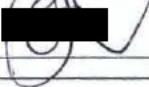


REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

- (1) REPORTABLE: **NO**
(2) OF INTEREST TO OTHER JUDGES: **NO**
(3) REVISED: **NO**

Date: 9 December 2025 Signature: 

CASE NO: 2021/47312

In the matter between:

THULO MOLEFI

Applicant

And

THE COLLEGES OF MEDICINE OF SOUTH AFRICA NPC

First Respondent

HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA

Second Respondent

Coram: Dlamini J

Heard: 02 December 2025

Delivered: 09 December 2025 – This judgment was handed down electronically by circulation to the parties' representatives *via* email, by being uploaded to *CaseLines*, and by release to SAFLII. The date and time for the hand-down is deemed to be 10:30 on December 2025

JUDGMENT

DLAMINI J

Introduction.

- [1] This is an application for leave to appeal the judgment and order that I handed down on 27 August 2025.
- [2] Dr Molefe Thulo (the applicant) is a qualified medical practitioner who, on several occasions, sat for an oncology examination administered by the first respondent on behalf of the second respondent. The applicant was unsuccessful in all his attempts at the examination.
- [3] Following his unsuccessful attempts, he then filed an application to review the first respondent's decision. In his notice of motion, he sought an order that the decision of the first respondent not to award the applicant a passing grade in respect of his medical oncology examination be declared invalid, reviewed, and set aside.
- [4] The first respondent, in their answering affidavit, raised a point *in limine* that the applicant's application is time-barred because it was filed outside the 180-day prescribed time frame set out in Section 7 of the Promotion of Administrative Justice Act¹ (PAJA). Furthermore, the reasons submitted by the applicant for the lengthy delay in instituting these proceedings do not provide a reasonable justification.
- [5] In his replying affidavit, the applicant insisted that his application was filed within the required time limit.

¹ Act 3 of 2000

- [6] Having analysed the pleadings and timelines, I made the following findings: The applicant's review application on any construction was filed late. The applicant did not file an application for condonation for the late filing of his application. Lastly, and significantly, the applicant did not file an affidavit succinctly setting out any reasons for his delay in launching his application. Consequently, I dismiss the application.
- [7] The applicant has now filed this application seeking leave to appeal my order and judgment.
- [8] The respondents oppose the application.

Grounds of Appeal.

- [9] The applicant has filed substantial grounds of appeal. The grounds of appeal, the pleadings, and the parties' heads of argument on appeal need no repeating but must be deemed to be incorporated into this judgment.

Test for Leave to Appeal.

- [10] The test for leave to appeal is trite. The question is whether the applicant has satisfied the requirements for leave to appeal as outlined in Section 17(1) (a) of the Superior Courts Act² (the Act). Section 17 of the Act stipulates that leave to appeal may only be granted where the judge or judges concerned are of the opinion that:
- (i) *The appeal would have reasonable prospects of success; or*
 - (ii) *There is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.*

² Act 10 of 2013

Analysis.

- [11] The nub of the issue for determination is whether Dr. Molefe's application for review was filed timeously. If not, it is necessary to determine whether the applicant has filed the necessary application for condonation and provided reasons for the delay.
- [12] It is now a well-established principle of our law that an application for judicial review may only be launched once the administrative decision and reasons for the decision are known or reasonably ought to have been known to the party seeking judicial review of the decision. Such an application must be brought within 180 days of the party becoming aware of the decision.
- [13] It is common cause that the applicant filed his application outside the 180-day statutory limit. I am satisfied that I have dealt extensively with all the applicants' submissions in my judgment. Dr Molefe did not explain why the application was filed late, nor did he ask for condonation for the late filing of his review application. Having regard to the above and considering all the submissions before me, I dismissed his application. Thus, it will serve no purpose to restate my reasons herein.
- [14] Having carefully considered the factual background of this matter, the applicant's grounds for leave to appeal, and the provisions of Section 17 (1) (a) of the Act, I am not persuaded that there are any reasons or exceptional circumstances that warrant the grant of leave to appeal, which would have reasonable prospects of success. There are no compelling reasons why the appeal should be heard.
- [15] The applicant has not presented any facts that demonstrate that another court would reach a different decision. There are no conflicting decisions on this issue; therefore, it would not serve the interests of justice to grant leave to appeal. The courts of appeal have repeatedly cautioned against granting leave to appeal when the prospects of success are not good. In these circumstances, this helps prevent unnecessary congestion of the appeal court rolls.

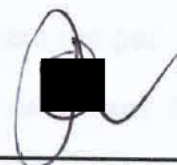
Costs.

[16] It is now a well-established principle of our law that costs follow the results and are awarded to the successful party. I see no reason why this court should depart from this principle.

[17] I make the following order.

ORDER.

1. The applicant's application for leave to appeal is dismissed with costs.
2. The applicant is ordered to pay the cost.

A handwritten signature in black ink, consisting of a stylized 'J' and 'D' followed by a flourish, positioned above a horizontal line.

J DLAMINI
Judge of the High Court
Gauteng Division, Johannesburg

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