

**REPUBLIC OF SOUTH AFRICA**



**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, JOHANNESBURG**

**CASE NUMBER: 2024-070316**

- (1) REPORTABLE: YES / ~~NO~~  
(2) OF INTEREST TO OTHER JUDGES: YES / ~~NO~~  
(3) REVISED: ~~YES~~ / NO

**17 February 2026**

DATE

SIGNATURE

In the matter between:

**RYNARD PIENAAR**

**APPLICANT**

And

**ENGINEERING COUNCIL OF SOUTH AFRICA**

**FIRST RESPONDENT**

**THE CHAIRPERSON OF THE INVESTIGATING**

**SECOND RESPONDENT**

**COMMITTEE OF THE ENGINEERING COUNCIL**

**OF SOUTH AFRICA**

**THE CHAIRPERSON OF THE DISCIPLINARY TRIBUNAL**

**THIRD RESPONDENT**

**OF THE ENGINEERING COUNCIL OF SOUTH AFRICA**

**Heard:** 14 October 2025

**Delivered:** 17 February 2026

**Headnote:** Administrative law — Legality review — Self-review by statutory professional regulator — Cancellation of professional registration in terms of s 20(3) of the Engineering Profession Act 46 of 2000 — Meaning of “investigation” — Whether confined to preliminary fact-finding under s 28 or includes ensuing disciplinary process — Proper construction encompassing disciplinary process until its completion — Cancellation effected while investigation not concluded therefore unlawful and liable to be set aside — Regulator constitutionally obliged to seek correction of unlawful administrative act — Just and equitable remedy — Public-protective purpose of statutory disciplinary regime — Main review application dismissed.

**Summary:** The applicant sought to review and interdict disciplinary proceedings instituted by the Engineering Council of South Africa (ECSA) on the basis that his registration had been cancelled in terms of s 20(3) of the Engineering Profession Act 46 of 2000. ECSA brought a counter-application to set aside the cancellation as unlawful.

The court held that the “investigation” contemplated in s 20(3), properly construed in its textual, structural and purposive context, includes the disciplinary process that follows upon the investigation of a complaint and is concluded only once that process has run its course. Because the applicant’s registration was cancelled before that process had been completed, the cancellation was unlawful and fell to be set aside on legality review. ECSA was constitutionally obliged to seek judicial correction of its own unlawful act.

The applicant's request for a stay of disciplinary proceedings based on his residence and professional practice abroad was refused. Such a stay would undermine the statutory purpose of professional accountability and was not just and equitable.

Upon the setting aside of the cancellation, the applicant remained subject to ECSA's disciplinary jurisdiction. The premise of the main application therefore fell away, and the application was dismissed with costs.

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## **JUDGMENT**

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**WINDELL J:**

### **Introduction**

[1] This matter concerns two interrelated applications arising from disciplinary steps taken by the first respondent, the Engineering Council of South Africa ("ECSA"), against the applicant, Mr Rynard Pienaar, a former registered professional.

[2] The first is the applicant's application for review and declaratory and interdictory relief, directed at ECSA's decision to charge him with alleged unprofessional conduct and to convene disciplinary proceedings against him. The second is a counter-application by ECSA in which it seeks to review and set aside its own earlier decision to cancel the applicant's registration.

[3] Although the factual background includes allegations of professional misconduct, the merits of those allegations do not arise for determination. The dispute turns instead

on the proper interpretation and application of section 20(3) of the Engineering Profession Act 46 of 2000 (“the Act”), the legality of the cancellation of the applicant’s registration, and the jurisdictional consequences that follow.

### **Background facts**

[4] The material facts are largely common cause. ECSA is a juristic person established in terms of section 2 of the Act to regulate the engineering profession in South Africa. It is the body responsible for the registration of all engineering professionals who practice as engineers in South Africa. Registration with ECSA is mandatory if an engineer wants to practice as such in the country.

[5] The applicant was registered with ECSA from August 2004 until 20 May 2024. In September 2021, a complaint was lodged with ECSA in relation to professional services rendered by the applicant. ECSA appointed an investigator in terms of section 28 of the Act to investigate the complaint. On 15 August 2022, the investigator furnished a report concluding that there was prima facie evidence of improper conduct and recommending that disciplinary proceedings be instituted..

[6] The applicant states that he was not informed that the investigation had been finalised, nor that subsequent internal steps had been taken within ECSA during late 2022 to recommend and approve the institution of disciplinary proceedings. He further contends that communications sent by ECSA during 2023 were directed to an email address to which he no longer had access. Nothing in this judgment turns on those factual contentions, which are recorded only as part of the narrative background.

[7] During October 2022, the applicant emigrated from South Africa and ceased practising within the Republic. He now practises as an associate engineer in Ireland.

[8] On 18 May 2024, the applicant requested cancellation of his registration at ECSA. On 20 May 2024, ECSA confirmed that his registration had been cancelled in terms of section 20(3) of the Act. Approximately ten days later, on 31 May 2024, ECSA notified the applicant of a disciplinary inquiry scheduled for 23 July 2024 and furnished him with a charge sheet.

[9] The applicant disputed ECSA's jurisdiction to proceed in light of the cancellation of his registration. In these proceedings, he obtained an urgent interim interdict on 10 July 2024, by agreement between the parties, restraining ECSA from proceeding with the disciplinary hearing pending the institution and determination of the present review application now before this Court.

[10] ECSA thereafter instituted a counter-application seeking to review and set aside its own decision of 20 May 2024 cancelling the applicant's registration, contending that the cancellation was effected contrary to section 20(3) of the Act.

### **The counter-application**

[11] The counter-application is logically anterior. If the cancellation is set aside, the applicant remains a registered person subject to ECSA's disciplinary jurisdiction. If it stands, the jurisdictional enquiry proceeds on the footing that registration ceased. The validity of the cancellation must therefore be determined first.

[12] Section 20(3) provides that the council must cancel registration upon written request, save where an investigation into alleged improper conduct is in progress or is to be held, in which event cancellation may occur only once the investigation has been concluded.<sup>1</sup>

[13] ECSA contends that it was not empowered to cancel the applicant's registration while the investigation remained pending and that the cancellation was therefore effected in error. It does not allege fraud or misrepresentation, nor rely on any express statutory power of revocation. The counter-application is brought as a legality self-review.

### **Interpretation of section 20(3)**

[14] The Act does not define the term "investigation". Its meaning must therefore be determined with reference to the text of the provision, its context within the statutory scheme, and the purpose of the disciplinary framework created by the Act.<sup>2</sup>

[15] The applicant contends that the "investigation" contemplated in section 20(3) is confined to the initial enquiry conducted in terms of section 28. On this interpretation, the investigation is concluded once the investigating committee has completed its enquiry and submitted the report and recommendations contemplated in section 28(4), which expressly refers to the conclusion of the investigation at that stage. The subsequent processes regulated by sections 29 to 32 — including the initiation of disciplinary proceedings, the conduct of a disciplinary hearing, and the imposition of sanction — are

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<sup>1</sup> Section 20 "Cancellation of registration (3) The council must at the written request of any registered person cancel his or her registration, but where an investigation into alleged improper conduct by that person is in progress or is to be held, the registration may not be cancelled until the investigation has been concluded."

<sup>2</sup> *University of Johannesburg v Auckland Park Theological Seminary and Another* 2021 (6) SA 1 (CC); *Natal Joint Municipal Pension Fund v Endumeni Municipality* 2012 (4) SA 593 (SCA).

said to constitute distinct procedural stages, not part of the investigation itself. On this construction, the statutory impediment to cancellation falls away once the section 28 report has been furnished.

[16] ECSA advances a broader construction. It submits that the “investigation” contemplated in section 20(3) forms part of a continuous disciplinary process extending from the receipt of a complaint to the final determination and any sanction that may follow, with the result that cancellation is postponed until that process has run its course.

[17] In support of that construction, ECSA relies on the structure and purpose of the Act. Sections 28 to 32 establish an integrated regulatory mechanism directed at determining whether a registered person has committed improper conduct and, if so, what consequences should follow. On that reading, the investigation cannot sensibly be regarded as concluded while the disciplinary process initiated by it remains incomplete.

[18] The applicant’s narrower construction gives rise to significant practical and purposive difficulty. On that approach, once an investigating committee has recommended that disciplinary proceedings be instituted, a registered professional could immediately request cancellation of registration and thereby avoid the disciplinary enquiry that the investigation was intended to initiate. Such a result would permit the evasion of professional accountability through deregistration and would undermine the protective and regulatory purpose of the Act.

[19] These consequences are relevant to the proper interpretation of section 20(3) within the statutory scheme. Sections 28 to 32 establish a single disciplinary framework directed at determining and, where appropriate, sanctioning improper conduct committed

while a person was registered. An interpretation that treats the investigation as terminating before that process has run its course would fragment that framework and would be inconsistent with the purpose of the provision.

[20] The language of the Act does not compel a different result. Although section 28 regulates the investigation in express terms, the subsequent provisions give effect to and complete the process initiated by that investigation. Read in context, the reference in section 20(3) to an investigation that “has been concluded” is most coherently understood as referring to the completion of the disciplinary process arising from the complaint.

[21] This interpretation accords with the statutory purpose. The Act is directed at safeguarding the public, maintaining professional standards, and ensuring accountability within the engineering profession. Those objectives would be materially weakened if disciplinary jurisdiction could be avoided by the simple expedient of deregistration following an adverse investigative report.

[22] Properly construed, therefore, the investigation contemplated in section 20(3) encompasses the disciplinary process that follows upon the investigation of a complaint and is concluded only once that process has run its course. At the time the applicant’s registration was cancelled, that process had not been completed, with the result that the statutory precondition for cancellation was absent.

### **Lawfulness of the cancellation**

[23] Because the investigation contemplated in section 20(3), properly construed, had not been concluded at the time the applicant’s registration was cancelled, the statutory

precondition for cancellation was absent. The purported cancellation of 20 May 2024 was therefore effected in circumstances prohibited by the Act.

[24] The approval of cancellation in conflict with section 20(3) constituted the exercise of public power beyond the limits of the empowering statute and was accordingly inconsistent with the principle of legality.

[25] Where an organ of state discovers that it has exercised statutory power unlawfully, the rule of law requires it to seek judicial correction in the public interest. ECSA was therefore not only entitled, but obliged, to institute self-review proceedings.<sup>3</sup> The uncontested evidence shows that the administrative error giving rise to the cancellation was identified during the urgent proceedings and acted upon without undue delay.

[26] The counter-application must accordingly succeed, and the decision cancelling the applicant's registration falls to be reviewed and set aside.

### **Just and equitable remedy**

[27] The applicant contends that, even if the cancellation of his registration is set aside and ECSA is found to retain disciplinary jurisdiction, the Court should grant a just and equitable remedy in the form of a stay of the disciplinary proceedings for so long as he does not practise within South Africa. Reliance is placed on the Court's remedial powers under section 172(1)(b) of the Constitution.

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<sup>3</sup> *Pepcor Retirement Fund v Financial Services Board* 2003 (6) SA 38 (SCA) para 10. See also *Ntshangase v MEC for Finance, Kwa Zulu- Natal and Another* 2010 (3) SA 201 (SCA) para 18.

[28] The applicant's reasoning is, in essence, the following. ECSA's mandate is to protect the South African public in their dealings with registered persons. Because the applicant emigrated and now practises as an engineer in Ireland, the South African public is, so it is said, not exposed to him in his professional capacity. He is registered with Engineers Ireland and earns his livelihood there. It is further contended that the complaint has been pending for a considerable period. On that basis, it is submitted that it would be just and equitable to stay the disciplinary proceedings until such time as the applicant returns to South Africa and resumes practice as an engineer within the Republic.

[29] While this Court possesses a wide remedial discretion where unlawfulness is established,<sup>4</sup> that discretion must be exercised in a manner consistent with the statutory scheme and the public-protective purpose of the Act. A stay that suspends the operation of the disciplinary framework created by the legislation is an exceptional remedy requiring compelling justification, rooted in the statutory purpose and the interests the Act seeks to protect.

[30] The difficulty with the applicant's submission is that it assumes ECSA's protective mandate comes to an end merely because the applicant is no longer physically present in South Africa. The Act regulates the professional standing and accountability of persons registered under it through a disciplinary framework directed at determining allegations of improper conduct committed while registered. That protective purpose is not confined to safeguarding the public from present local exposure, but includes maintaining the integrity

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<sup>4</sup> *State Information Technology Agency SOC Ltd v Gijima Holdings (Pty) Ltd* 2008 (2) SA 281 (SCA) para 53; *Millenium Waste Management (Pty) Ltd v Chairperson, Tender Board Limpopo Province and Others* 2008 (2) SA 281 SCA.

of the register and enforcing professional standards through the proper determination of such allegations.

[31] A stay based on the applicant's continued practice abroad would allow professional accountability to be avoided simply through relocation and would make the operation of the disciplinary process depend on whether, and when, a registered person returns to practise in South Africa. Such a result would undermine the proper functioning of the statutory disciplinary scheme and would not be just and equitable.

[32] The fact that the applicant is registered with a professional body in Ireland does not answer the difficulty. The complaint concerns conduct allegedly committed while he was registered under South African law, and the Act entrusts the determination of such conduct to ECSA.

[33] The passage of time relied upon by the applicant likewise does not justify an indefinite suspension of the disciplinary process. The matter should proceed in accordance with the Act, subject to the requirements of procedural fairness and reasonable expedition.

[34] The applicant has therefore not shown that a stay of the disciplinary proceedings would be just and equitable. The request for alternative remedial relief must be refused.

### **Consequences of the setting aside of the cancellation**

[35] The setting aside of the cancellation means that it is treated in law as never having occurred. The applicant therefore remained, and remains, a registered person under the Act.

[36] As a registered person, he remains subject to ECSA's disciplinary jurisdiction in respect of conduct allegedly committed while registered. No jurisdictional impediment exists to the continuation of disciplinary proceedings arising from the complaint. The submission that disciplinary sanctions would be academic in the absence of registration does not arise, because the cancellation has been set aside.

[37] The central premise of the main application, namely that ECSA lacked jurisdiction following cancellation, therefore falls away. No independent ground of review directed at the disciplinary proceedings has been established. The main application must accordingly fail.

[38] In the result the following order is made:

1. The counter application succeeds.
2. The decision of 20 May 2024 cancelling the applicant's registration with the Engineering Council of South Africa is reviewed and set aside.
3. The applicant's status as a registered person under the Engineering Profession Act 46 of 2000 is restored.
4. The main application is dismissed.
5. The applicant is ordered to pay the respondent's costs, including the costs of the counter-application.

  
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**L. WINDELL**

**JUDGE OF THE HIGH COURT**

**GAUTENG LOCAL DIVISION, JOHANNESBURG**

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 17 February 2026.

## **APPEARANCES**

For the Applicant: L Seegels-Ncube

Instructed by: Shamase Ramotswedi Attorneys

For the Respondent: B Lekokotla

Instructed by: Malatji & Co Attorneys

Date of hearing: 14 October 2025

Date of judgment: 17 February 2026