



**IN THE HIGH COURT OF SOUTH AFRICA
EASTERN CAPE DIVISION, MAKHANDA**

Case No: 2025-221325

In the application of:

SIKUMBULE MQOMBOTI

Applicant

JUDGMENT

- [1] This application concerns the admission of the applicant as a legal practitioner so that he may commence practice as an advocate.
- [2] When served with this application the Legal Practice Council (LPC) raised objection to his being admitted. Notwithstanding its objection the applicant has persisted in seeking an order for his admission as a legal practitioner.
- [3] That led to the LPC filing a notice of opposition, together with an affidavit deposed to by its director of the Eastern Cape Provincial Council, Mr Hona.

- [4] While some of the deficiencies of the application were addressed, by way of supplementary affidavits, there remains one particular issue over which the applicant and the LPC are in dispute.
- [5] What it is about is whether or not the applicant has completed the required period of practical vocational training.
- [6] What the dispute engages is a matter of law, the proper interpretation of the Legal Practice Act, its regulations and its rules, more particularly, those provisions relating to the practical vocational training requirements for admission to practice as an advocate.
- [7] The facts are briefly these:

7.1 the applicant obtained admission to the pupillage program of the Bhisho Society of Advocates. He was advised that the program was to commence on 15 January 2025 and that its duration was for “*one year*”;

7.2 the Bhisho Society of Advocates, as a constituent member of the General Council of the Bar, is accredited by the LPC to provide the vocational training required by the Act and its regulations;

7.3 the applicant commenced his pupillage on 15 January 2025 under the supervision of Adv. Nyangiwe;

7.4 on 30 January 2025 the applicant and Adv. Nyangiwe concluded a practical vocational training contract, as they were required to do by regulation 7 of the Act. The regulation requires that the contract be “*for an uninterrupted period of 12 months*”;

7.5 during the year the applicant passed not only the competency examination of the LPC but also the national bar examination of the General Council of the Bar;

7.6 the Bhisho Society of Advocates’ practical vocational training was provided to the applicant from 15 January 2025 until 24 December 2025.

[8] What is at issue is whether or not the applicant had, at the date on which the application was enrolled for hearing, the 20th of January 2026, or upon the date on which it was moved, the 22nd of January 2026, satisfied the requirements of the Act regarding his practical vocational training.

[9] Section 26 of the Act, at sub-section 26(1)(c), requires an applicant for admission as a legal practitioner to satisfy the requirement that he or she has “*undergone all the practical vocational training requirements... prescribed by the Minister*”.

[10] The regulations to the Act, promulgated by the Minister, provide at regulation 7(1)(a), that a person intending to be admitted and enrolled as an advocate “*must (a) serve under a practical*

vocational training contract... for an uninterrupted period of 12 months...".

- [11] Rule 17.5 of the rules requires of an applicant, for admission and enrolment as an advocate, that his or her training supervisor confirm *"the exact dates that the applicant served under the supervision of his or her training supervisor"*.
- [12] The applicant asserts that he has complied with those requirements. The LPC asserts that he has not done so. Their dispute engages, in part, the proper interpretation of the provisions I have just identified.
- [13] Mr Nyangiwe, who appeared for the applicant, submitted that as a month is defined by the Interpretation Act as a calendar month the commencement of the applicant's period of training during the month of January 2025, irrespective of the day of the month on which it commenced, and its conclusion during the month of December of 2025, irrespective of the day of the month upon which it was concluded, constituted a 12 month period.
- [14] Ms Watt, who appeared on behalf of the LPC, submitted otherwise. Her submission was that a month is to be calculated from the day of the month upon which the period starts to the corresponding day of the next month. She accordingly submitted that the period of 12 months, if it commenced on 15 January 2025 ended on 14 January 2026 or, if it commenced on 30 January 2025, will run to an end on 29 January 2026.

- [15] The interpretation of the Act and its regulations and its rules provides no interpretive challenge. Whether with or without reference to Ex parte Minister of Social Development and others 2006(4) SA 309(C) and Matlhwana vs South African Legal Practice Council and others 2024 JDR 2170(GP) the clear requirement of undergoing “an uninterrupted period of 12 months of practical vocational training” is, if it commenced on 15 January 2025 that it was required to continue until 14 January 2026 and, if it commenced on 30 January 2025, it was required to continue until 29 January 2026.
- [16] Although the Practical Vocational Training Contract was signed on 30 January 2025 the applicant’s training actually commenced on 15 January 2025. As the regulation requires it to be for an uninterrupted period of 12 months the period for which it was required to endure was until 14 January 2026.
- [17] Ordinarily that period of 12 months would have been completed when this application served before me. But there is a difficulty facing the applicant in that regard.
- [18] In the supplementary affidavit, filed in response to the affidavit of Mr Hona, the applicant states that his training concluded on 24 December 2025, some weeks short of the 12 month period, if the period commenced on 15 January 2025, and some more weeks short of the 12 month period if it commenced on 30 January 2025.
- [19] And there is a further deficiency I should mention. In the applicant’s founding affidavit he states that he completed 6 months of

uninterrupted pupillage training. And, in the affidavit deposed to by his training supervisor the same statement is made. That may well be an error by both of them. But, as the papers are, the requirements prescribed by the rules, as read with the Act and the regulations to the Act, which require it to be confirmed by the training supervisor that a 12 month period of training has been completed, has not been complied with.

[20] It was submitted by Mr Nyangiwe that if I should find differently to his submissions upon the interpretation of the Act and its regulations I should then condone the failure of the applicant to have fully complied with the Act and its regulations.

[21] He argued that, by the nature of things, no training could have occurred over the end of the year break, from 25 December 2025 to 14 January 2026, and that the purpose of practical vocational training has been served. In that circumstance I am asked to condone the failure to have undergone a full 12 month period of vocational training on the basis of a finding that there has been “*substantial and substantive compliance*”.

[22] Upon my reading of section 26 of the Act, together with regulation 7 and the rules, compliance with the terms thereof, in order to be admitted as a legal practitioner to practice as an advocate, is peremptory. The regulation stipulates that an applicant “*must serve under a practical vocational contract ... for an uninterrupted period of 12 months ...*”. That is a peremptory requirement.

[23] Whilst the measure of non-compliance may be seen as insubstantial I am unpersuaded that a peremptory requirement can be condoned, on the basis of an adequate or substantial compliance or on the basis that it is in the interests of justice to do so. The interests of justice have nothing to do with statutory compliance. Nor is holding the applicant to strict compliance with the Act and the regulations putting form over substance. The substance is in the form of compliance with the statutory provision.

[24] Mr Nyangiwe also argued that the LPC has no role, or a lesser role, to play as a supervisory authority in the admission of an advocate. In effect, that as the Bhishe Society of Advocates had no objection to the admission of the applicant its view upon the matter was to be preferred above that of the LPC. The only role of the various Societies of Advocates, who are the constituent members of the General Council of the Bar, in terms of the Act, is the provision of practical vocational training, which they have been accredited to provide by the LPC, in terms of regulation 17.6.4. Every other requirement for admission as an advocate is prescribed by the Act, its regulations and the rules, the administration of which falls exclusively upon the LPC.

[25] Mr Nyangiwe sought to find support for his submission from rule 3A of the Uniform Rules of Court which requires that the Society of Advocates of the jurisdiction be served with a copy of the application for admission as an advocate.

[26] Rule 17.7 of the rules, published in terms of the Legal Practice Act, requires that an application for admission of a legal practitioner

“must lie for inspection with the Council for a period of not less than one month”. Notwithstanding the repeal of the Admission of Advocates Act by the Legal Practice Act rule 3A of the Uniform Rules of Court requires, *inter alia*, as a procedural requirement, that an application for admission as an advocate be served upon the secretary of the Bar Council or the Society of Advocates in the division in which the application is made, Those provisions are directed at providing the LPC and the relevant Society of Advocates with notice of an application for the admission of an advocate so as to provide them with an opportunity to raise with the court any issue or objection they may have against the admission of the applicant.

[27] What requires to be recognised is that while the Societies of Advocates have an interest in the admission of a person to the advocates’ profession that interest is derived from the common law. The interest of the LPC is the discharge of its supervisory duties over compliance with what is prescribed by the Legal Practice Act, together with its regulations and rules, in order to obtain admission as a legal practitioner.

[28] In that circumstance it is the LPC which bears a statutory obligation and duty to place information before the court which is relevant to compliance with the Act and its regulations in order for the admission of a legal practitioner.

[29] But it would be wrong to say, as submitted on behalf of the applicant, that upon an issue of compliance with the Act the view of the Society of Advocates, whose interest in the application for

admission is derived from the common law, is to be preferred above those of the LPC.

[30] Mr Nyangiwe raised various other issues. He challenged the authority of the LPC to raise any objection to an application for admission to the profession, after the expiry of the one month period, provided for by rule 17.7. He argued that the LPC was *functus officio* after the expiry of one month. In effect, as I understood the submission, a failure to raise an objection within the one month period was a decision by the LPC not to oppose the application. That submission only has to be stated to be rejected. Absent a decision, one way or the other, the issue of *functus officio* does not arise. He also challenged its right to be heard in the application without it having been obtained leave to intervene in the application.

[31] The LPC is charged, by the Act with the regulation and supervision of the legal professions and, in particular, of applications for admission to the professions. It has a duty, and an obligation, to raise with the court its objections, if any, to any application for admission, of which the applicant for admission is required to give it notice. That being so, it was obviously entitled, as of right, to be heard without seeking leave to intervene in the application.

[32] Nor is there any legal basis upon which it can be barred from making its views known, at any time before the application is determined, or that its failure to raise any objection within the one month period provided for by the rules precludes it from doing so thereafter.

[33] In all the circumstances I must conclude that the applicant has not satisfied the prescribed requirements of his practical vocational training and that, as a consequence, he cannot yet seek to be admitted as a legal practitioner so as to commence practice as an advocate, despite having met all the other requirements for his admission.

[34] I am loathe to dismiss his application, as I should ordinarily do, as doing so would require, once he has met the requirements, the applicant to issue a fresh application for his admission and suffer the delay which that would give rise to with its consequent prejudice to the commencement of his career. Nor am I inclined to make the conditional order suggested in the supplementary heads of argument filed on behalf of the applicant.

[35] So, instead, by my striking the application from the roll of cases, the applicant will be afforded an opportunity of fulfilling the requirements of the Act and its regulations and of supplementing his present application once he has done so. He may then also correct the deficiencies I have pointed out. He may also, if he chooses to do so, withdraw his present application and issue another.

[36] It may also be necessary for the applicant to seek condonation for the period of his vocational training having been interrupted which should not, in the circumstances of this matter, prove to be unsurmountable. He would obviously also have to provide the LPC with appropriate notice of his renewed application.

[37] The applicant sought an order for the payment of his costs which accrued as a result of the LPC's opposition to his application in which Mr Nyangiwe persisted, albeit rather faintly. Ms Watt, on behalf of the LPC, while stating that ordinarily the applicant should bear the costs of the LPC's opposition to the application did not seek to press an argument upon that issue any further.

[38] As I accept that the applicant hitherto *bona fide* believed that he was entitled to the relief sought and as the LPC has done no more than discharge its duty and obligations to the court I am inclined to make no order as to costs.

[39] It is accordingly ordered that the application is struck from the roll with no order as to costs.

D H DE LA HARPE

Acting Judge of the High Court

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Matter was heard on : 20 January 2026
Judgment Delivered on : 29 January 2026