



**IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN**

Case number: 2613/23

In the matter between:

BREEDE VALLEY ONHAFHANKLIK

Applicant

and

**SPEAKER OF THE BREEDE VALLEY
MUNICIPALITY**

First Respondent

**EXECUTIVE MAYOR OF THE BREEDE VALLEY
MUNICIPALITY**

Second Respondent

**MUNICIPAL MANAGER OF THE BREEDE VALLEY
MUNICIPALITY**

Third Respondent

BREEDE VALLEY MUNICIPALITY

Fourth Respondent

Coram: Acting Justice A Montzinger

Heard: 27 January 2025

Delivered electronically: 27 January 2025

**JUDGMENT
(LEAVE TO APPEAL)**

Montzinger AJ

Summary introduction

1. The applicant, Breede Valley Onafhanklik ("BVO"), applies for leave to appeal against my judgment of 1 November 2024, in which I dismissed its application to review and set aside the decision of the Breede Valley Municipal Council (the "Council") to unilaterally appoint BVO's members to serve on the Council's section 80¹ committees.
2. The application for leave to appeal was filed one day late, exceeding the time period prescribed in Uniform Rule 49(1)(b). BVO has asked for the period to be extended.
3. The application for leave to appeal is premised on the grounds that an appeal would have a reasonable prospect of success. Additionally, BVO argued that the appeal holds significant importance for itself, its members, councillors, and the public at large.
4. The application is opposed.

Extension of time period

5. The application for leave to appeal was due on 22 November 2024 but was only delivered on 25 November 2024. Having considered the reasons advanced for this delay, I am satisfied that BVO has established good cause for the extension of the time period in which to file the application. An order extending the prescribed 15-day period will be granted accordingly.

Merits of the leave to appeal application

¹ Local Government: Municipal Structures Act 117 of 1998 (the "Structures Act")

6. The facts and issues pertinent to the matter are set out in the main judgment.
7. The jurisprudence by the Supreme Court of Appeal² requires that I assess, dispassionately and based on the facts and law, whether a court of appeal could reasonably arrive at a different conclusion. In line with the principles articulated in *Ramakatsa*, BVO must demonstrate sound and rational grounds indicating a reasonable, non-remote prospect of success on appeal.
8. Section 17(1)(a) of the Superior Courts Act³ further provides that compelling reasons for granting leave to appeal must be assessed in conjunction with the merits of the appeal, which remain often decisive⁴. Compelling reasons include, among others, the involvement of substantial public interest, an important question of law, differing judicial interpretations, or a discrete issue of statutory interpretation with implications for future cases⁵.
9. After a careful review of the grounds raised by BVO, I am satisfied that the Supreme Court of Appeal could reasonably arrive at a different conclusion. This establishes that the applicant has a reasonable prospect of success on appeal.
10. Furthermore, the broader public implications of the judgment justify granting leave to appeal. The issues addressed in the judgment, such as the autonomy of political parties in local governance, the rights of councillors, and the interpretation of the Structures Act regarding unilateral appointments to section 80 committees, are of considerable public interest. These issues impact the operation of municipal councils and necessitate authoritative clarification by the Supreme Court of Appeal.

² *Minister of Justice and Constitutional Development and Others v Southern Africa Litigation Centre and Others* [2016] ZASCA 17; 2016 (3) SA 317 (SCA); *Ramakatsa v African National Congress* (Case no 724/2019) (“*Ramakatsa*”)

³ 10 of 2013

⁴ *Caratco (Pty) Ltd v Independent Advisory (Pty) Ltd* 2020 (5) SA 35 (SCA) at para 2

⁵ Van Loggerenberg: *Erasmus Superior Court Practice* (3rd ed) Vol 1 D106-108

Conclusion and order

11. I am therefore satisfied that BVO has made out a case for leave to appeal to be granted. The following order is therefore issued:

11.1 The time period in which the applicant was required to deliver its application for leave to appeal is extended to Monday 25 November 2024.

11.2 Leave to appeal is granted to the Supreme Court of Appeal.

11.3 The costs of the leave to appeal application to be costs in the appeal.

A MONTZINGER
Acting Judge of the High Court

Appearances:

Applicants' counsel:	Adv DC Joubert SC
Applicant's attorney:	Chris Fick & Associates
Respondents' counsel:	Adv T Sarkas
Respondents' Attorney:	Fairbridges Wertheim Becker