



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NO: 2025-131477

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
<u>09/08/2025</u>	
DATE	SIGNATURE

In the matter between: -

**KATLEGO MAMABOLO
SOLOMON RAMALOBELA
PRINCE MSUTWANA
SEKGOPOLLO RAKOSA
MICHAEL MOHLONGO
MPHO MOSHOESHOE**

First Applicant
Second Applicant
Third Applicant
Fourth Applicant
Fifth Applicant
Sixth Applicant

and

**AFRICAN NATIONAL CONGRESS
AFRICAN NATIONAL CONGRESS NATIONAL
WORKING COMMITTEE
GAUTENG PROVINCIAL TASK TEAM
EKURHULENI REGIONAL TASK TEAM**

First Respondent

Second Respondent
Third Respondent
Fourth Respondent

DOCTOR XHAKAZA	Fifth Respondent
ERIC XAYIYA	Sixth Respondent
JONGIZIZWE DLABATHI	Seventh Respondent
MOIPONE MHLONGO	Eighth Respondent
ABSALOM BUDELI	Ninth Respondent
ZANELE NKOMO	Tenth Respondent
SOCHAYILE KHANYILE	Eleventh Respondent
THOKO MAGAGULA	Twelfth Respondent
BULELANI MAGWANISHE	Thirteenth Respondent
TISETSO MAMKETLE NKETLE	Fourteenth Respondent
ANDILE MNGWEVU	Fifteenth Respondent

JUDGMENT

MFENYANA J

Introduction

[1] This application served before me in the urgent court. The applicants, all members of the first respondent (the ANC) at various branches in and around the Ekurhuleni metropolitan, approach this court seeking urgent relief, interdicting the respondents from holding the eighth regional conference of the ANC, Ekurhuleni region (the regional conference), set for 8 to 10 August 2025. They further seek an order declaring all actions performed and decisions taken by the Ekurhuleni Regional Task Team (the RTT) from 11 June 2025 invalid. It is not in dispute that the applicants are all members of the ANC in good standing.

[2] The matter in itself has a long history. Of relevance is a judgment of Fisher

J, in *Sithole*¹ handed down on 17 July 2023 from which the present application is said to emanate. Having considered an application instituted by certain members of the ANC, Fisher J set aside the 2022 regional conference of the ANC on the basis of irregularities which dogged the conference. The court ordered a reconvening of the conference, compliant with the ANC constitution. It is that conference which forms the subject of this application.

[3] In these proceedings, the applicants aver that all they seek is to participate in a regional conference that is lawful and convened validly in accordance with the constitution of the ANC, which is a far cry from the way things unfolded after the *Sithole* judgment.

Urgency

[4] The applicants contend that the mandate of the RTT having expired on 10 June 2025, any decision taken and all acts performed by the RTT thereafter, are null and void and fall to be set aside. They aver that, were the conference to proceed, it would result in a repeat of the *Sithole* scenario, as the elections would be unlawful and invalid processes would be institutionalised. Consequently, litigation would thereafter ensue. This, the applicants aver, places them in good stead to be granted urgent relief, as the threat of irreversible harm looms large, given the objectionability of *ex post facto*, complex litigation.

¹ *Sithole and Others v African National Congress and Others* (020623/2022) [2023] ZAGPJHC 810 (17 July 2023).

[5] Counsel submitted on behalf of the applicants that the urgency in this application should be viewed in the context of the rights implicated in this matter; that the applicants brought the application in defence of their constitutional rights to political participation. Relying on *Ramakatsa*², counsel submitted that a violation of the constitution and rules of a political party entitles members to approach the court for relief.

[6] The respondents dispute that the application is urgent, as the applicants were aware as early as 11 June 2025 that the mandate of the RTT had lapsed. Moreover, the roadmap for the conference was publicly communicated as far back as 1 July 2025, scheduling the conference for 8 to 10 August 2025. Yet, they waited until 6 August 2025 to bring this application, the respondents further contend. They aver that this constitutes abuse of process which calls for the striking off of the matter off the urgent roll and a punitive cost order against the applicants.

[7] It is so that the applicants provide no explanation for the delay and their heedless conduct from 11 June 2025 through 6 August 2025 when these proceedings were instituted. What they say is that because they seek to vindicate their constitutional rights to political participation, that should supersede any requirement to provide the respondents adequate notice of the application or bring the application on less stringent terms.

² *Ramakatsa v Magashule* 2013 (2) BCLR 202 (CC).

[8] It is worth considering the timeline within which this application was brought:

- a. The application was served on the various respondents from 11h34 on 6 August 2025. The notice of motion stipulates that they were to file their answering papers by 12h00 on 7 August 2025.
- b. On 7 August 2025, the respondents delivered their answering affidavit. There is no return of service filed, but according to the Caselines audit trail, the answering affidavit was uploaded at 22h30. According to the applicants, this left no reasonable time for them to reply. They, in any event elected to forgo this right.

[9] It is clear from this timeline that the applicants afforded the respondents very little time to consider the application, instruct an attorney, brief counsel and prepare their answer. What the applicants do not say is why it had to be so.

[10] I accept that it may have taken the applicants a little more than a day to conceptualise the relief they seek, instruct and consult with their legal team, and formulate their case. I however have difficulty in filling in the many blanks left unexplained by the applicants. Armed with all the case law at their disposal and closer to home, *Sithole*, they nonetheless did not consider it necessary to act swiftly in bringing this application. Notwithstanding, this court was called upon to hear this matter outside the normal rules regulating urgent applications; on

extremely abbreviated timeframes, giving the respondents 1 day to respond to over 160 pages. It is little wonder that the respondents only managed to deliver their answering papers in the late hours of 7 August 2025, leaving little to no time for the applicants to file a reply.

[11] That is not to say that the court requires a meticulous, faultless process, for less than perfect pleadings in urgent matters are not uncommon. However, in the circumstances of the present application, there appears to be no conceivable reason why the applicants did not consider it prudent to approach this court sooner. The Practice Directives stipulate that urgent matters are filed at 12h00 on Thursday for hearing on the next Tuesday.

[12] I point out that the circumstances that prevail now remain the same as the previous week when the applicant could have brought the application at their leisure and still brought themselves perfectly within the parameters of the Rules and the Practice Directives. They, themselves do not suggest any change of circumstance during that time. They knew full well that there was not the luxury of time and that their rights, as they point out, required protection.

[13] Uniform rule 6(12) sets out in clear terms that an applicant in an urgent application must set out explicitly the circumstances which it avers render the matter urgent and why substantial redress cannot be attained at a hearing in due course. All that the applicants state in this regard is that the conference would

commence on 8 August 2025, a fact they have known for over a month. Notably, this also happens to be the day this application is set down for hearing. It was submitted on behalf of the applicants that despite the conference having already commenced, history has shown that the first day of the conference is usually concerned with registrations and the like, with the substantive business to follow on the later days of the conference.

[14] It does not alter the applicants' fate, in my view, that the applicants contend that in this application they seek to vindicate their constitutional rights. That may be so, but it is however not the central question in these proceedings. It being an urgent application, the question is whether the applicants were entitled to approach this court in the manner that they have and having done so, satisfied all the requirements of that choice. I think not.

[15] The jurisprudence of this court is awash with authorities that a party who creates their own urgency is not entitled to urgent relief. In those circumstances, one would have expected the applicants to proceed with some measure of alacrity. In those circumstances, one would have expected the applicants to proceed with some measure of alacrity.

[16] In *Dynamic Sisters Trading (Pty) Limited and Another v Nedbank Limited (Dynamic Sisters)*³, Adams J underscored the importance of providing cogent

³ (081473/2023) [2023] ZAGPPHC 709 (21 August 2023).

reasons for dispensing with the formalities applicable in application proceedings when instituting urgent applications The court rejected the applicants' explanation that they were attempting to resolve the dispute with the respondent. I associate myself with this reasoning. As Adams J pointed to consistency and legal certainty in dealing with self-created urgency, I add that in decisively dealing with self-created urgency, such decision should be accompanied by a clear message that urgency is not for the mere taking, and that the 'Rules of Court and Practice Directives can only be ignored at a litigant's peril'⁴.

[17] It also does not assist the situation that at the hearing of the matter, part of the relief sought by the applicants had been abandoned. Noble as it may be that the applicants elected even at this late hour, not to harp on certain aspects of the relief they sought in their founding papers this, was only done after the respondents had been put under stringent timeframes to answer to a case that would not be proceeded with.

Conclusion

[18] This application is a textbook example of self-created urgency. There appears to be no conceivable reason why the applicants waited until the last hour to bring this application. All the signs that the conference would go ahead as scheduled on 8 August 2025 were unfolding before their very eyes. Counsel for the respondents argued that at this stage, a lot has gone into the preparation of the

⁴ Ibid. para 18.

conference. I am of the view that it accords with fairness that a party who makes an election should bear the consequences of that election. The applicants have not satisfied the requirements of an urgent application.

Order

In the result, I make the following order:

- a. The matter is struck off the roll for want of urgency and non –compliance with the Rules of Court and the Practice Directives of this Division.
- b. The applicants are to pay the costs of the application jointly and severally, the one paying the other to be absolved, on Scale C.



S MFENYANA
JUDGE OF THE HIGH COURT
JOHANNESBURG

This judgment was handed down electronically by circulation to the parties' legal representatives by email and by uploading on Caselines. The date for hand-down is deemed to be 09 August 2025.

APPEARANCES

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Date of hearing : 8 August 2025

Date of judgment : 9 August 2025