IN THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MBOMBELA

CASE NO: 3430/2022

(1)	REPORTABLE:NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: YES
[redacted]	21/08/2025
SIGNATURE	DATE

In the matter between:

HUMPHREY SIZWE MAYISELA **FIRST APPLICANT**

PRECIOUS JABULILE HLATSWAYO **SECOND APPLICANT**

TLHAPELA MICHAEL LELAKA **THIRD APPLICANT**

COLIN BRENTJIES **FOURTH APPLICANT**

EDWIN SEDUPANE **FIFTH APPLICANT**

and

MEC FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS: MPUMALANGA — **FIRST RESPONDENT**

ANALYTICAL FORENSIC INVESTIGATION SERVICES (PTY) LTD — **SECOND RESPONDENT**

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS — **THIRD RESPONDENT**

FOURTH RESPONDENT MINISTER OF FINANCE — **FOURTH RESPONDENT**

EMALAHLENI LOCAL MUNICIPALITY — **FIFTH RESPONDENT**

This judgment was handed down electronically by circulation to the parties and/or parties' representatives by email. The date and time for hand-down is deemed to be 21 August 2025 at 10:00.

JUDGMENT

Mashile J

Introduction

[1] The Applicants seek to review and set aside three decisions of the First Respondent ("the MEC") ostensibly taken in terms of section 106 of the Local Government: Municipal Systems Act 32 of 2000 ("the MSA"). These decisions are:

1.1 To appoint the Second Respondent ("AFIS") to investigate and report on allegations of malpractice, fraud and corruption within the Fifth Respondent ("the Municipality");

1.2 For AFIS to render a report following the investigation above; and

1.3 To adopt the report prepared by AFIS and to table it before the Provincial Executive Council.

[2] The First Applicant ("Mr Mayisela") has deposed to the founding, supplementary and replying affidavits on behalf of all the other four Applicants. To that end, the other Applicants have signed confirmatory affidavits confirming the contents of the three affidavits that Mr Mayisela has signed. Accordingly, reference to Mr Mayisela ought to be understood to include all the Applicants. That said, I may refer to the Applicants in their individual names or collectively as Applicants, depending on the demands of context. Mr Mayisela has listed the following as his grounds for the review of the three decisions outlined above:

2.1 The MEC's reliance on section 106(1)(b) was *ultra vires* because:

2.1.1 The jurisdictional facts contemplated in section 106(1) of the MSA were absent;

2.1.2 The MEC is said to have had no authority to act under section 106(1)(a) and (b). Mr Mayisela also believes that the MEC's stated reason for invoking section 106(1)(b) of the MSA is false and/or insufficient to satisfy the requirements to invoke the subsection;

2.1.3 The peremptory obligations under subsection (2) were not complied with, since no commission was established to conduct the investigation; and

2.1.4 The peremptory obligations envisaged in section 106(3) of the MSA were not observed because the MEC failed to give a written statement motivating the exercise of these powers to the National Council of Provinces ("NCOP").

2.2 The MEC relied on section 106(1)(b) without considering a report prepared by the Municipality that was submitted to her six months before she designated AFIS;

2.3 The decisions of the MEC, the investigation of AFIS and the report that ensued infringed procedural fairness. Both the MEC and AFIS failed to afford Mr Mayisela his rights to *audi alteram partem*;

2.4 The section 106 process was not rationally related to the purpose for which the power was intended in that the MEC did not invoke these powers in pursuit of any legitimate need for provincial intervention or support for the Municipality. Naturally, associated with the aforesaid is the MEC's bias, malice and irrationality;

2.5 The MEC's decision to invoke section 106 revealed deliberate disregard of her duties arising under section 105 of the MSA, which obliges the MEC to use existing reporting mechanisms in her oversight role of the Municipality; and

2.6 The report, findings and recommendations stemming therefrom are replete with substantial errors of law.

[3] The review application is opposed by the MEC and AFIS. One of the defences is that Mr Mayisela does not have *locus standi* to bring this application. The argument is that the primary objective of the section 106(1)(b) report is to address issues arising in the Municipality and not the individuals in its employ. The report has no direct external legal effect. To the extent that Mr Mayisela could be adversely affected, it is merely coincidental. As such, he lacks *locus standi*.

[4] Like Mr Mayisela, AFIS too regards the report as a mere preliminary step and that it is incapable of adversely affecting Mr Mayisela. As such, it regards this action as premature. Additionally, the decision is not capable of review because it is not an administrative action as envisaged in section 1 of the Promotion of Administrative Justice Act 3 of 2002 ("PAJA").

Factual Matrix

[5] On 18 January 2021, the MEC at the time invoked the power in section 106(1)(a) of the MSA in a letter addressed to Mr Mayisela in his capacity as Municipal Manager ("the section 106(1)(a) Notice"). Mr Mayisela alleges that he only received the section 106(1)(a) Notice on 18 January 2021, notwithstanding that the date thereon reads 30 November 2020. The section 106(1)(a) Notice required Mr Mayisela, among other

things, to provide a detailed report on diverse subjects. The events extend over a period of approximately four years and encompass seven different topics.

[6] The MEC had grouped the allegations in the section 106(1)(a) notice in three categories:

6.1 Allegations on financial-related issues, which dealt with:

6.1.1 Payment of travelling allowances to certain senior managers ("the travel allowance allegations"); and

6.1.2 Adjustment in remuneration packages of Mr Mayisela and certain senior managers ("the salary adjustment allegations").

6.2 Outstanding Municipal Infrastructure Grant (MIG) Projects dealing with the slow progress and financial implications of two Municipal Infrastructure Grant ("MIG") projects, namely:

6.2.1 The Empumelelweni Bulk Outfall Sewer Line and Pump Station ("the Pump Station"); and

6.2.2 The Leeuwpoort Landfill Site ("the Landfill Site").

6.3 Other allegations of malpractice, which comprised:

6.3.1 Allegations of corruption and nepotism in a recruitment process for learners to attend a basic Traffic Officers Course ("the Traffic Officers Course allegations");

6.3.2 An allegation of management, unilaterally, altering the resolutions taken by the Local Labour Forum (LLF) when preparing items to be submitted to the Municipal Council ("the LLF allegation"); and

6.3.3 Allegation of management appointing employees in the acting capacity outside the policy and legislation ("the acting appointments allegation").

[7] On 25 January 2021 and in response to the section 106(1)(a) Notice, the Municipality delivered a report ("the ELM Report") to the MEC. According to Mr Mayisela, the ELM Report comprehensively addresses each of the allegations raised in the section 106(1)(a) Notice. Both the MEC and AFIS deny this, even though there is no explanation why they considered the ELM Report inadequate for the intended purpose. The Municipality received no response to the ELM Report. On 10 August 2021, the

Municipality was advised that the MEC had appointed AFIS in terms of section 106(1)(b) of the MSA to investigate the same allegations and issues that were contained in the section 106(1)(a) Notice and the response in the ELM Report.

[8] In her affidavit, which the MEC later filed in her capacity as such, she explains that she had sent the section 106(1)(a) Notice to the Municipality on 30 November 2020. Mr Mayisela acknowledges that while the letter was dated 30 November 2020, the Municipality only received it on 18 January 2021 from the Legal Services of the Department of Cooperative Governance and Traditional Affairs ("COGTA"). The MEC declares further that when she realised that no reply was forthcoming from the Municipality, she invoked the provisions of section 106(1)(b) of the MSA to investigate the veracity of the allegations.

[9] She declares further that the Municipality only responded to the notice on 25 January 2021. According to the deponent of the answering affidavit, the MEC appointed AFIS on 3 August 2021. The MEC therefore admitted to having received the ELM Report from the Municipality on 25 January 2021. That said, her appointment of AFIS to investigate those allegations came a little over six months later.

[10] Shortly following its introduction to the Municipality on 10 August 2021, AFIS requested that it be placed in possession of twenty-seven distinct sets of documents. On 18 August 2021, the Municipality delivered the documents to AFIS. These documents were a combination of hard and soft copies. AFIS then scheduled interviews with certain managers perceived to have been key players in the area intended for the investigation.

[11] According to Mr Mayisela:

11.1 The hearings were not held in public or at all;

11.2 He was neither informed of the intended findings against him nor offered appropriate opportunities to respond thereto;

11.3 The witnesses were neither sworn in nor allowed legal representation; and

11.4 The interviews were almost like interrogations, showing absolute disdain for the rights and principles of procedural fairness. All these are denied by both the MEC and AFIS.

[12] Upon the finalisation of the interviews, AFIS continued to prepare a report ("the AFIS Report"). The Applicants allege that they became aware of what they thought to be the unfinished version of the AFIS Report during March 2022, when it began making rounds on various social media and public platforms. The public access to the report generated requests for comment from various media outlets to the Municipality. This version of the AFIS Report later materialised as the final and only report that AFIS produced after it had been instructed to investigate. The AFIS Report contained major findings and recommendations against the Applicants.

[13] On 14 March 2022, the attorneys of the Applicants wrote to the MEC and the Ministers of Finance and COGTA stating that the leaked report contained serious yet factually and legally incompetent findings and recommendations against the Applicants. The attorneys further requested the following from the MEC:

13.1 The MEC needed to confirm whether the report was a draft or a final version;

13.2 To the extent that the report may not have been a final version, Mr Mayisela required the MEC to agree to receive and consider his representations before finalising or adopting the report; and

13.3 Copies of the written statement submitted to the NCOP and the Ministers of Finance and COGTA, under section 106(3).

[14] Responding on behalf of the MEC on 23 March 2022, COGTA denied any knowledge of the leaked report. It went on to state that the issues raised in the letter of the attorneys to the MEC would best be addressed after the report had been finalised and tabled before the Municipality and Provincial Executive Councils. Needless to state that the MEC did not furnish the information that the attorneys of the Applicants had requested. On 24 March 2022, the attorneys of the Applicants wrote back to the MEC demanding

that the MEC undertake not to table the report before receipt and consideration of their representations, failing which urgent proceedings would ensue.

[15] Having failed to secure the undertaking as aforesaid, the Applicants launched an urgent application whose objective was to secure what they had demanded earlier. In an affidavit to which the MEC deposed and commissioned on 11 April 2022, she specifically declared that the Report had not been finalised. She proceeded to state that she lacked the authority to consider the Applicants' representations, pointing out that only AFIS could do so. Swayed by the contents of the affidavit of the MEC that the Report had not been finalised, on 12 April 2022, the attorneys of the Applicants wrote to the MEC and AFIS proposing a settlement on the understanding that AFIS could simply receive and consider their representations before finalising the Report. The MEC rejected this proposal on the same day.

[16] On 13 April 2022, the attorneys of the Applicants again wrote a follow-up letter to AFIS to which the latter replied immediately, stating that it would be incompetent for it to afford them a hearing because they had sought no relief against it. The urgent application was ultimately struck off the roll for lack of urgency on 19 April 2022. On the same day, the Applicants sent their representations to the MEC and AFIS. On 20 April 2022, AFIS confirmed that it had submitted the report to the MEC incorporating its investigations and findings. The Report went on to state that it was not for AFIS to reconsider the further representations of the Applicants unless authorised by the MEC. AFIS also confirmed that it had no power to act further in the matter without express instructions.

[17] On 25 April 2022, the attorneys of the Applicants asked AFIS for the date on which the final report was given to the MEC. The letter also sought confirmation that the final Report was similar to the one the Applicants had attached to the founding papers of the urgent application. Noting that no answer was forthcoming, on 28 April 2022, the attorneys of the Applicants wrote to the MEC and AFIS, essentially venting their frustrations and recapping past events concerning the subversion of their attempt to have

their representations heard and considered. The attorneys of the Applicants advised the MEC that her conduct constituted a transgression of the Executive Ethics Code.

[18] On 13 July 2022, the Applicants became aware through a circulating WhatsApp message entitled: "*Exco Media Statement For Immediate Release All Media Houses*" that the MEC had adopted and tabled the report before the Provincial Executive Council. It is not seriously disputed that the report was adopted and tabled without the consideration of the representations of the Applicants. The report in the relevant part reads as follows:

> "3. Report on Section 106 investigation of Emalahleni Local Municipality
> EXCO considered the outcome of the Section 106 investigation, conducted in Emalahleni Local Municipality, which commenced in August and was completed in November last year.
> The investigation focused on, among others, allegations on financial matters, which include payment of fixed travelling allowances and adjustment to the total remuneration packages to some officials, contrary to the provisions of the Local government regulations, allegations of corruption and nepotism regarding the recruitment of employees including the Leaners for the Basic Traffic Officers course.
> The report was approved and recommended for implementation by COGTA, and that feedback of the implementation must be reported to EXCO." (*sic*)

[19] According to the Applicants, the MIG project allegations did not originate as allegations at all. They instead stemmed from the section 106(1)(a) Notice as a request for explanations on the causes and financial implications of two infrastructure projects that had exceeded their respective schedules. AFIS decided that these overruns were caused by the contractor common to both projects. The investigation into the other allegations of malpractice failed to find anything tied to the Applicants.

Issues

[20] The issues that stand for determination are whether the decisions that Mr Mayisela seeks to set aside are in fact reviewable in terms of PAJA. If they are, whether

Mr Mayisela has made a case for this Court to set them aside. These two issues cannot be decided independently of the question of whether the MEC's invocation of section 106(1)(b) of the MSA was *ultra vires*. In other words, did the MEC genuinely believe that the Municipality was unable to fulfil a statutory function or that maladministration, fraud, corruption, or any other serious malpractice was occurring in the Municipality?

[21] Flowing directly from the aforesaid is the issue of whether Mr Mayisela launched this application precipitously because it is common cause that the report has not been processed by the MEC. As such, the MEC has not yet made any decisions grounded or stemming from the report of AFIS. Additionally, this Court ought to decide on the fairness of the procedure and the way the investigation was executed. Did AFIS observe the *audi alteram partem* principle, which is enshrined in the Constitution of the Republic? Were the findings made by AFIS rationally connected to the facts on which it relied? Does the Report of AFIS contain findings and recommendations that are characterised by material errors of law?

Legal Framework and Application

[22] AFIS asserts that the action taken by the MEC is not an administrative one as intended in section 1 of PAJA. As such, it cannot be reviewed and set aside in terms of the provisions of PAJA. Section 1 of PAJA defines an administrative action as follows:

> "'administrative action' means any decision taken, or any failure to take a decision, by –
>
> (a) an organ of state, when –
>
> (i) exercising a power in terms of the Constitution or a provincial constitution; or
>
> (ii) exercising a public power or performing a public function in terms of any legislation; or
>
> (b) a natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of an empowering provision,
>
> which adversely affects the rights of any person and which has a direct, external legal effect, but does not include –

(aa) the executive powers or functions of the National Executive, including the powers or functions referred to in sections 79(1) and (4), 84(2)(a), (b), (c), (d), (f), (g), (h), (i) and (k), 85(2)(b), (c), (d) and (e), 91(2), (3), (4) and (5), 92(3), 93, 97, 98, 99 and 100 of the Constitution;

(bb) the executive powers or functions of the Provincial Executive, including the powers or functions referred to in sections 121(1) and (2), 125(2)(d), (e) and (f), 126, 127(2), 132(2), 133(3)(b), 137, 138, 139 and 145(1) of the Constitution;

(cc) the executive powers or functions of a municipal council;

(dd) the legislative functions of Parliament, a provincial legislature or a municipal council;

(ee) the judicial functions of a judicial officer of a court referred to in section 166 of the Constitution or of a Special Tribunal established under section 2 of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), and the judicial functions of a traditional leader under customary law or any other law;

(ff) a decision to institute or continue a prosecution;

(gg) a decision relating to any aspect regarding the nomination, selection, or appointment of a judicial official or any other person, by the Judicial Service Commission in terms of any law;

(hh) any decision taken, or failure to take a decision, in terms of any provision of the Promotion of Access to Information Act, 2000; or

(i) any decision taken, or failure to take a decision, in terms of section 4(1)."

[23] The MEC has relied on section 106(1)(a) of the MSA to issue a notice calling upon Mr Mayisela to furnish information envisaged in the section. The section is headed: "Non-performance and maladministration" and lays down that:

"If an MEC has reason to believe that a municipality in the province cannot or does not fulfil a statutory obligation binding on that municipality or that maladministration, fraud, corruption or any other serious malpractice has occurred or is occurring in a municipality in the province, the MEC must—

(a) by written notice to the municipality, request the municipal council or municipal manager to provide the MEC with information required in the notice; or

(b) if the MEC considers it necessary, designate a person or persons to investigate the matter.

(1A) The MEC must table a report detailing the outcome of the investigation in the relevant provincial legislature within 90 days from the date on which the MEC designated a person or persons to investigate the matter and must simultaneously send a copy of such report to the Minister, the Minister of Finance and the National Council of Provinces.

(2) In the absence of applicable provincial legislation, the provisions of sections 2, 3, 4, 5 and 6 of the Commissions Act, 1947 (Act No. 8 of 1947), and the regulations made in terms of that Act apply, with the necessary changes as the context may require, to an investigation in terms of subsection (1)(b).

(3)(a) An MEC issuing a notice in terms of subsection (1)(a) or designating a person to conduct an investigation in terms of subsection (1)(b), must within 14 days submit a written statement to the National Council of Provinces motivating the action.

(b) A copy of the statement contemplated in paragraph (a) must simultaneously be forwarded to the Minister and to the Minister of Finance.

(4)(a) The Minister may request the MEC to investigate maladministration, fraud, corruption or any other serious malpractice which, in the opinion of the Minister, has occurred or is occurring in a municipality in the province.

(b) The MEC must table a report detailing the outcome of the investigation in the relevant provincial legislature within 90 days from the date on which the Minister requested the investigation and must simultaneously send a copy of such report to the Minister, the Minister of Finance and the National Council of Provinces.

(5)(a) Where an MEC fails to investigate within 90 days, notwithstanding a request from the Minister in terms of subsection (4)(a), the Minister may in terms of this section conduct such investigation.

(b) The Minister must send a report detailing the outcome of the investigation referred to in paragraph (a) to the President.

(6) If an investigation warrants such a step, the municipality must institute disciplinary proceedings against the person or persons implicated in the report in accordance with the systems and procedures referred to in section 67, read with Schedule 2, and report the outcome to the MEC or the Minister, as the case may be, within 14 days of finalisation."

[24] Section 105 of the MSA deals with provincial monitoring of municipalities and provides as follows:

"(1) The MEC for local government in a province must establish mechanisms processes and procedures in terms of section 155(6) of the Constitution to—

(a) monitor municipalities in the province in managing their own affairs, exercising their powers and performing their functions;

(b) monitor the development of local government capacity in the province; and

(c) assess the support needed by municipalities to strengthen their capacity to manage their own affairs, exercise their powers and perform their functions.

(2) The MEC for local government in a province may by notice in the *Provincial Gazette* require municipalities of any category or type specified in the notice or of any other kind described in the notice, to submit to a specified provincial organ of state such information as may be required in the notice, either at regular intervals or within a period as may be specified.

(3) When exercising their powers in terms of subsection (1) MECs for local government—

(a) must rely as far as is possible on annual reports in terms of section 46 and information submitted by municipalities in terms of subsection (2); and

(b) may make reasonable requests to municipalities for additional information after considering—

(i) the administrative burden on municipalities to furnish the information;

(ii) the cost involved; and

(c) existing performance monitoring mechanisms, systems and processes in the municipality."

Were The Decisions Taken Administrative?

[25] Counsel for AFIS asserted that the decision taken by the MEC was not administrative in terms of section 1 of PAJA and, as such, cannot be reviewed and set aside. The argument traces its origins to the Supreme Court of Appeal judgment of City of *Cape Town v Hendricks and Another*,[1] where the Court states:

"[10] ... the City did not take a decision that the respondents are obliged to remove and rebuild their business structures daily on their trading sites, and that the notices cannot

[1] *City of Cape Town v Hendricks and Another* 2012 (6) SA 492 (SCA) paras 10 and 11.

reasonably be construed to mean that. The notices simply informed the respondents that they must comply with the law (ie remove the structures which contravene the bylaws and the Ordinance) and informed them of the consequences should they fail to do so. This was not administrative action as defined in PAJA.

[11] As contended by the City, by issuing and delivering the notices to the respondents, the City's conduct did not have direct and immediate consequences for the respondents; it was a preliminary step by the City (a notification or warning that it would enforce the bylaws); and did not adversely affect the respondents' rights or have any direct or external legal effect. The City was doing no more than it was entitled to do in terms of the section of the relevant by-law. The provisions of PAJA therefore did not apply, and all the orders were wrongly granted by the court a quo."

[26] It is evident from the judgment of the Supreme Court of Appeal that if the action taken constitutes a process to the ultimate decision, does not have immediate direct consequences and does not adversely affect the subject, then it cannot amount to an administrative action. This is fathomable in the context of the *City of Cape Town* case. The notices delivered to the Respondents in that matter were a warning and had no immediate impact on them. I do not agree that the situation in the instant case is similar. That said, there would be no difference between the two situations if the decisions consisted of the appointment of AFIS alone. However, here AFIS has investigated, made adversarial findings and recommendations, and the Report is out in public. The AFIS Report is critical of the Applicants, and it must be immaterial that no disciplinary proceedings have been initiated in terms of section 67(1)(h) of the MSA. The Applicants have a legal right to protect their image in public. I am satisfied that the decisions to investigate and to report constitute administrative actions as intended in PAJA.

[27] Both the MEC and AFIS have advanced the argument that the devastating damage, if any, of the Applicants in this application is incidental and not intended – the investigation is directed at the Municipality. Well, that may be so, but the point is that the findings and recommendations are condemnatory and have left their public image seriously impaired. The lesson here is that where a structure such as a Municipality requires investigation, such investigation must be executed with due consideration of the

rights of the functionaries who may be adversely affected. Moreover, the conduct of the investigation must adhere to the applicable procedures and legislation. The findings and recommendations of AFIS, when ultimately implemented, will not be mitigatory on how the public perceives them. If anything, the opposite pertains because, to date, the public sees them as corrupt in circumstances where procedures were flouted.

[28] The second argument of AFIS is that it is not an Organ of State because the source of its authority is the skill level agreement concluded with COGTA, represented by the MEC. This argument loses sight of the fact that AFIS has been contracted to perform duties, which ordinarily COGTA would execute on its own behalf. Thus, AFIS should be understood as a hand that COGTA requires to realise its objectives entrusted to it by the provincial government. In the result, the argument stands to be rejected as bereft of merit.

[29] The MEC has contended that a careful perusal of the notice of motion reveals that the case of the Applicants is aimed at the decision to designate AFIS to investigate the Municipality and not to invoke section 106(1)(b) of the MSA. A closer scrutiny, however, lays bare that the case is argued as if the impugned decision is one to invoke section 106(1)(b). The MEC concludes that the Applicants have laid no foundation for the review and setting aside of AFIS as the investigator. For the aforesaid reason, the application should fail. A proper look at the prayers indicates that the designation of AFIS together with the MEC's invocation of section 106(1)(b) of the MSA is impugned.

Reliance on Section 106(1)(b) is *Ultra Vires*

[30] The case of the Applicants, as I understand it, is that where the MEC "has reason to believe that a Municipality in the province cannot or does not fulfil a statutory obligation binding on that Municipality or that maladministration, fraud, corruption or any other serious malpractice has occurred or is occurring in a Municipality in the province," the MEC is firstly, obliged to issue a section 106(1)(a) Notice calling upon the Municipal Council or Manager to provide him or her with information recorded in the notice. Where he is satisfied that the information that he has solicited validates an investigation, he or

she must appoint a person, either juristic or natural, to investigate. The MEC, so goes the argument, cannot appoint a person to investigate unless the information provided leads him to justly believe that there is maladministration, fraud or corruption in the Municipality. I agree with the MEC that this approach is incorrect for reasons that will unfold below.

[31] If the information elicited intimates maladministration, fraud or corruption, the MEC must appoint a person or persons to investigate. Save to state that the MEC has a discretion whether to proceed in terms of section 106(1)(a) or (b) from the onset, the criticism of the MEC that it does not appear from the facts of this matter that he honestly believed that there was maladministration, fraud or corruption in the Municipality, which warranted the appointment of AFIS is well-founded. The Applicants consider it objectively evident that the ELM Report contains all the information that the MEC had requested in terms of section 106(1)(a), thus lending credence that its disregard by AFIS was deliberate and designed to disseminate a narrative of maladministration, fraud and corruption in the Municipality. As such, the Applicants conclude that the MEC was stirred by bias or mala fides to commission the investigation.

[32] It is correct that there are prerequisites associated with the invocation of section 106(1)(a) or (b) of the MSA. The MEC must have reason to believe that there is maladministration, fraud or corruption. If, from the answers provided in terms of section 106(1)(a), as is the case here, it is necessary to investigate further, the MEC must designate a person or persons to investigate. The MEC also has a discretion whether to use section 106(1)(a) or (b) of the MSA, and that is because section 106(1)(a) and (b) are separated by the word "or". This is fortified by section 106(3) of the MSA, which employs the word "or" to convey the point. The question that arises is whether there was a reason to believe as stated in section 106(1)(a) or (b) of the MSA. While I agree that the MEC was at liberty to use either sub-paragraph of the section, she seems not to have been persuaded by any honest belief, which is a requirement for the use of either section.

[33] The above conclusion is inevitable because when she appointed AFIS on 3 August 2021, she had the ELM Report, yet she made conflicting statements – she appointed

AFIS because she did not have the ELM Report, while at the same time conceding that she received the report on 25 January 2021. That is simply nonsensical. She had asked for the Report from the Applicants, yet she chose to predicate her appointment of AFIS on information furnished by one party to the controversy. So, the jurisdictional factor of reason to believe was not present. What then was the motive for designating AFIS if not *mala fides* or bias? The MEC has also failed to submit a written statement contemplated in section 106(3) of the MSA to the NOCP, motivating the exercise of the powers she had invoked. That too constitutes an oversight of one of the jurisdictional factors.

***Mala Fides* and Bias**

[34] A consideration of the facts on what transpired following the MEC's invocation of section 106(1)(b) makes it hard to differ from the views of the Applicants set out above, especially because the Municipality did not receive a response to the ELM Report. It is common cause that Ms Shiba was the MEC at the time when the ELM Report was prepared and submitted for consideration. On 10 August 2021, and having not responded to the ELM Report, the MEC introduced AFIS as an entity that she had appointed in terms of section 106(1)(b) of the MSA at a special sitting of the Municipal Council. This was highly irregular because she had not only failed to notify the Municipality that the information submitted had led her to genuinely believe that there was maladministration or fraud or corruption, but she also did not provide to the NCOP the reason why she considered it necessary to invoke the powers in section 106 of the MSA.

[35] Section 106(1)(a) and (b) of the MSA specifically enjoins the MEC to call upon a Municipality to furnish a report or, when considered necessary, to appoint a person to investigate where he or she has reason to believe that a Municipality in the province cannot or does not fulfil a statutory obligation binding on that Municipality or that maladministration, fraud, corruption or any other serious malpractice has occurred or is occurring in a Municipality in the province. The first set of allegations, as per the section 106(1)(a) Notice, relates to travelling allowances and salary adjustments.

[36] There is no hint of fraud, maladministration or corruption that would have triggered the invocation of the section. In any event, the Applicants had provided sufficient explanation in the ELM Report, which AFIS and the MEC disregarded completely. The travelling allowance allegations happened in a specific context. Insofar as those allegations were concerned, the AFIS Report recommended that the Municipality lay criminal charges and commence civil claims against Messrs T. Van Vuuren and Vilane and Ms Hlatshwayo for the recovery of the additional travel claims paid to them between 2014 and 2017 over and above their fixed 3 000 km monthly travel allowance. It is not disputed that certain employment contracts issued by the Municipality to specific senior officials made provision for a fixed travel allowance to defray the costs incurred by such officials in the use of their private vehicles to carry out official duties.

[37] Mr Theo Janse Van Vuuren, the erstwhile Municipality Manager, placed at the Municipality by the MEC as an administrator under a section 139 intervention of the Constitution, increased those employment contracts that offered a travel allowance of 2 000 to 3 000 kilometres per month on 21 July 2016. The increase took effect on 1 July 2016. According to Mr Mayisela, the payment of the fixed travel allowance by the Municipality was based on the provisions of the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers published in the Gazette Notice 21 of Government Gazette 37245. Regulation 39(2) provides that in the event that a senior manager utilises his or her private vehicle to carry out official duties, he or she must be compensated for the kilometres travelled in respect of the official trip in accordance with the relevant policy of the Municipality.

[38] The Municipality's travel policy, adopted under Council Resolution A.090/17, also made provision for senior managers to be compensated for claims of motor vehicle allowances for actual fixed kilometres travelled per month. In 2019, internal discussions within the Municipality ensued regarding the validity and appropriateness of the travel allowance. These discussions culminated in a Council Resolution A.12/19 decision to cancel the travel allowance and to seek the repayment of allowances paid in February 2019 and March 2019. The Council Resolution A.12/19 prescribed that the Municipality's

travel allowance policy would be reviewed and submitted to the Council for approval. However, section 18.1 of the new policy provided that the policy would remain in operation during the review process.

[39] The decision of the Municipality to cancel the travel allowance became the subject of dispute before the Labour Court under Case No: J1055/19. On 26 April 2019, the Labour Court granted a *rule nisi* calling upon the Municipality to show cause why it should not be finally interdicted and restrained from cancelling the fixed travel allowance and from reclaiming the fixed travel allowance paid for February 2019 and March 2019. The dispute concluded on 30 May 2019 when the Labour Court confirmed the *rule nisi* with a cost order against the Municipality.

[40] Given the aforesaid, it is difficult to conclude that the section 106 process was rationally invoked to serve the purpose contemplated. In any event, section 105 of the MSA, on which she did not place any reliance, would have accomplished her objective without muddying with section 106 of the MSA.

[41] The allegations of the salary adjustments were that in January and March 2018, the former Executive Mayor raised the salaries of Mr Mayisela and other senior managers when he lacked the authority to do so. It is evident that the deduction that the Executive Mayor lacked the power to adjust the salaries was oblivious of the delegations of authority then in operation and a notice published by the Minister of COGTA in October 2017. The former authorised the Executive Mayor, in consultation with the Municipal Manager, to adjust the salaries of senior managers in accordance with the scales determined by the Minister of COGTA from time to time. The October 2017 notice adjusted the salary scales across the board for senior managers. These decisions, as delegated authority, did not require the Municipality Council's approval albeit the delegations of authority were noted by the Council on 9 January 2018. In this regard, it is instructive to mention section 61 of the MSA, which plainly demonstrates that unless the Executive Mayor is specifically required by the delegating authority, he retains discretion. The section provides that:

"A political structure, political office bearer, councillor or staff member of a municipality to whom a delegating authority has delegated or sub-delegated a power to dispose of matters falling within the area of responsibility of that political structure, political office bearer, councillor or staff member may, or must if instructed to do so by the relevant delegating authority, refer a matter before the political structure, political office bearer, councillor or staff member to the relevant delegating authority for a decision."

[42] The recommendations of AFIS, which emanate from the conclusion of a lack of authority, are understandable as the Municipal Council was not apprised, and no approval was sought for this adjustment. As such, there was no authorisation. A detailed answer to the lack of authority allegations is that they were made without reference to two sources from which the Executive Mayor derived his authority. Firstly, the delegations of authority which were then in place empowered the Executive Mayor, in consultation with the Municipal Manager, to adjust the salaries of senior managers in accordance with the scales determined by the Minister of COGTA from time to time. Secondly, the notice published by the Minister of COGTA in October 2017 adjusted the salary scales across the board for senior managers. These decisions, as delegated authority, did not require the Municipality Council's approval, but the former was noted by the Council on 9 January 2018. Everything said in this regard, the recommendations of AFIS were characterised by errors of law.

[43] The AFIS Report found that the Council was not apprised, and no approval was sought for this adjustment, which by its nature became unauthorised. The AFIS Report continued to state that transgression of the criteria for movement across "Total Remuneration Packages" along "Minimum", "Midpoint" and "Maximum" packages, where maximum is indicated to be applicable to persons who have more than 10 years of experience as provided for in the regulations and is also applicable to persons who have demonstrated a "superior competency" as measured against the competency framework, was not met by the incumbents.

[44] The AFIS Report proceeds to recommend that the 1 March 2018 decision be tabled before the Council for retrospective noting and that if the Council does not

"approve" the decision, the differences be recovered from the relevant officials. Lastly, the AFIS Report recommends further review of the appointment of Mr Lelaka at a maximum remuneration package, which was not consistent with Ms Monyapao at the midpoint. According to Mr Mayisela the Municipal Council did not require the Executive Mayor to report the decisions to it, hence he did not.

[45] Mr Mayisela's memorandum of 1 March 2018, which appears to have formed part of the documents upon which AFIS relied for its report, sets out the respective relevant experiences of Ms Hlatshwayo, Messrs Vilane and Mayisela as 12, 22 and 15 years respectively. The memorandum also sets out their applicable qualifications. There is no elaboration on the finding that the officials lack the necessary competencies. Insofar as lack of consistency between the placement of Mr Lelaka and Ms Monyepao within the system, the three-tier system sets an overall framework and limits for remuneration and allows the individual attributes, experience and competence of senior managers to be considered in determining where they should fall within that framework.

[46] All in all, the inferences AFIS drew should never have been because there exists a proper account. On these financial allegations, therefore, there is no coherent, lucid and valid explanation why the MEC proceeded to invoke section 106(1)(b) of the MSA when the answers that she required were in the ELM Report. I am at a complete loss as to why the MEC argues that the information provided by the Applicants in this regard was insufficient. If so, why did both AFIS and the MEC not insist on clarity from the Municipality?

[47] AFIS also had to investigate the contractor payment process concerning the Empumelelweni Sewerage Pump Station. The difficulty that it confronted here, it alleges, was that the Applicants would not supply the policy governing the payment process. Instead of recording this problem in its report, AFIS elected to rely on other officials and/or employees of the Municipality to understand what policy governed the contractor payment process.

[48] It would have been plain to AFIS that the ELM Report and the representations of the Applicants outlining the steps and procedures followed in the payment processes were relevant had it taken the trouble of checking and perusing the documents in its possession. Notwithstanding that the information presented to it by the various parties was oral and therefore susceptible to inconsistency, AFIS concluded that its assessment of the information was that the payment packs lacked the supporting documents required.

[49] The information ultimately led to misguided conclusions. The information contained in the aforesaid documents was exceedingly relevant insofar as it addressed the delays in the project, causes thereof and steps taken in response. It comes as no surprise that what AFIS found on expenditure and classified as unauthorised, fruitless and wasteful does not bear any relation to the payment packs.

[50] The conclusions that Mr Sedupane, who was responsible for overseeing that the service was rendered according to the contract between the Municipality and the successful bidder, had contravened the policy guidelines of the Municipality and that he intentionally misled the Municipality by approving the invoices that the successful bidder had submitted were wrong despite the extraction of an alleged confession from him. A similar approach was adopted in respect of Ms Hlatshwayo, who was found to have been grossly negligent by not ensuring adherence to her own requirements.

[51] This is extremely disquieting because the Applicants have made the Contract Management Policy and the Municipality available to AFIS. The documents set out how the process should be managed. For AFIS to have referred to sections 8 and 11 in its report dealing with the general oversight responsibilities of the contract administrator, when the applicable sections in the contract management policy and procedure are sections 15 and 17, is mindboggling. These sections are concerned with regulation, monitoring, performance measures and standards and processing and approval of invoices, respectively. Why AFIS failed to refer to these documents when the Applicants supplied them is baffling and probably feeds into the narrative of a pre-conceived outcome.

[52] Turning to the Landfill Site, and relying on the policy it had gathered from the various employees of the Municipality, AFIS found that Mr Mayisela had defied the payment processes in several ways, outlined below:

52.1 ELM Contractor Payment Coversheet: Not signed by consulting engineer to certify that the project has been inspected and the work has been executed satisfactorily and according to the specifications and that the quantities and prices shown are correct;

52.2 Contractor Invoice: No description of work/services rendered;

52.3 Site visitation and inspection reports: None; and

52.4 Statement of Account, displaying previous payments to the contractor.

[53] The issues pointed out by AFIS cannot have any financial impact or amount to the contravention of the Contract Management Policy because:

53.1 All the relevant documents were prepared by or in consultation with the engineer;

53.2 The invoice of the contractor does not contain a description of the work done. The bill of quantities prepared in respect of each invoice and payment pack exhaustively set out the work done; and

53.3 There is no requirement for a site visit in respect of every invoice in those circumstances where the contract administrator's chosen method of compliance with section 17 of the Contract Management Policy constitutes the appointment of a consulting engineer to verify work done on an ongoing basis.

[54] Equally staggering is the outcome AFIS reached on the bill of quantities for the Pump Station. The suggestion in its report is that irregular payments were made by the Municipality in conflict with the bill of quantities submitted by the contractor in its tender bid. This, according to AFIS, eventually translated into an overpayment of R623 503.00 to the contractor. In short, the overpayment occurred because AFIS claimed that it could not find a deviation memorandum authorising the increase in quantities as stipulated in the contract.

[55] It would have taken AFIS no more than reading Annexures "FA27" and "FA28", the variation memorandum and the letters to and from the contractor respectively, attached to the founding affidavit, to realise that during the latter half of 2019, the Municipality in fact was allowed to deviate by an amount of R813 154.55. It should perturb any person that AFIS, despite having had these documents in their possession, say that they reached most of their findings and recommendations using the information at their disposal. If that is correct, why were these documents not utilised? In fact, this answer by AFIS reverberates throughout their answering affidavit. This Court rejects it as dishonest.

[56] The findings of AFIS on the payment processes relating to the Landfill Site are that:

56.1 No tender score card supporting the contractor's appointment was presented to it;

56.2 Mr Brentjies appointed the contractor without a scorecard being part of the bid submission documents;

56.3 In the absence of the scoring sheet, it could not obtain sufficient appropriate evidence to prove that the contract had been awarded in accordance with the policy and legislative requirements and that the procurement process followed in this instance was fair, equitable, transparent and competitive; and

56.4 Mr Brentjies, in the absence of a score card, was in contravention of paragraphs 6 and 7 of the Municipality Supply Chain Management Policy.

[57] These findings aforesaid also lay bare the deliberate incompetence of AFIS. Following the findings above, AFIS found that the Bid Evaluation Committee ("the BEC") recommended the appointment of the successful bidder without completing the mandatory scorecards. As a result, it proposed to the MEC that disciplinary action be instituted against Mr Brentjies, the Deputy Director: Technical Services whom it also referred to as the Chairperson of the Bid Adjudication Committee ("the BAC"), for contravening paragraphs 6 and 7 of the Supply Chain Management Policy.

[58] It turned out that Mr Brentjies was never the chairperson of the BAC but merely chaired the BEC in relation to this project. Furthermore, the Report attached to the

founding affidavit marked "FA29" shows that the BEC completed scorecards, which it submitted to the BAC thereafter. The Report demonstrates and confirms the scores allocated to each entity. In his affidavit, Mr Brentjies declares having advised AFIS when it interviewed him that he completed the scorecards. AFIS did not consider this, nor did it verify this information with any member of the BEC. Additionally, although Mr Brentjies chaired the BEC, he did not appoint a successful bidder. The BEC merely recommended the appointment of the bidder to the BAC, which in turn proposed that the bidder be appointed.

[59] I am mindful of Mr Mayisela's claims that he delivered Annexure "FA29", being the original scorecards, to AFIS under cover of a letter dated 18 August 2021, Annexure "FA4". I have examined Annexure "FA4" to the founding affidavit and discovered that the original scorecards do not feature as one of those delivered. I note, however, that AFIS did not specifically deny receipt of the scorecards. As a result, I cannot be sceptical that AFIS did receive the scorecards eventually. That said, I find the following paragraphs of the answering affidavit of AFIS confounding, especially against the context of the delivery of pertinent documents on 18 August 2021 and the AFIS Report having been compiled and submitted to the MEC the following year in April:

> "38. During the interviews it became apparent that certain documents that were relevant to the investigation had not yet been provided to us, and as a result we requested the relevant interviewees to provide us with those documents. When those documents were not immediately forthcoming we followed up with the relevant interviewee.
>
> 39. I admit that we did not continuously follow up to get these documents, but we did follow up on numerous occasions when we realised the relevant interviewee was not going to assist us we proceeded with the investigation based on the documents and information we had been provided. AFIS was not mandated or expected to follow up with employees of the Madalena Local Municipality endlessly. These individuals were aware of the reasons for our requests for documents and we had no obligation to repeatedly make these requests if they were being ignored."

[60] There is no argument that AFIS held no mandate to interminably beg the interviewees for information. AFIS's claim as aforesaid is made in circumstances where there is no evidence that they apprised the MEC that the Applicants were hindering them by not heeding their request for information. I do not necessarily believe the deponent to the answering affidavit of AFIS because the interviews of some of the Applicants occurred after 18 August 2021, meaning that AFIS had all the documents mentioned in Annexure "FA4", the letter of 18 August 2021, when it prepared the Report. The question that arises is why the information in those documents was not used, especially given their pertinence to the subjects of the investigation? Again, it is inevitable to conclude that AFIS was working on a pre-conceived outcome. Once the documents failed to validate the intended outcome, AFIS regarded them as immaterial.

[61] Insofar as the payment process and the bills of quantities reconciliation of the Landfill Site are concerned, AFIS found that of the six boreholes invoiced and settled, only three were present, while the others were non-existent. Additionally, it could not locate the submersible pump on the site. When Mr Sedupane accompanied AFIS to the site for inspection in loco, he advised that the other boreholes could not be traced because of disrepair and defacement. That said, their construction had been verified by the consulting engineer. Strangely, AFIS showed no interest in tracing the whereabouts of the boreholes from the consulting engineer. Again, the suspicion that AFIS had its eyes on a certain outcome is unavoidable.

[62] On the reconciliation of amounts in the bills of quantity at the tender stage with those contained in the bill attached to an unnamed invoice, AFIS held that the total overpayment to the contractor amounted to R730 875.00. It also reported that it did not find any deviation memorandum approving the increase in quantities as stipulated in the SLA. The conclusion aforesaid disregards the variation memorandum of 13 August 2019 attached to the founding affidavit marked Annexure "FA33". It is evident from the document that a deviation was sought and approved for 18% of the contract price or R906 503.62. Had AFIS used this piece of evidence, it could not have found and recommended as it did.

[63] From inception, the MEC and AFIS were duplicitous. The MEC deposed to an affidavit declaring that she had sent the section 106(1)(a) Notice to the Municipality on 30 November 2020. The MEC's further evidence is that when she noticed that no answer was forthcoming from the Municipality, she invoked the provisions of section 106(1)(b) of the MSA, presumably to assess the dependability of the allegations in the section 106(1)(a) Notice. It is common cause that the Municipality reverted to the MEC with the ELM Report on 25 January 2021 and that she appointed AFIS on 3 August 2021.

[64] Accepting the above to be the case, the alleged lack of response from the Municipality could not have been the trigger for the invocation of section 106(1)(b). This is simply an unadulterated lie because by the time of the appointment, she had the ELM Report, which is what she required. So, the appointment with AFIS was preordained, it being neither here nor there that the Municipality failed to respond promptly. This simmers down to the MEC perjuring herself. In the circumstances, I must accept that the decision to appoint AFIS was mala fides and biased against the Applicants.

[65] Following its introduction to the Municipality on 10 August 2021, AFIS requested that it be placed in possession of twenty-seven distinct sets of documents. The Applicants delivered these documents to AFIS on 18 August 2021. The documents comprised hard and soft copies. According to the Applicants, perusal of the report shows that AFIS not only disregarded the ELM Report but also the documents delivered on 18 August 2021 when making certain of its conclusions and recommendations. While AFIS admits that it was placed in possession of some of the documents, it maintains that where it did not have the information, it had to make use of what was available to reach certain conclusions and recommendations.

[66] Needless to state that if that was the attitude of AFIS, the probability that in some instances it would have made incorrect assumptions, conclusions and recommendations cannot be ruled out. A proper approach to the lack of information, either because the people who are expected to supply it refuse to heed the request or because it never

existed, is to record the difficulties experienced in the report and state clearly why it was not possible to reach a conclusion on those matters. It cannot be acceptable to contrive evidence to satisfy the hypothesis of the principal.

[67] It is also concerning that AFIS was reticent when confronted about the Report that had leaked to social media and public platforms around March 2022. This Report was initially thought of as an interim report, but it turned out that it was, in fact, the final version and one with all the damning findings and recommendations against the Applicants. This occurred in circumstances where Mr Mayisela had on several occasions asked to make representations before AFIS compiled its report on the investigation. This approach of AFIS, of course, smacks of blatant disregard for the *audi alteram partem* rule that is enshrined in the Constitution of the Republic.

[68] The above conclusion is inexorable if one considers that on 14 March 2022, the Applicants' attorneys wrote to the MEC and the Ministers of COGTA and Finance expressing their dissatisfaction and misgivings contained in the AFIS Report. Still thinking of the report as interim, the attorneys of the Applicants requested the MEC to confirm whether the report was provisional or final. If interim, the MEC was to undertake to receive and consider their representations prior to finalisation and adoption. Lastly, the letter asked the MEC to furnish proof of compliance with section 106(3) of the MSA by supplying copies of the statements submitted to the NCOP, Minister of Finance and COGTA.

[69] On 23 March 2022, instead of addressing the questions posed by the Applicants, COGTA, on behalf of the MEC, denied knowledge of the leaked report and proceeded to propose that it would be convenient to address the matters in the letter after the finalisation and consideration by the Municipality and Provincial Executive Councils. On 24 March 2022, the attorneys addressed yet another letter threatening to launch an urgent application interdicting the MEC to table the AFIS Report prior to receiving and considering the representations of the Applicants.

[70] When the MEC declined to make the presentation, the Applicants made good their threat by launching the urgent application. In her affidavit, the MEC specifically stated that the AFIS Report had not been finalised yet. Additionally, she said that she lacked the authority to consider the representations of the Applicants – only AFIS was authorised to do so, she added. The MEC would not even consider a settlement proposition that AFIS could simply receive the representations and incorporate them later when finalising the report. Similarly, AFIS declined to entertain the Applicants on the grounds that the urgent proceedings were not aimed at it. The urgent application was ultimately struck off the roll for lack of urgency.

[71] AFIS confirmed to the Applicants on 20 April 2022 that it had submitted its report to the MEC incorporating its findings and recommendations stemming from the investigations. AFIS advised the Applicants that it would not consider their representations unless it had authority from the MEC. AFIS further stated that it did not have any further express instructions to act in the matter post the submission of the report to the MEC. Both the MEC and AFIS were openly disingenuous, tossing the Applicants between them.

[72] The point is that, of course, the MEC, as the party that gave instructions to AFIS, could alter them at any point of the investigation. Her answer that the matters would be best addressed after tabling the report before the Provincial Council was nonsensical. How could the representations be submitted after findings and recommendations have been made? The MEC's answer does not seem to appreciate that the purpose of the representations was to expose AFIS to another version of the matter to ascertain that it assessed the case with a sufficient factual matrix to ultimately ensure a balanced product.

[73] It is hard to shake off the feeling that the denial by AFIS and the MEC that the report that was making rounds in the media was final was a strategy to stop the Applicants from taking measures to protect themselves against the devastating outcome of the Report. AFIS would neither, despite having been directly confronted, inform the Applicants of the date on which the final report was presented to the MEC, nor would it

confirm that the report was the same as the one that the Applicants had used for the urgent application. The Applicants only conclusively established that the Report was final through the media on 13 July 2022 and that the findings and recommendations stood. The report had, at that stage, been approved and recommended for implementation by COGTA.

[74] For the reasons above, it is conceivable and reasonable to infer that AFIS carried a mandate to ensure that the Applicants and whoever else was targeted by these investigations would be tarnished by the findings of the Report and be rendered unsuitable to continue employment in their current positions. The MEC may well have been inspired by the prevalence of corruption in the Municipality, but if a decision to investigate was necessary, the process ought to succumb to legal requirements and live up to scrutiny. If the MEC was genuine, she would have made certain to receive and consider the representations of the Applicants, would not have perjured herself, AFIS would have considered the contents of the ELM Report, which pertinently dealt with the matters raised in the Section 106(1)(a) Notice and she would not have blatantly lied that she would consider their representations after the tabling of the AFIS Report before the Provincial Council.

[75] In the result, the review must succeed and I make the following order:

1. The MEC's decision in terms of section 106(1)(b) of the MSA to designate AFIS to investigate allegations of maladministration, fraud, corruption or any other serious malpractices within the Municipality is hereby reviewed and set aside;
2. The AFIS Report titled: Investigation in terms of section 106(1)(B) of the Local Government: Municipal Systems Act, No. 32 of 2000 - Emalahleni Local Municipality, is reviewed and set aside;
3. The MEC's decisions to adopt the AFIS Report and to table the Report in the Provincial Executive Council are hereby reviewed and set aside.;
4. The MEC and AFIS are jointly and severally liable for the costs of the Applicants occasioned by this application.

[redacted]

B A MASHILE
JUDGE OF THE HIGH COURT
MPUMALANGA DIVISION, MBOMBELA

Appearances

Counsel for the Applicant:	Adv O. Ben-Zeev
Instructed by:	Morgan Law
Counsel for the First Respondent:	Adv ZZ Matebese SC
Instructed by:	Matsane Attorneys
Counsel for the Second Respondent:	Adv LF Laughland
Instructed by:	Adams Attorneys
Date of Judgment:	21 August 2025