



**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CIRCUIT LOCAL DIVISION,THEMBALETHU)**

Case No: 267/25

In the matter between

GEORGE LOCAL MUNICIPALITY

APPLICANT

AND

THABANG MOTJAMELA

RESPONDENT

Date of Hearing : 28 August 2025

Date of Delivering : 20 October 2025

JUDGMENT

THULARE J

ORDER

- (a) No legal proceedings shall be instituted by the respondent against any person in any court or any inferior court without the leave of that court, or any judge thereof, or that inferior court, as the case may be.

- (b) The Registrar is directed at transmitting a copy of this order to the Registrar of the Labour Court and also to cause it to be published in the Government Gazette. The applicant is to cover the costs of such publication, which costs the applicant is to recover from the respondent if the applicant so elects.
- (c) Should the respondent continue to make, utter, publish and distribute disparaging defamatory statements related to alleged violations of his basic human and fundamental rights, fraud, exploitation, racism and discrimination against the applicant and/or its employees, court administrative support staff at any court or any of the judges of any court or presiding officers in any inferior court, the applicant is granted leave to approach this court, on the same papers duly supplemented, in order to seek appropriate relief, which may include that the court inquire into the mental wellbeing of the respondent.
- (d) The respondent is to pay the costs of this application on a scale as between attorney and client and costs of counsel on scale B.

[1] This is an opposed application that the respondent be declared a vexatious litigant in terms of section 2(1)(b) of the Vexatious Proceedings Act, 1956 (Act No. 3 of 1956) (the VPA); that the respondent be interdicted and restrained from instituting any legal proceedings against the applicant premised on the Expanded Public Works Programme and or section 198B of the Labour Relations Act, 1995 (Act No. 66 of 1995) (the LRA) relationship between the parties in any Division of the High Court of South Africa, any Division of the Labour Court or any other lower court without leave of that court or Judge of that court as the case may be, as contemplated in section 2(1)(b) of the VPA; that a copy of such order be transmitted to the Registrar of the Labour Court, Cape Town and also be published

in a Government Gazette, as contemplated in section 2(3) of the VPA; that the respondent further be interdicted and restrained from making, uttering, publishing and distributing any disparaging, defamatory and untrue remarks relating to alleged violations of his basic human and fundamental rights, fraud, exploitation, racism and discrimination against the applicant and/or its employees and that the applicant be granted leave to approach the court on the same papers, duly supplemented, in the event that the respondent is in contempt of any order or judgment handed down in these proceedings plus costs.

[2] On 5 October 2018, 27 people referred a dispute against the applicant (the Municipality) praying for a declaratory order that the Municipality appoint them on an indefinite basis. The referral was in terms of section 198B of the LRA and was considered by the Western Cape Division of the South African Local Government Bargaining Council (SALGBC). It was allocated case number WCP101805. The 26 others abandoned the referral and only the respondent pursued it. On 18 November 2019 the arbitrator found that the respondent had been employed in terms of two fixed term contracts in an Expanded Public Works Programme (EPWP). It was found that the conclusion of the two contracts were justified in terms of section 198B(4)(g) of the LRA; that the EPWP contract could not be the basis for the Municipality to be ordered to appoint the respondent on a contract of indefinite duration or to order the Municipality to reinstate the respondent after expiry of the fixed term contract period. The dispute was dismissed, and no cost order was made.

[3] The respondent sought a review and setting aside of the SALGBC decision, which was dismissed on 13 December 2023 under case number C824/19 of the Labour Court of South Africa, Cape Town (the LCSA). His application for leave to appeal the decision was dismissed on 12 February 2024. The respondent petitioned the Labour Appeal Court of South Africa, Johannesburg (the LAC) under case number CA2/24. The petition for leave to appeal was refused on 27 March 2024. The respondent approached the Constitutional Court of South Africa (the CC) under case number CCT 99/24 for leave to appeal. The application was dismissed for no prospects of success on 16 July 2024. On 19 August 2024 the respondent lodged a rescission application with the CC. As at the date of the hearing of this application the outcome of the rescission application was not known to the Municipality.

[4] In 2020 the respondent referred an unfair discrimination dispute to the Commission for Conciliation, Mediation and Arbitration (CCMA). It was allocated case number WEGE2404-20. The applicant advertised 8 posts in 2018 for Water Distribution Assistants. At the time, the respondent worked on the EPWP fixed contracts. The respondent applied and was shortlisted for practical assessments. Due to financial challenges the applicant froze the 8 posts, and the recruitment process was put on hold. In 2020 the applicant could only proceed with 5 of the 8 posts. The posts were re-advertised. At that time, the EPWP contract in which the respondent worked had ended. The respondent applied and was not shortlisted for practical assessments and was not employed in any of those posts. The basis for the referral was that the respondent believed that as he was shortlisted in 2018, he should have been shortlisted in 2020, and that he was discriminated against as he had previously referred a dispute against the Municipality to the SALGBC. The

respondent's case was found to be without merit, and his matter was dismissed. The Commissioners view, Anele Mgubasi, was that the respondent's referral was vexatious.

[5] The respondent sought to review and set aside the award in the LCSA under case number C73/2021. The Judge President of the LCSA found that the application had lapsed and it was archived in terms of the LCSA Practice Manual at the time. The respondent instituted an application to reinstate the review application. Legal Aid and SALAW had declined the respondents request for assistance due to poor prospects of success. The reinstatement application was dismissed. A day after the dismissal, the respondent filed an urgent application for a request for the suspension of the rule requiring the filing of transcripts. The respondent's failure to provide transcripts from 2021 to 2024, that is for three years, was amongst others the reason that the respondents review application was found to have lapsed and was also one of the reasons advanced for the opposition and order not to reinstate the application. On that same day, 29 November 2024, the respondent filed an application for the review of the reinstatement application. On 3 December 2024 the respondent addressed correspondence wherein he asked that the application for suspension of the provision of the transcript be referred to the then Acting Judge President. He therein recorded his displeasure at what he termed the poor service at the LCSA, Cape Town. He expressed the view that the Labour Court actions were clear that they were working with the Municipality to criticize his application as he was a young black applicant and it showed racism. The applicant's attorneys, who were ccd in his correspondence, in reply indicated to him that the correct procedure was for him to first seek leave and then appeal and cautioned him not to make unfounded allegations. The respondent later that

day wrote an objection to the then ADJP Savage dealing with his application, accusing her of bias, incompetence and racism. The JP did not accede to this request.

[6] On 10 September 2024 the respondent filed an application for fraud in the High Court of South Africa, Cape Town. In the notice of motion the Municipality was the respondent. The first part of the prayers was for an order allocating a case number to the matter, granting permission for electronic service and submission of all documents in the case and directing that the matter be heard virtually. The body of the notice also had a second set of prayers which were for permission for electronic service and submission, urgency, permission for a virtual hearing and that the court set appropriate period within which the respondent may file an opposing affidavit. The third set of prayers in the body of the notice was requesting the court's assistance in ensuring a fair and accessible process, allowing for efficient handling of the matter as he was a layperson, and that the matter pertained to fraudulent actions committed deliberately which have adversely affected his interests and rights. In the closing paragraph of the founding affidavit there were further prayers that it be declared that the Municipality engaged in fraudulent misrepresentation of the contract, that the Municipality provide all necessary documentation and records relating to his employment, that the Municipality be ordered to compensate him in the amount of R20 000 000-00, the costs of the application and reimbursements for legal fees and expenses. The facts set out in the founding affidavit related to the EPWP contract earlier discussed in this judgment. The Registrar of the high Court advised the respondent that matters pertaining to fraud were criminal and civil in nature, and the process was not issued.

[7] On 25 March 2025 the respondent caused the issue of an urgent application under case number 125/25 in the High Court of South Africa, Eastern Circuit Local Division, Thembalethu. The notice indicated that he brought a civil matter against the applicant which constituted fraud as false document claim was contract of employment, fabricated information and exploitation of cheap labour and requested to serve via email. The facts set out in the founding affidavit related to the EPWP earlier discussed. In the founding affidavit, the relief sought were that the applicant be ordered to reinstate him as a permanent employee, compensation for damages in the amount of R65 000 000-00, rectification of the fraudulent documents, an order that the applicant cease the exploitation of temporary workers under EPWP scheme and to enforce compliance with labour laws and an investigation into the fraudulent practices within the Municipality with the potential for disciplinary action against those responsible. On 2 May 2025 Dolamo J dismissed the application with costs. The respondent filed an application for leave to appeal the decision of Dolamo J, which at the time of the filing of the papers in this application, had not yet been heard. On 13 May the respondent filed an application for objection, objecting against Dolamo J hearing his matters on the grounds that Dolamo J failed to uphold the standards of impartiality, fairness and protection of constitutional rights and what was required by an oath of office. Dolamo J had at the time dealt with and dismissed three of the respondent's urgent applications. The first was in case 118/25 which related to a different set of facts, the other two were cases wherein both the respondent was the applicant, and the Municipality was the respondent, case numbers 122/25 and 125/25 heard on 02 May 2025.

[8] In September 2024 the respondent opened two criminal cases, one against the Municipality and another against the District Municipality related to the facts of the EPWP contract. In both the Senior Public Prosecutor of George (the SPP) declined to prosecute for lack of sufficient evidence. It is not clear how the matters were elevated to the Director of Public Prosecutions, Western Cape, (the DPP). The DPP agreed with the decision of the SPP to decline to institute a prosecution in both as there was insufficient evidence to sustain a successful prosecution. It will not be a quantum leap to conclude that the respondent, who was the party interested in pursuing both the Municipality and the District Municipality, would be the person who was unhappy about the decision of the SPP and sought the intervention of the DPP.

[9] Throughout his pursuit of the EPWP issue against the Municipality, the respondent appeared in person. He was aware and had been advised at least on three occasions in writing by Legal Aid South Africa (LASA), that his case had no prospect of success. On 25 November 2020, on appeal to the Provincial Executive of the Northern and Western Cape precincts of LASA (PE of LASA) said to the respondent:

Having considered the above documents, factors as well as the grounds of appeal, I have no compelling reasons to uphold your appeal for the reason that there are no prospects of success. You were contracted by the Municipality of George as a non-permanent employee based on funding the Municipality received from the Department of Public Works. The documents relied upon does not assist in taking the matter any further. Accordingly your appeal against the refusal of legal aid is hereby unsuccessful.

On 7 January 2021, on appeal to the Acting Chief Executive of LASA (the CLE) at its National Office, the CLE said to the respondent:

We have reviewed your application and we are not satisfied that there are good prospects of success in the review application. We hold the view that the Commissioner considered the relevant evidence, especially the fact that you signed a contract that clearly indicated that the employment is part of the Extended Public Works Programme, and reached a decision that falls within the ambit of reasonableness.

Considering the above your appeal against refusal of legal aid is therefore unsuccessful.

On 20 July 2021 the PE of LASA said to the respondent:

Kindly be advised that in terms of the Legal Aid Manual your appeal was unsuccessful and legal aid is refused due to lack of prospects of success.

[10] The respondent characterized the application as that of the apartheid system of segregation of 1948 to 1994 where Black people did not have constitutional rights. He approached it from the lenses of exploitation of cheap labour and discrimination and alleged fraud in misinterpreting the employment contract. In his answering affidavit he also referred to the theme throughout his court processes in that he was a layperson to whom courts should consider his procedural errors with fairness and compassion as an unrepresented person who acted in good faith to expose injustice, unfair labour practices and discrimination. In the background facts, the respondent relied on his case and arguments in the EPWP matter throughout the institutions and courts. In essence he argued his EPWP case again. Furthermore, according to him granting the order sought by the Municipality would amongst others prevent him from exercising his constitutional right to access to justice which was protected under section 34 of the Constitution. It would silence him from raising valid labour-related grievances, which was a violation of section 23 which he set out as his right to fair labour practices. It would protect the

unlawful conduct of a government entity at the expense of a vulnerable, unemployed and unrepresented individual. It would set a dangerous precedent where poor people were denied justice simply because they could not afford legal representation.

[11] According to him the relief would essentially criminalise poverty and silence dissent and this would cause irreparable prejudice not only legally but also emotionally and economically. His case was also that the application constituted an unjust and unconstitutional attempt to silence a citizen raising concerns of unfair labour practices, fraud and discrimination. He implored the court to prevent the Municipality from denying him his right to speak publicly about the exploitation he experienced and to affirm his right to bring future legitimate actions in terms of section 34 of the Constitution. He drew the court's attention to the importance of protecting the rights of poor and unrepresented people in the face of institutional power and complexity. He denied that he was a vexatious litigant, and was a poor, unemployed and unrepresented citizen who turned to the legal system in search of justice for the wrongs he believed were committed against him. In conclusion, his case was that justice should be accessible to all and not only to those with legal knowledge or financial means. He prayed for an order that would ensure that no one misused legal proceedings to deny others their constitutional rights to access justice.

[12] Section 2(1)(b) of the VPA reads as follows:

2 Powers of court to impose restrictions on the institution of vexatious legal proceedings

- (1) [*\(b\)*](#) If, on an application made by any person against whom legal proceedings have been instituted by any other person or who has reason to believe that the institution of legal proceedings against him is contemplated by any other person, the court is satisfied that the said person has persistently and without any reasonable ground instituted legal proceedings in any court or in any inferior court, whether against the same person or against different persons, the court may, after hearing that person or giving him an opportunity of being heard, order that no legal proceedings shall be instituted by him against any person in any court or any inferior court without the leave of the court, or any judge thereof, or that inferior court, as the case may be, and such leave shall not be granted unless the court or judge or the inferior court, as the case may be, is satisfied that the proceedings are not an abuse of the process of the court and that there is *prima facie* ground for the proceedings.

The purpose of these provisions is to put a stop to persistent and ungrounded institution of legal proceedings [*Beinash and Another v Ernst & Young and Others* 1999 (2) SA 116 (CC) at para 15; *S v Sitebe* 1965 (2) SA 908 (N) at 911B-C]. The Act does so by allowing a court to screen as opposed to bar a person. The screening was necessary to protect the interest of the victims of the vexatious litigant and the public interest that the functioning of the courts and the administration of justice proceed unimpeded by the clog of groundless proceedings [*Beinash* in that same para 15]. There was an escape from the restriction on the right of access to courts as soon as a *prima facie* case was made in circumstances where the presiding officer was satisfied that the proceedings so instituted will not constitute an abuse of the process of the court. The litigants right of access to courts was regulated and not prohibited. The regulatory procedure allowed for a flexible proportionality to protect the interests of both the litigant and the public [*Beinash* para 19]. The restriction was justifiable when confronted by a person who demonstrated a propensity to abuse the process of courts [*Beinash* para 20]

[13] The respondent refused to accept did not understand that his multiple matters and legal disputes do not have merit. He ignored legal advice that his matters did not have merit. He continued to blame and make serious allegations against Judges whenever decisions are made against him. He exhibits a general disregard for established procedure and practice. He hid behind his being poor, African and not trained in law as a default excuse in his intimidation of opponents and Judges into submission to his his unmeritorious disputes. The Municipality used the limited public resources, attorneys needed to be briefed and Judicial resources had to be spent on reviews, applications and appeals which were known, even by the respondent who instituted them, that they lacked merit. The respondent also simply changed fora when he failed in one. Out of the same facts he approached the Labour Court under case C824/2019. When he failed, he instituted proceedings in the High Court in case number 125/25, and when he failed, he went to report a fraud criminal case in George CAS 569/9/2024. The Labour Court, the Labour Appeal Court, the Constitutional Court and the High Court, all on more than one occasion, had to deal with proceedings which should in any event not have been brought. The conduct of the respondent in instituting those proceedings fortifies the legitimate and worthy objective of section 2(1)(b) of the VPA [*Ernst & Young and Others v Beinash and Others* 1999 (1) SA 114 at 1138H-J].

[14] There is no indication that the respondent will cease litigation with the Municipality on the same facts which have been pronounced upon by competent courts, unless there was some intervention. The movement out of the Labour Law realm to the Civil Courts and to the Criminal Courts have all been attempts to reopen the same matter, in circumstances where it was known that the complaint

had no prospects of success. The proceedings were instituted without any reasonable ground under the circumstances. The respondent engaged in recurring or constantly repeated or continuous institution of legal proceedings in a court within the meaning of section 2(1)(b) of the VPA [*MEC, Department of Co-operative Governance and Traditional Affairs v Maphanga* 2021 (4) SA 131 (SCA) at para 20]. The persistent or repetitive institution of legal proceedings by the respondent related to the same matter, to wit, his EPWP contract. Later, and the shortlisting case. At all times when the respondent approached the Labour Court and the High Court of South Africa, he did so without any reasonable grounds. This was because at times when he did so, he had the advice of LASA that his cases had no prospects of success. In the EPWP matter, the respondent went up to the Constitutional Court and also sought its reconsideration whilst aware that his matter had no prospects of success.

[15] In practice, the decision to decline assistance is first made by the legal representative to whom the matter is allocated once processed administratively at LASA. By the time the Local Executive in George decides, the legal representative of first instance has already made a decision, and the matter is elevated for consideration and communication with the client. In other words, it ordinarily takes at least two legal brains to decide that there are no merits at local level. By the time the Provincial Executive decides, at least two others have already considered the matter and found it without merit, and often another lawyer at the province would also have considered the appeal to advise the Provincial Executive. It therefore generally takes four legal minds to express the position of the province. The respondent ignored the advice and on his own approached the courts without any

reasonable grounds. An unequivocal finding is made that the claims had no reasonable basis, on both the EPWP and the shortlisting cases.

[16] I would be failing in my duty not only towards the functioning of the courts but also applicant and its employees, to court support services, including registrars and secretaries of the courts, as well as almost all judges except for a few, who had occasion to deal with the respondents matters, if I do not give due attention to the tendency of the respondent to send emails to a multitude of recipients, almost anyone who had occasion to deal with his matters, including to Judicial Managers in the courts where his matters were heard. It is one thing to send correspondence as follow-up or to address a particular pressing issue by email with the other side and/or court support services. But this is one matter where I am convinced that if the respondent's parents were to know what he was up to, the Basotho elders' immediate reaction would be that a laptop be removed from him or that he be denied access to the internet altogether until a family meeting is called. One necessary observation is that the respondent carries the surname of a very respected and respectable Basotho clan, and that the surname in fact means one who ensures or defends justice. In various emails sent to the applicant's employees including its attorneys, advocates, court managers, registrars and judges secretaries, the respondent has made various allegations against most of them including exploitation, incompetence, corruption, bias, sabotage, racism, collusion, discrimination, fraud, human rights violations and abuse of power. These adverse comments were also made against judges. There should be a boundary, including when expressing displeasure. The default position in our law, which is a rebuttable presumption, is that every litigant is sane. This presumption of sanity is a legal principle that assumes that an individual who initiates or is involved in legal

proceedings is sane until proven otherwise. I am duty bound to move from the premise that considered the respondent mentally competent. I moved from the assumption that the respondent has the mental capacity to understand his actions and their consequences. The failure of the respondent to appreciate and objectively understand the boundaries is worrying to me. However, in my view the interest of justice demands that I throw the ball back into the respondent's court and not make the order sought by the applicant as regards the interdict and restraint in relation to the remarks made against those who made decisions that the respondent did not like. It is up to the respondent to move the applicant to require closer examination and further research of his intellect and the capacity of self-restraint as regards rational thought, the foundations of which have been shaken, for the court to consider the interdict sought. For these reasons the order is made.

DM THULARE

JUDGE OF THE HIGH COURT

Appearances

Counsel for Applicant : Adv. A Erasmus

Instructing Attorney: Mr M van der Walt

Counsel for the Respondent: In person (Mr T Motjamela)