

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
<u>30 April 2025</u> DATE	
..... SIGNATURE	

Case No: 105750/2024

In the matter between:

**STUDENT UNION FOR CHRISTIAN ACTION SEFAKO
MAKGATHO HEALTH SCIENCES (SUCA)**

Applicant

and

**SEFAKO MAKGATHO HEALTH SCIENCES
UNIVERSITY (SMU)**

First Respondent

**THE COUNCIL OF SEFAKO MAKGATHO
HEALTH SCIENCES UNIVERSITY**

Second Respondent

THE VICE-CHANCELLOR OF SEFAKO

MAKGATHO HEALTH SCIENCES

UNIVERSITY

DR JEFFREY MABELEBELE

Third Respondent

**THE REGISTRAR OF SEFAKO MAKGATHO
HEALTH SCIENCES UNIVERSITY**

Fourth Respondent

**ECONOMIC FREEDOM FIGHTERS' STUDENT
COMMAND (EFFSC)**

Fifth Respondent

SOUTH AFRICAN STUDENT CONGRESS (SASCO)

Sixth Respondent

YOUNG COMMUNIST LEAGUE OF SOUTH AFRICA

(VGL)

Seventh Respondent

THE STUDENT REPRESENTATIVE

**COUNCIL OF SEFAKO MAKGATHO
HEALTH SCIENCES UNIVERSITY**

Eighth Respondent

KATLEGO MOSHANYANE

Ninth Respondent

NTSHADI BOKABA

Tenth Respondent

SIBUSISO MAKHAMBA

Eleventh Respondent

HLOMPHO MASEMOLA

Twelfth Respondent

Delivered: This judgment was handed down electronically by circulation to the parties by e-mail and the uploading of the judgment to the caselines profile. The date for the handing down of the judgment shall be deemed to be 30 April 2025.

JUDGMENT

GROBLER, AJ:

[1] The central issue in this matter relates to the manner in which resolutions are taken by the students' representative council ("SRC") of the Sefako Makgatho University.

[2] It is common cause that the SRC constitution of the Sefako Makgatho University (hereinafter referred to as "the SRC constitution") prescribes that the SRC shall consist of fifteen members and that all resolutions of the SRC shall be taken by a simple majority.

[3] The applicant contends that a simple majority means that a candidate needs to obtain a minimum of nine votes out of fifteen, while the respondents contend that a simple majority requires a minimum of eight out of fifteen votes.

[4] The legal framework for determining the meaning of a simple majority is provided by *inter alia* the Amended Statute of the Sefako Makgatho Health Sciences University published in the Government Gazette of 12 August 2022, No. 46705 (hereinafter referred to as "the institutional statute") and the Constitution of the SRC.

[5] Clause 1 of the Constitution of the SRC provides that the SRC constitution must be interpreted subject to the provisions of the institutional statute.

[6] The applicant referred me in this regard to section 5(1) of the institutional statute, which reads as follows:

“(1) Whenever, in terms of a provision of this statute, a quorum or a majority of votes for any purpose is required and the actual number required at a meeting results in a numerical fraction the next greater number shall be the applicable number to constitute the required quorum or majority.”

[7] Section 67(9) of the Institutional Act provides as follows:

“(9) The SRC is composed and functions in accordance with its Constitution and the provisions of this Statute and the Rules.”

[8] The parties referred me to the following relevant definitions in the SRC constitution:

*“**Calculation of quorum or majority**’ means that whenever a quorum for a meeting or majority of votes for any purpose is required in terms of this constitution, and the actual number required at a meeting results in a number and a numerical fraction, the next greater number shall be the applicable number to constitute the required quorum or majority;*

*‘**Fifty per cent plus one (50% plus 1) and sixty six per cent plus one (66% plus 1)**’ means the number of votes, determined by the provisions of this constitution, required to take a binding and enforceable decision and shall, when an absolute majority is required, mean 66% plus 1 of serving members of the relevant body, and when a simple majority is required, 50% plus 1 of the members present at a meeting;*

*‘**Simply majority**’ means fifty per cent plus one (50% plus 1) of the votes of the members present at a meeting of the SRC, School Councils or any other formal structure constituted in terms of this constitution, as determined by the context;”*

[9] The definition of Calculation of quorum or majority in the SRC constitution follows the wording of Section 5(1) of the institutional statute word for word.

[10] The parties also referred me to and relied on clause 8 of the SRC constitution, which deals with ordinary meetings of the SRC. Both parties approached the matter on the basis that the meeting where the decisions under consideration were taken was an ordinary meeting of the SRC.

[11] The meeting was in fact the special constituting meeting of the SRC held in terms of clause 5(3) of the SRC constitution, but I do not consider that to be of any great significance as clause 5(3) of the SRC constitution does not make provision for the election of either the five executive members, or the allocation of portfolio responsibilities by any other method than a simply majority.

[12] Clause 8(9) of the SRC constitution provides as follows:

“(9) The quorum of the ordinary meeting of the SRC shall be fifty per cent plus one of the Council (50% of 15 equals 8). The quorum is determined at the start of the meeting. If the required quorum is not present at the beginning of a meeting the chairperson of the meeting shall adjourn the meeting for a period of at least an hour, immediately give oral notice of the resuming time, and contact all absent members to inform them of the arrangements for the starting time.”

[13] I do consider clause 8(9) of the constitution relevant. Even though it relates to a quorum and not a simple majority, it is considered to be relevant

because of the definition of the “*calculation of a quorum or majority*” referred to above. The definition makes it plain that a simple majority and a quorum is calculated in exactly the same manner.

[14] It is settled law that interpretation is the process of attributing meaning to the words used in the document, having regard to *inter alia* the context, the language used in light of the ordinary rules of grammar and syntax and the purpose to which it is directed. Furthermore, a sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results.¹

[15] The applicant contends that a simply majority of 50% plus one equals 8.5 (i.e. 50% times fifteen equals 7,5 plus one) and the next greater number is then nine, which is the required number.

[16] The respondents contend that the applicant’s argument is fundamentally flawed and inconsistent with the provisions of the SRC constitution referred to above.

[17] The respondents pointed out that eight out of fifteen votes represent 53,33% of the votes, which is more than the 50% plus one simple majority threshold defined by the SRC constitution.

[18] The respondents contend that an interpretation resulting in a finding that a simple majority requires a minimum of eight of fifteen votes is consistent with the clear meaning on any interpretation of the relevant provisions of the SRC

¹ *Natal Joint Pension Fund v Endumeni Municipality* 2012 (4) SA 593 (SCA), para [18].

constitution. The respondents relied upon the following authorities in addition to *Endumeni*:

[18.1] *Adampol (Pty) Ltd v Administrator, Transvaal* 1989 (3) SA 800 (A) at 804 D-C; and

[18.2] *Cool Ideas 1186 CC v Hubbard and Another* 2014 (8) BCLR 869 (CC) at paragraph [28].

[19] I agree with the respondents that eight out of fifteen votes constitute a simple majority on any reasonable interpretation of the SRC constitution. Having regard to the definition of Calculation of quorum or majority, Clause 8(9) of the SRC constitution and the legal principles relating to interpretation, it is unsustainable to hold that nine votes are required for a simple majority while only 8 votes are required for a quorum. Furthermore, such an interpretation would negate the plain meaning of the concept of a "majority" or "simple majority".

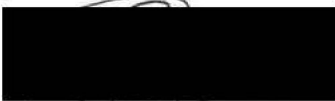
[20] The respondents contended that the applicant's application is clearly ill conceived and amounts to an abuse of court process warranting a punitive costs order against the applicant.

[21] I am not persuaded that the application constitutes an abuse of court process, and I see no reason why the general rule that costs should follow the result should not be followed.

ORDER:

In the premises, the following order is issued:

1. The application is dismissed with costs, the costs of counsel to be taxed on Scale B.


JF GROBLER

ACTING JUDGE OF THE HIGH COURT OF
SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Date of hearing:	22 April 2025
Date of judgment:	30 April 2025
Counsel for Applicant:	XP Mthombeni
Instructed by:	BL Nkuna Incorporated
Counsel for Respondents:	RT Ramashia
Instructed by:	Mahumani Incorporated