



IN THE HIGH COURT OF SOUTH AFRICA
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GAUTENG DIVISION, JOHANNESBURG

CASE NO: 111031/24

1. Reportable: No
2. Of interest to other judges: No
3. Revised: Yes [REDACTED]

(Signature) [REDACTED] Date: 21 August 2025

In the matter between:

MOLEFE RUFARO MTHULISI DLODLO

Applicant

and

**ACTING CHAIRPERSON JUDICIAL CONDUCT
COMMITTEE**

First Respondent

JUDICIAL CONDUCT COMMITTEE

Second Respondent

JUDICIAL SERVICES COMMISSION

Third Respondent

JUDGMENT

ALLY AJ

1. This is an opposed application which served before this Court as an interlocutory application for the following relief in terms of Rule 30A (2) having served the Respondents with a notice in terms of Rule 30A(1):
 - 1.1. The Respondents' defence in the main review application is hereby struck out.
 - 1.2. The 1st Respondent's decision of 14 December 2023, summarily dismissing the Applicant's complaint (received by the 2nd Respondent under Complaint No JSC/1103/2023), is hereby reviewed and set aside.
 - 1.3. The 2nd Respondent's decision of 3 September 2024, dismissing the Applicant's appeal against the summary dismissal of the Applicant's complaint (received by the 2nd Respondent under Complaint No JSC/1103/2023), is hereby reviewed, set aside and substituted with the following order;
 - 1.3.1. The impugned Matojane J (as he then was) 'further dismissal' order handed down on 18 March 2022 in HC16715/2018 is found to be invalid and illegal.
 - 1.3.2. As contemplated in Section 16 and/or Section 17 of the Judicial Service Commission Act 9 of 1994, the Applicant's complaint is deemed to be valid.

1.3.3. The 2nd Respondent is hereby directed to invoke Section 17 of the Judicial Service Commission Act 9 of 1994.

2. Mr Dlodlo appeared in person and the Respondents were represented by Adv. L Monthso-Moloisane SC.
3. The parties were directed to deal with the application for condonation as well as the application in terms of Rule 30A (2) during their respective submissions in order to save time.
4. The Respondents had launched a formal application for the late filing of their answering affidavit in the main application to strike out their defence which application was opposed by the Applicant.
5. It is therefore necessary to first deal with the application for condonation.
6. The Respondents contend that the delay in filing the answering affidavit, which they accept should have been 15 April 2025, was because of circumstances beyond their control. In this regard they submit that the Candidate Attorney in the Office of the State Attorney, dealing with the matter, informed them that the senior counsel dealing with the matter was unavailable.
7. The Respondents submit that the senior counsel had been dealing with this matter since its inception and it would have taken time and resources to have different counsel briefed.
8. Factually, the Respondents filed their notice of intention to defend on 25 March 2025 and should have then filed their answering affidavit on 15 April 2025. However, the answering affidavit was served together with an application for

condonation on 15 May 2025. The Applicant served his replying affidavit on the Respondents on 18 May 2025.

9. The Applicant contends broadly that the Respondents should have made use of Rule 27(1) of the Uniform Rules of Court when they realised that they would not be able to file their answering affidavit in time and furthermore the application for condonation is 'well out of time and premised on inadequate reasons'.
10. The Applicant contends further that giving an opportunity for the Respondents to file their answering affidavit is incongruent with the interests of justice.
11. The Applicant's reliance on Rule 27 of the Uniform Rules of Court is confusing in that the Respondents' application for condonation which is before this Court, is in accordance with Rule 27. The adjudication of whether the Respondents have complied with the requirements for condonation is set out hereinafter as well as whether the Respondents should be provided an opportunity to ventilate their case, in the interests of justice.
12. Our Courts¹ have set out the requirements for granting of condonation in any given case. In this regard **Melane's** case² makes mention of the factors such as the extent of the delay, the reasons for such delay, the prospects of success and the importance of the case. It must further be noted that ultimately, the Court has a discretion and such discretion must be exercised judicially, taking into account all

¹ Melane v Santam Insurance Co Ltd 1962 (4) SA 531 (A) @ 532 C-F; Van Wyk v Unitas Hospital and Another 2008 (2) SA 472 (CC) @ 477 A-B; Competition Commission of South Africa v Pickfords Removals SA (Pty) Ltd 2021 (3) SA (1) SA (CC) @ para 54

² supra

the facts. It has also become trite that a Court must consider an application for condonation within the realm of the interests of justice³.

13. Applying the law to the abovementioned requirements for condonation I am satisfied that the Respondents have fulfilled the requirements for condonation and furthermore, it is in the interest of justice that the Respondents be given an opportunity to ventilate their case. Accordingly, condonation for the late filing of the Respondents' answering affidavit is granted.
14. This means brings the Court to the main application in terms of Rule 30A(2) of the Uniform Rules of Court.
15. The Applicant has requested this Court to strike out the defence of the Respondents and certain ancillary relief.
16. It was common cause during argument that in order to consider the Rule 30A(2) application, this Court must consider whether the Respondents have complied with the Order⁴ of my sister Mahomed J.
17. The Applicant contends that the abovementioned Order is clear and that the Respondents have by their own admission not complied with the Order.
18. It is thus appropriate to set out the relevant portions of the Order for purposes of determining whether there has been compliance with the said Order:

"1. The Respondents are ordered to comply [sic] with rule 53(1)(b) of the Uniform Rules of Court by delivering within 10 (ten) days of this order, the full record of the decisions sought to be reviewed in the main application, including

³ Van Wyk supra

⁴ CaseLines: Section 04-1

- 1.1. *Any notes that the 1st Respondent may have made as she read and considered the Applicant's complaint affidavit, if available, and*
 - 1.2. *The full recording (audio and/or video) together with the transcript and/or minutes of the 2nd Respondent's 24 April 2024 meeting."*
19. It is now trite that an Order of Court stands to be interpreted in order to give effect to its manifest purpose and the same principles apply as to construing documents⁵.
 20. The Applicant contends that the Order is clear an unambiguous and no interpretation can be given that will indicate that it was not ordered that the full record of proceedings of 'that day' be disclosed. The problem I have with this submission is that it appears that on 'that day' the Applicant's matter was not the only matter that was dealt with. When pressed on whether the Order meant that the Applicant was entitled to information of other parties dealt with on the same day, Mr Dlodlo answered in the affirmative.
 21. In my view, it cannot be that the Applicant can lay claim to a portion of the proceedings held by the Respondents which are and were not of relevance to him. In my view, the Order of my sister Mahomed J cannot be interpreted to mean that the Applicant is entitled to information not relevant to him. Such an interpretation

⁵ Martrade Shipping and Transport GmbH V United Enterprises Corporation and MV 'Unity' 2020 SCA 120 @ para 2:

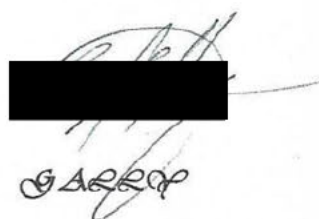
"The principles which apply to the interpretation of court orders are well established. Trollip JA observed in Firestone South Africa (Pty) Ltd v Gentiruco AG1 that the same principles apply as apply to construing documents. Thus, '(T)he court's intention is to be ascertained from the language of the judgment or order as construed according to the usual, well-known rules... Thus, as in the case of a document, the judgment or order and the court's reasons for giving it must be read as a whole to ascertain its intention.'"; Finishing Touch 163 (Pty) Ltd v BHP Billiton Coal South Africa Ltd & Others 2013 (2) SA 204 SCA @ para 13; Eke v Parsons 2016 (3) SA 37 (CC) @ para 29 B-C; Natal Joint Municipal Pension Fund v Endumeni Municipality 2012 (4) SA 593 @ 603 para 18

as sought by the Applicant is incongruent with the principles set out above regarding the interpretation of Court Orders.

22. The Respondents contend⁶ that the Applicant has invoked Rule 30A(2) read with paragraph 27.11 of the Gauteng Division Practice Manual, 2024, erroneously in that the Applicant was duly provided with copies of the proceedings and audio recordings in accordance with the Order by Mahomed J. The Applicant's response to the contention of the Respondents is, as outlined above regarding what the Applicant claims he is entitled to and what he received is not in accordance with Mahomed J's Order. I have dealt with this contention by the Applicant above and will not repeat it save to state that I am in agreement with the Respondents that they have complied with the Order of Mahomed J as correctly construed.
23. Accordingly, having held that the Respondents have complied with Mahomed J's Order, it follows that the Applicant has failed to make out a case for, firstly, that the Respondents' have not complied with the Order and secondly, having held that the Respondents' have complied with the Order, the ancillary and consequential relief claimed by the Applicant does not arise and must fail.
24. This brings me to the costs of the application as well as the costs of the Rule 30A (2) application. It is trite that any costs to be awarded fall within the discretion of the Court which discretion must exercised judicially upon a consideration of all the facts.

⁶ CaseLines: Section 04-65 @ para 14

25. The Respondents submit that if the application to strike out their defence is dismissed then the Court should order the Applicant to pay the costs and costs of Counsel on Scale C.
26. The Applicant contends that in the event of a dismissal, that costs be reserved for the main application or alternatively that costs be costs in the cause.
27. It is also trite that usually costs will follow the result unless there are exceptional circumstances to hold otherwise. In my view, no exceptional circumstances have been shown nor argued. Accordingly, costs of the Rule 30A (2) application must be paid by the Applicant.
28. Whilst the Respondents have been successful in the application for condonation it is my view that the Respondents should pay for the costs of the application for condonation.
29. **As a result**, the following Order will issue:
 - a). the application for condonation for the Respondents to file an answering affidavit is granted;
 - b). the costs of the application for condonation are to be paid by the Respondents;
 - c). the application in terms of Rule 30A (2) by the Applicant is hereby dismissed with costs which costs of Counsel shall be paid on Scale C.


[Redacted]
GARRY

ACTING JUDGE OF THE HIGH COURT

GAUTENG LOCAL DIVISION OF THE HIGH COURT, JOHANNESBURG

Electronically submitted therefore unsigned

Delivered: This judgement was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be **21 August 2025**.

APPEARANCES

Attorneys for the Applicant	:	In person
Counsel for the Respondents	:	Advocate L. Montsho-Moloisane SC molefedlodlo@gmail.com
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