

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number: 037393/2023

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: YES
25 February 2025	
DATE	SIGNATURE

In the matter between:

MPHO MAIFADI

Applicant

and

THE MINISTER OF CORRECTIONAL SERVICES

First Respondent

**THE CHAIRPERSON OF THE NATIONAL COUNCIL
FOR CORRECTIONAL SERVICES**

Second Respondent

JUDGMENT

CRUTCHFIELD J

- [1] The applicant, Mpho Maifadi, brought proceedings for the first respondent, the Minister of Correctional Services ("the Minister"), to be held in contempt for failure to comply with an order of this court dated 24 August 2023 ("the Order").

- [2] The Minister opposed the proceedings, as did the second respondent, the Chairperson of the National Council for Correctional Services.
- [3] At the outset of the hearing, the applicant's legal representative informed me that the only issue for determination by me was the costs of the application as the Minister had complied with the Order, albeit more than one year after the date upon which the Minister ought to have done so in terms of the Order. Accordingly, the applicant sought costs of the application, which the respondents resisted.
- [4] The Order provided that the Minister consider the applicant for parole by 31 August 2023. The terms of the Order were agreed to by the parties and obliged the Minister to consider the applicant for parole by 31 August 2023. The Minister failed to comply with the terms of the Order by the agreed date of 31 August 2023, forcing the applicant to institute the application before me.
- [5] The Minister argued that the processes undertaken by the parole board prevented the Minister from complying with his obligations under the Order. Those processes and the time required to complete them, however, were within the knowledge of the Minister at the time that the parties agreed to compliance by the Minister in terms of the Order, by 31 August 2023. Accordingly, the processes undertaken by the parole board do not allow the Minister to escape the consequences of his inaction in respect of his obligations under the Order.
- [6] The applicant informed his legal representatives on Monday 17 February 2025, the first day of the week during which the matter was set down for hearing, that the Minister complied with the Order during October 2024, more than one year after the Minister was obliged to comply with the Order. Notwithstanding, the respondents failed to inform the applicant's legal representatives as well as this court that they had complied with the order.
- [7] The applicant's legal representatives do not have easy access to the applicant who remains incarcerated, and communication with the applicant in prison is not easy. The respondents knew that they had complied but permitted the application to be set down, the attendant processes to be undertaken and costs to be incurred. Given that the applicant remains incarcerated, I am of the view that the Minister should be liable for the costs of the application on scale B as it took in

excess of one year for the Minister to comply with the order. Thereafter, the Minister failed to inform the applicant that compliance had been achieved.

[8] In the circumstances, I grant the following order:

1. The first respondent, the Minister of Correctional Services, is ordered to pay the costs of this application on scale B.



CRUTCHFIELD J
JUDGE OF THE HIGH COURT

For the Applicant:

Mr T.G Mokgara (Attorney with right of appearance) instructed by Mogkara Attorneys.

For the Respondent's:

Adv L Sefudi instructed by State Attorney Pretoria.

Date of hearing:

21 February 2025.

Date of Judgment:

25 February 2025.