement, which it claims I failed to give sufficient consideration to.
- [3] In the judgment, I alluded to the misdirection, but expressed the view that it might not have affected the outcome. I also found that even if the review might have some merit in relation to the misdirection, the municipality's completely apathetic conduct of the review prosecution could not be excused.
- [4] Having considered the submissions of the parties, notwithstanding that the municipality acted with the grossest negligence in conducting the review, there is a possibility another court might take a more indulgent view and entertain the review. Accordingly, with great reluctance, I feel leave to appeal should be granted.

Order

- [1] Leave to appeal against the judgment handed down on 7 September 2017 in this matter is granted.
- [2] Costs shall be costs in the appeal

Lagrange J
Judge of the Labour Court of South Africa