



**IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE DIVISION, CAPE TOWN)**

**Case No: 2025-250950**

In the matter between:

**CAPE TOWN MINSTREL CARNIVAL ASSOCIATION**

**Applicant**

And

**CITY OF CAPE TOWN**

**Respondent**

**Neutral citation: *Cape Town Minstrel Carnival Association v City of Cape Town***  
(Case no 2025-250950) [2026] ZAWCHC ... (3 February 2026)

**Coram: LEKHULENI J**

**Heard: 29 December 2025**

**Delivered: 03 February 2026**

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**REASONS FOR JUDGMENT**

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**LEKHULENI J:**

**Introduction**

[1] This is an urgent application in which the applicant sought a mandatory order compelling the respondent to make available to the applicant a suitable venue within its jurisdiction for the hosting of the applicant's Minstrel competition events, being a

medium-risk gathering as contemplated in the Safety at Sports and Recreational Events Act 2 of 2010 (SASREA), on the following dates:

1 January 2026;

10 January 2026;

17 January 2026; and

24 January 2026.

[2] In the alternative, and having regard to the fact that Athlone Stadium is confirmed by the respondent to be SASREA-complaint for medium-risk events, the applicant sought an order directing the respondent to make Athlone Stadium available to the applicant for the hosting of the applicant's Minstrel competition event on the date specified above, or on such other dates as this court may deem appropriate. In the further alternative, the applicant sought an order directing the respondent to reinstate the applicant's booking for Vygieskraal Stadium for 1, 10, 17 and 24 January 2026 which booking the respondent confirmed on 19 September 2025 and subsequently withdrew it on 23 September 2025. The applicant also sought an order that the respondent be ordered to pay the costs of this application on attorney and own client scale with such costs to include all costs occasioned by the urgency of this application.

[3] This application was enrolled for hearing before this court on 27 December 2025. On that day, the respondent had not yet filed its answering affidavit. The respondent's legal counsel, Mr Wynne, requested this Court to afford the respondent an opportunity to file opposing papers. The applicant's legal counsel, Ms Naidoo, opposed the application. However, in the interest of justice and consistent with the *audi alteram partem* principle, I deemed it proper to afford the respondent an opportunity to file opposing papers so that all the issues can be properly ventilated to enable the court to make an informed decision on the merits of the application.

[4] The application was subsequently postponed to 29 December 2025 for hearing at 15h00. The court directed the parties to file the necessary answering and replying affidavit (if any) in terms of the timetable the court ordered. The relevant affidavits were filed as directed and the matter was argued on 29 December 2025 at 21h00. After hearing arguments from the legal representatives of both the applicant and the respondent, and after considering the matter, I gave an *ex-tempore* judgment and

granted an order, inter alia, directing the respondent to make available to the applicant a suitable venue within its jurisdiction for the hosting of the applicant's Minstrel competition events, being a medium-risk gathering as contemplated in the Safety at Sports and Recreational Events Act 2 of 2010 ('SASREA') on the following dates:

1 January 2026;

10 January 2026;

17 January 2026; and

24 January 2026

[5] In giving the *ex-tempore* judgment, I undertook to provide comprehensive reasons in writing for the order should I be requested to do so. On 31 December 2025, the respondent filed an application for leave to appeal against the *ex-tempore* judgment of this court delivered on 29 December 2024. The respondent also requested this court in terms of Rule 49(1)(c) of the Uniform Rules of Court to provide written reasons for the abovementioned order. What follows are the reasons for the order I granted on 29 December 2025 in respect of the applicant's urgent application as set out in paragraphs 1 and 2 above. Before I can deal with the merits of the application, here is the background of the application.

### **Background Facts**

[6] The applicant is the Cape Town Minstrel Carnival Association NPC, a non-profit company duly registered in terms of the Companies Act, with registered address in Hanlyn Crescent, Newfields, Cape Town. The respondent is the City of Cape Town, a municipality established in terms of section 12 of the Local Government: Municipal Structures Act 117 of 1998 with its principal place of business at the Civic Centre 12 Hertzog Boulevard, Cape Town.

[7] The Cape Town Minstrel tradition, also known as 'the Klopse' or 'Kaapse Klopse' is a cultural phenomenon that traces its roots back to at least the mid-19<sup>th</sup> century. The applicant asserted that this tradition arose during the colonial era when both British and Dutch colonists held people as slaves in the Cape. It represents the cultural expression and resilience of a historically oppressed community. According to the

applicant, the high point of this tradition is the annual celebration held on 2 January each year in Cape Town known as Die Tweede Nuwe Jaar (The Second New Year). The applicant stated that this date has immense historical significance as it was traditionally the one day of the year when enslaved people were given leave. The competitions that follow in January each year form an integral part of this cultural celebration.

[8] The applicant averred that the Minstrel tradition is recognised as living heritage under the National Heritage Resources Act 25 of 1999 ('NHRA'). Section 2 of the NHRA defines 'living heritage' as the intangible aspects of inherited culture, including cultural tradition, oral history, performance, ritual and popular memory. The Minstrel carnival is a cultural tradition and performance that forms part of the inherited culture and popular memory of the Cape Town community. The applicant asserted that the Minstrels fall under the definition of living heritage and the carnival is a cultural tradition and performance which forms part of the inherited culture and popular memory.

[9] The applicant brought this application on an urgent basis for a mandatory order compelling the respondent to make available to the applicant a suitable venue for the hosting of the applicant's Minstrel competition events on 1, 10, 17 and 24 January 2026. The first event of the Minstrel competition was scheduled to take place on 1 January 2026. On 19 September 2025, the respondent confirmed the applicant's reservation for Vygieskraal Stadium for the scheduled competition events on January 1, 10, 17, and 24, 2026. However, on 23 September 2025, the respondent withdrew this booking, leaving the applicant without an assigned venue to conduct its Minstrel competitions. The applicant contended that despite numerous requests and correspondences, including correspondence dated 1 October 2025, 11 November 2025, 21 November 2025, and 23 December 2025, the respondent has failed to provide an alternative venue or any meaningful assistance. The applicant asserted that the events on these dates form an integral part of the annual Minstrel cultural celebration, which could not be postponed or rescheduled.

[10] In addition, the applicant stated that if the matter is not heard urgently, the opportunity for the Minstrel community that falls under its association to hold their traditional January competition will be permanently lost for January 2026. Moreover,

the applicant stated that there has been a systematic discrimination against it by the respondent other than the Kaapse Klopse Karnival Association ('KKKA'). On the applicant's view, this pattern of discrimination has been documented over many years and is the subject of current Equality Court proceedings which the applicant has instituted against the respondent.

[11] On 13 August 2025, Mr Kamaar the event coordinator of the applicant formally requested booking of Vygieskraal Stadium from the respondent for the 1, 10, 17 and 24 January 2026 for the Minstrel competition of the applicant. The applicant stated that Ms Naude, of the respondent, confirmed that the requested dates were available and that the booking could proceed. The applicant subsequently submitted a complete application for the letting of the stadium facility, complying with all the requirements set out by the respondent.

[12] On 17 September 2025, Mr B Kempt, the Area Head: Recreation and Parks, of the respondent, issued a booking confirmation letter confirming the booking. On 19 September 2025, following a correction of a typographical error regarding the year, Mr Kemp issued a corrected confirmation letter confirming that Vygieskraal Stadium was booked for the applicant's Minstrel competition for 1, 10, 17, and 24 January 2026. On 22 September 2025, three days, after the corrected information, Mr Kemp suddenly withdrew the booking with a letter stating that "Please note that Vygieskraal Stadium is not available for the dates 01, 10, 17 and 24 January 2026 as your booking has been withdrawn. The applicant contended that no reason was provided for the withdrawal of the booking confirmation. Furthermore, no explanation was given as to why the stadium was suddenly not available when it had been confirmed as available just days earlier. The applicant asserted that no consultation occurred before the alleged arbitrary decision was made and no alternative dates or venues were offered.

[13] Subsequent thereto, on 27 September 2025, the applicant's attorney addressed a formal letter of objection to the respondent. In the said correspondence, the applicant's attorney contended that the cancellation was ultra vires and had no legal foundation. The applicant's attorney also argued that the respondent failed to provide any valid reasons for the withdrawal and that the city breached the doctrine of legitimate expectation by confirming the booking and then arbitrarily withdrawing it. In

addition, the applicant's attorney stated that the cancellation constituted administrative action that was unlawful, unreasonable and procedurally unfair.

[14] On 16 October 2025, the respondent's attorney responded and denied the allegations of unfair discrimination against the applicant and stated that the withdrawal arose from operational concerns relating to risk grading under the SASREA which rendered the venue unsuitable to host a Minstrel event. The respondent's attorney asserted that the venue did not possess the required risk grading to host events of this nature in terms of SASREA. Moreover, the respondent's attorney stated that the city's decision to withdraw the provisional booking was informed solely by legitimate operational, safety, and risk management considerations and in full compliance with applicable laws and event management standards.

[15] In response, the applicant stated that the respondent's reliance on SASREA as a justification for the withdrawal of the booking was made in bad faith. In the applicant's view, the respondent had at least one SASREA-compliant venue that could accommodate Minstrel events, yet it had refused the applicant's request and failed to offer this alternative venue.

[16] On 23 December 2025, the applicant's attorney addressed a letter to the respondent's city manager requesting a reversal of the decision to withdraw the booking of the Vygieskraal Stadium and to allow the applicant and its members to proceed with its planned event or alternatively to provide the applicant with the assistance by identifying an alternative venue within the city of Cape Town that can accommodate the event, classified as a medium risk gathering on 1, 10, 17 and 24 January 2026. The court's attention was also drawn to the fact that the applicant addressed several letters to the respondent with a view to addressing the impasse between the parties on 1 October 2025, 11 November 2025 and 21 November 2025 amicably and in a non-litigious manner. According to the applicant, the respondent did not respond to these letters. The applicant implored the court to grant the relief sought to enable the applicant and members of its association to participate in their cultural life and to protect their living heritage as guaranteed in the Constitution.

[17] The respondent, on the other hand, refuted the applicant's application. The respondent impugned the urgency with which this application was brought. The respondent averred that there has been prolonged inaction on the applicant's part which has evidently been wilful and deliberate conduct. Having regard to the circumstances preceding the institution of this application, the respondent asserted that it was readily apparent that the applicant was aware of the material facts which underpinned the relief sought since 22 September 2025, alternatively no later than 16 October 2025. Notwithstanding, the applicant did not bring the application at the earliest opportunity.

[18] The respondent denied having acted arbitrarily or discriminatory against the applicant and its members. The respondent stated that its decision to withdraw the applicant's booking of Vygieskraal Stadium which was in any event provisional in nature for the purposes of holding a Minstrel event at the facility on the specified date was lawful. The respondents asserted further that its decision to withdraw the booking in question was communicated to the applicant on 22 September 2022, which is borne out by the founding affidavit as well as its attorney's letter addressed to the applicant. The respondent contended that the applicant was informed of the reasons for the withdrawal of the booking by the respondent's attorneys of record. Furthermore, having regard the letter from the respondent's attorneys it was evident that the applicant was advised, unequivocally, that its booking was withdrawn as a result of it being non-compliant with risk grading requirements imposed by the provisions SASREA which rendered Vygieskraal Stadium unsuited to host a Minstrel event, due to the risk attached to an event of that nature.

[19] The respondent stated that it was evident that the city could not permit the applicant use of the Vygieskraal Stadium and that that decision was in effect final. In the respondent's view, despite this knowledge, the applicant took no substantive legal steps to seek redress until 27 December 2025, during the court recess and just few days before the commencement of the event that it relies upon to establish urgency. According to the respondent, what is clear is that the applicant elected to do nothing to vindicate its alleged rights for a period of two months notwithstanding its knowledge that the city stance in relation to Vygieskraal Stadium was final. The respondent stated that the applicant's assertion that it was not dilatory, rest squarely on its alleged

attempts to engage the respondent over the period spanning 31 October 2025 to 21 November 25 and once more on 23 December 2025.

[20] The respondent disputed the letters that the applicant allegedly delivered at the respondent's premises with a view to resolving the matter in an amicable and non-litigious manner. According to the respondent, the correspondence, being FA3 attached to the founding affidavit, was never received by it and there is no proof of transmission or delivery, or receipt produced by the applicant.

[21] The respondent referred the court to two judgments in matters between the applicant and the City of Cape Town both decided in December 2016. Pursuant thereto, the respondent argued that considering what is stated in the said judgments, specifically in relation to urgency, it becomes readily apparent that the present timeline mirrors the same pattern of behaviour on the part of the applicant, namely: early knowledge; delay; unproven engagement; last minute litigation. In the city's view, this demonstrates a *modus operandi* of manufacturing urgency to compel emergency relief. The pattern is relevant to credibility, bona fides, and costs. The applicant contended that the application is not urgent even from the applicant's version and prayed the court to strike the matter from the roll with a punitive cost order.

### **Issues to be decided**

[22] From the above discussion, the Court had to decide two critical questions. The *first* question the court had to consider was whether the applicant's application was urgent as envisaged in Rule 6(12) of the Uniform Rules of Court. *Secondly*, the court had to determine whether a mandatory interdict compelling the respondent to make available to the applicant a suitable venue for the hosting of the applicant's Minstrel competition event on 1, 10, 17 and 24 January had to be granted or not. For convenience, I will deal with these disputed issues *ad seriatim*. I now turn to deal with the question of urgency.

## Urgency

[23] As previously stated, the respondent impugned the urgency of this application. The applicant brought this application on an urgent basis, and argued this application is urgent particularly considering the prescribed period in which the Minstrel competition was expected to take place. It must be stressed that to demonstrate entitlement to urgent relief, an applicant must present certain evidence to the court. In *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others*, (11/33767) [2011] ZAGPJHC 196(23 September 2011) para 9, the court correctly set out what an applicant needs to show in an urgent application in compliance with Rule 6 (12) of the Uniform Rules of Court. The Court stated that the correct and the crucial test is whether, if the matter were to follow its normal course as laid down by the rules, an applicant will be afforded substantial redress.

[24] If he cannot be afforded substantial redress at a hearing in due course, then the matter qualifies to be enrolled and heard as an urgent application. If, however, despite the anxiety of an applicant he can be afforded a substantial redress at a hearing in due course the application does not qualify to be enrolled and heard as an urgent application. The applicant had to provide factual evidence to this Court as to why it will not be afforded substantial redress at the hearing in due course and what the nature of the prejudice is that it will suffer if it is not afforded an urgent hearing. Simply put, the applicant had to provide evidence that the nature of the prejudice it stands to suffer if the relief is not granted entitles it to an urgent hearing.

[25] In the present matter, it is common cause that an application for the booking of the venue was made timeously. The application was received by the respondent. On 17 September 2025, Mr Byron Kemp, the Area Head: Recreation and Parks issued a booking confirmation letter to the applicant confirming the booking of Vygieskraal Stadium for the applicant to hold its Minstrels competition. In other words, the applicant's application to book Vygieskraal Stadium was granted for the specified dates. Subsequent thereto, the applicant paid the necessary fees attendant to the booking. Pursuant to the granting of the booking for the venue, the applicant invested considerable time, resources and funds in planning for the event. The applicant made commitments to performers, vendors, and other participants. The applicant averred

that it incurred expenses for planning and preparations. It made commitments to performers, vendors and other participants.

[26] In addition, the applicant noted that it lost the opportunity to secure alternative venues which are typically booked in advance. The applicant also informed its approximately 2000 members who also invested resources in planning and preparing for the competition. Concernedly, on 22 September 2025, Mr Kemp suddenly withdrew the booking with the letter stating that the Vygieskraal Stadium is not available for the date proposed and that the booking has been withdrawn. In an email addressed to Mr Kamaar, the applicant's event coordinator, Mr Kemp stated that the booking confirmation letter was withdrawn and that the department will be engaging further with Mr Kamaar in this regard.

[27] The applicant did not immediately take legal steps to resolve the impasse between the parties; however, it attempted to engage the respondent directly and cordially in order to avoid the costs of litigation. The applicant referred to correspondences dated 31 October 2025, 11 November 2025, and 21 November 2025 none of which received any response from the respondent. In addition, the applicant felt that the respondent was discriminating against it and its members and instituted Equality Court proceedings in this court.

[28] I am mindful that the respondent denies having received the correspondence; however, according to the applicant, the correspondence was hand-delivered to the respondent's offices at the 10th-floor reception by its driver, Max September. The applicant filed a confirmatory affidavit from Mr September, who stated that he personally delivered the three letters mentioned above to the City of Cape Town offices at 12 Hertzog Boulevard, Cape Town. Mr September further noted that upon arrival at the respondent's premises, he was directed by security to deliver the letters to the 10th floor. He made his way to the 10th floor and handed the letters to the person seated at the front desk.

[29] He delivered these letters on 31 October 2025, 11 November 2025, and 21 November 2025 by hand to the person sitting at the front desk. There is no affidavit filed on behalf of the respondent by the people working at the front desk of the respondent's premises who were on duty on the said date, disputing receipt of the said

letters from the applicant. The applicant's version in this regard is uncontroverted. It must be stressed that the applicant's efforts to engage the respondent was consistent with the undertaking that the respondent made when it cancelled the booking that it will engage the applicant.

[30] I am of the view that the applicant made concerted efforts to resolve the matter amicably with the respondent in a non-litigious manner. In *Transnet Ltd vs Rubenstein* 2006 (1) SA 591 SCA, it was held that where a litigant had endeavoured to settle the matter and had brought an urgent application after the attempts to settle the matter because of the delay occasioned by the attempt to settle had failed, the applicant should not be deprived of his costs and that it could not be argued that a litigant had been the author of his own urgency. By parity of reasoning, the documents filed and the correspondences delivered at the respondent's premises demonstrate a fervent attempt by the applicant to settle the matter with the respondent amicably and in a non-litigious manner. When there was no positive response from the respondent, the applicant approached the court. On a conspectus of all the issues, I am of the opinion that this matter is urgent and deserves the immediate attention of this court. The applicant cannot be considered dilatory in bringing this application, as it persistently sought to resolve the matter amicably.

[31] Furthermore, even if I am wrong on the question of urgency, I am of the view that formalism must yield to the interest of justice. In *Federated Trust Ltd v Botha* 1978 (3) SA 645 (A) at 654D, Van Winsen AJA, stated that the court does not encourage formalism in the application of the Rules. The Court noted that the Rules are not an end in themselves to be observed for their own sake. They are provided to secure the inexpensive and expeditious completion of litigation before the courts.

[32] In the present matter, the applicant and its members are exercising various constitutional rights, including sections 30 and 31 of the Constitution. It is my firm view that they must not be denied the right to participate in the cultural life of their choice. In terms of section 31(1) of the Constitution, the applicant and members of its association should not be denied the right to enjoy their culture and to participate in a tradition of the Minstrel carnival which has been consistently observed for decades in Cape Town. The Minstrels are a living heritage, and the carnival is a cultural tradition and performance which forms part of the inherited culture and popular memory.

[33] This matter is urgent and the preliminary point raised by the respondent on the urgency of the application must fail. I now turn to consider the application on the merits.

***Should a mandatory interdict be granted to compel the respondent to provide a suitable venue for the Applicant's Minstrel Competition?***

[34] As far as the merits of this application are concerned, I must emphasise that this court is concerned in the manner in which the applicant and its members were treated by the respondent when they applied to book a venue for the applicant's Minstrels Carnival competition. I say this for the following reasons: it is common cause that the applicant made an application with the respondent to book a venue for its annual competition which ordinarily takes place on the second of January each year. The applicant requested to use Vygieskraal Stadium for its Minstrel competition. After various exchanges between the applicant's event coordinator, Mr Kamaar and the respondent's representatives, the applicant's application to book for this venue was granted by the city on 19 September 2025. Mr Baron Kemp, the Area Head for Recreation and Parks, confirmed the booking of Vygieskraal Stadium. For completeness, in confirming the booking, Mr Kemp stated as follows in his correspondence.

*'Dear Mr Kamaar*

*This serves as confirmation that Vygieskraal Stadium has been booked for the Cape Town Minstrels Association scheduled to take place on 01, 10, 17, 24 January 2026.'*

[35] There were no conditions attached to this correspondence. From the email exchange between Mr Kamaar and Naslee Naude of the respondent and other officials of the respondent, it is very clear that the application for the applicant to book a venue was carefully considered by the respondent. Furthermore, I want to believe that all other safety requirements, particularly compliance with SASREA, were considered before the booking confirmation could be granted. From the documents attached to the applicant's application, the applicant's request for the reservation of a venue was subject to a thorough assessment by the officials of the respondent and was,

subsequently approved. The applicant was caused to pay all the necessary fees for the venue as required. Undoubtedly, the respondent created a legitimate expectation for the applicant and its members to use the Vygieskraal Stadium for its Minstrel competition. The subsequent withdrawal of the booking without reason is highly concerning.

[36] It bears emphasis that the respondent is an organ of state and must act consistently within the constitutional prescripts. The respondent's exercise of public power in terms of our law must comply with the Constitution, which is the supreme law and the doctrine of legality, which is an incident of the rule of law which is one of the founding values of the Constitution. See *Khumalo and Another v Member of the Executive Council for Education: KwaZulu Natal* 2014 (5) SA 579 (CC) para 28. I am mindful that later the respondent indicated to the applicant that the booking was withdrawn as the venue was not SASREA compliant. However, in my opinion, if the Stadium was not SASREA compliant this was known to the respondent when the booking of that stadium was confirmed. Simply put, the respondent confirmed the booking notwithstanding its knowledge that the stadium was not SASREA compliant. This information fell within the exclusive knowledge of the respondent as the custodian of these venues. The subsequent revocation of the booking, based on the reasons articulated, reasonably elicited surprise from the applicant and left its members in disbelief. Additionally, it must be stressed that the respondent did not explain what exactly the problem with the venue was save that it was not SASREA compliant.

[37] Importantly, this event happens annually at the beginning of each year. This tradition has been observed for many years, and the respondent is knowledgeable about its significance. According to the applicant, the events are not mere entertainment, but they are fundamental expressions of their cultural identity, rooted in the historical experience of their ancestors and central to their community's sense of self. In my view, when the respondent revoked the booking of the venue on 23 September 2025, the respondent knew that this was an annual event. Despite this knowledge, the respondent did not make any effort whatsoever to provide alternative venue to the applicant notwithstanding that it had created a legitimate expectation on the applicant and its 2000 members.

[38] The applicant stressed that after the booking was confirmed it communicated this information to its 2000 members. It confirmed with vendors and suppliers and invested a lot of resources in planning and preparation for the event. Its members as well also invested resources in preparing for this event. Despite this, the respondent did not take any action to address the cancellation of the booking, which was clearly due to its own fault. It was asserted that, in terms of the conditions for booking venues, the respondent retained the right to cancel the reservation with a 48-hour notice period. That may be so, however in my view, this does not serve as a license for the respondent to act unlawfully to the prejudice of vulnerable people of our country. The respondent is an organ of state and must act in a manner that upholds the values enshrined in the Constitution. Moreover, the applicant and its members have a right to administrative action that is lawful, reasonable and procedurally fair.

[39] The respondent is the custodian of the venues in the province and had confirmed Vygieskraal Stadium for the applicant to conduct its Minstrel competition. It is my considered opinion that the respondent, in its capacity as an organ of state, had a constitutional obligation to assist the applicant and its members in exercising their cultural rights. Therefore, it was incumbent upon the respondent to provide an alternative venue, particularly in light of the initial confirmation of the booking.

[40] I have also read the judgments attached to the answering affidavit to which I was referred to by the respondent's counsel however, I am of the view that this matter stands on a different footing. Here, we have a booking that was granted after the respondent had considered all the relevant aspects necessary before the booking confirmation could be made. There was no supervening impossibility from the time the booking was granted until 23 September 2025, when it was cancelled, that was so pressing as to cause the respondent to cancel the booking. The respondent had all the facts at its disposal before and when the booking was confirmed. The respondent never said it made a mistake or it was an oversight on its part to grant the booking. Here, we have a booking that was confirmed by the respondent unconditionally that was subsequently withdrawn to the prejudice of the applicant and its members.

[41] As the applicant notes, Minstrel tradition is a centuries-old cultural practice that has survived slavery, colonialism and the previous dispensation. By denying the

applicant and its members access to venues, the respondent threatens the very survival of this living heritage. Without venues to practice and celebrate that culture, the tradition cannot be passed on to younger generations. To this end, I agree with the applicant's claims that the intangible cultural heritage the NHRA aims to protect is at risk of being lost. This risk stems from the respondent, who is tasked with its preservation, having failed to provide the applicant with a venue, despite the booking application being submitted timeously. I have considered all the facts of this case, and I am of the view that the applicant has made out a case for the relief sought in the notice of application.

[42] In summary, the applicant has established a clear right to participate in the cultural belief of their choice, to protect their living heritage. The respondent as the relevant organ of state has a duty to assist the applicant to realise this right and to protect this living heritage. As far as irreparable harm is concerned, I believe that if the venue is not provided the applicant would be completely prevented from holding its traditional January Minstrel competition which form an integral part of the cultural celebration that has been practiced over a century. This injury is not merely financial but strikes at the heart of the cultural rights of the applicant and its members. I am further of the view that the applicant has no other satisfactory remedy. The ordinary course of litigation cannot provide relief before the scheduled dates Minstrel competition. The relief sought by the applicant is timebound.

[43] Damages will be wholly inadequate, as they cannot compensate for the loss of cultural expression or the harm to the community's intangible cultural heritage. The event cannot be postponed to a later date, as it is tied to the traditional January celebration. Hence, it is referred to as "Die Tweeded Nuwe Jaar". If the mandatory interdict is refused, the applicant would be completely prevented from holding its traditional cultural events, and its constitutional rights would be violated, and the living heritage of the Minstrel tradition would be harmed. Moreover, the venue has already been paid for, and there shall be no prejudice to the respondent.

[44] Finally, consistent with the doctrine of the separation of powers, this Court has a duty to ensure that the respondent complies with the Constitution and the rule of law. The Court has a duty to ensure that the respondent upholds the fundamental

constitutional values of accountability, the rule of law and the supremacy of the Constitution. While I appreciate that the Court must always bear in mind the separation of powers doctrine, I am of the view that the Court is responsible for ensuring that the decisions taken by the respondent, including against the applicant, are consistent with the constitutional values enshrined in the Constitution.

[45] Given all these considerations, I granted an order in the following terms:

(a) The applicant's non-compliance with the time periods and rules of the above honourable court is condoned in terms of Rule 6(12) and the matter is regarded as urgent;

(b) The respondent is ordered to make available to the applicant a suitable venue within its jurisdiction for the hosting of the applicant's Minstrel Competition events, being a medium-risk gathering as contemplated in the Safety at Sports and Recreational Events Act 2 of 2010 ('SASREA') on the following dates:

1 January 2026;

10 January 2026;

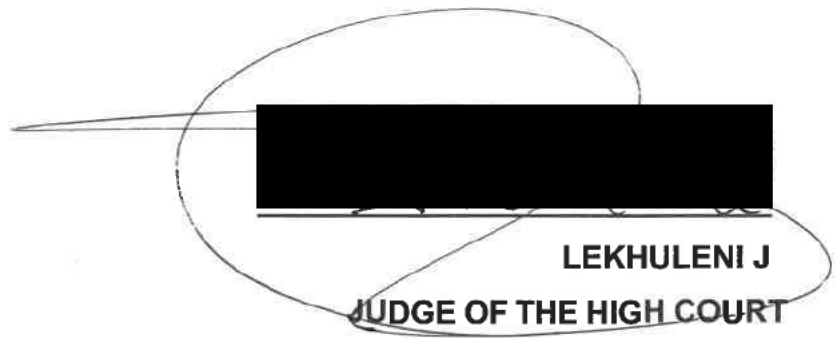
17 January 2026; and

24 January 2026

(c) The respondent is ordered and directed to take all steps necessary to facilitate the applicant's compliance with all applicable event permit requirements, including but not limited to SASREA requirements, the City of Cape Town's events By-Law, and any other applicable legislation or by-laws, within such timeframes as are necessary to enable the event to proceed on the date specified;

(d) The applicant is ordered to comply with all safety and event related provisions of the events By-Law and all applicable legislation, including SASREA, and to cooperate fully with the respondent and all relevant authorities in ensuring the safe and lawful conduct of the events;

(e) The respondent is ordered to pay the costs of this application on scale B, on a party and party scale and such cost to include the costs of counsel.



LEKHULENI J  
JUDGE OF THE HIGH COURT

### **APPEARANCES**

For the Applicant: Adv Naidoo

Instructed by: Roelf Jumat Attorneys Inc

For the Respondent: Adv Wynne

Instructed by: Timothy and Timothy Attorneys