



- (1) Reportable: NO
(2) Of interest to other Judges: Yes

Signature

Date

**IN THE LABOUR COURT OF SOUTH AFRICA
(HELD AT CAPE TOWN)**

CASE NO: C34/2025

In the matter between:

TASNEEM GOUS

Applicant

and

First Respondent

ANTHONY DOUGLAS JAMES

GENESIS DISTRIBUTION

Second Respondent

In re:

ANTHONY DOUGLAS JAMES

Applicant

and

GENESIS DISTRIBUTION

First Respondent

TASNEEM GOUS

Second Respondent

Heard: 16 January 2026

Delivered: Judgment was emailed to the parties on 20 February 2026. The date of judgment is deemed to be 20 February 2026.

JUDGMENT

Introduction

- [1] This application has been brought to seek my recusal from further dealings in this matter. The dispute has a long and unfortunate history. Since this dispute was first brought by first respondent, the applicant has launched various applications several of which may be legitimately labelled frivolous and vexatious.

Material facts

- [2] The principal issue relates to the order that the court issued on 24 June 2025, in which the court found the applicant guilty of contempt. Reasons for that order were issued on 4 September 2025.
- [3] Thereafter, the applicant filed an application which may charitably be referred to as an 'application for leave to appeal' on 23 September 2025, together with an application for condonation, and an application to stay the execution of the contempt order. The 'application for leave to appeal' was withdrawn on 26 September and the application to stay the contempt order was never enrolled.
- [4] Thereafter, the applicant filed a second 'application for leave to appeal.' In the notice of motion, the applicant sought an order directing the Registrar to provide the transcript of the hearing on 9 May 2025 to her,

authorising the issue of various subpoenas, and setting aside the arbitration award which formed the basis of the contempt. In addition, the applicant filed an application for my recusal from the application for leave to appeal and ‘any further proceedings.’

Legal principles

- [5] There can be little doubt that the impartiality and independence of the judiciary is essential to the functioning of our constitutional democracy and remains at the core of a fair trial.
- [6] It is trite that, in our law, there exists a presumption that judicial officers are impartial and independent, arising from the extensive training and experience which Judges hold. This prepares judicial officers for the task of determining the truth “*in a welter of contradictory evidence.*”¹ Our law assumes that judicial officers can apply themselves fairly and disregard personal beliefs and predispositions. That assumption is not easily dislodged, and cogent evidence of bias or a reasonable apprehension of bias is required.²
- [7] An applicant who seeks to have a judicial officer recuse him or herself must first show bias or a reasonable apprehension of bias. The relevant principles were set out in *President of the Republic of South Africa and others v South African Rugby Football Union and others*³ (“SARFU”). As the Constitutional Court explained the question is whether “*a reasonable, objective and informed person would on the correct facts reasonably apprehend that the Judge has not or will not bring an impartial mind to bear on the adjudication of the case, that is a mind open to persuasion*

¹ *President of the Republic of South Africa and others v South African Rugby Football Union and others* 1999 (4) SA 147 (CC) (“SARFU”) at para [40]

² *AfriForum v EFF and Others* 2024 (6) SA 1 (SCA) at para [22]

³ See fn. 1

*by the evidence and the submissions of counsel”.*⁴ The Court explained further that the “*apprehension of the reasonable person must be assessed in the light of the true facts as they emerge at the hearing of the application. It follows that incorrect facts which were taken into account by an applicant must be ignored in applying the test.*”

- [8] An apprehension of bias may arise from the judicial officer’s association with a litigant, a personal interest in the dispute, or comments during litigation. If the applicant founds his apprehension of bias on comments made by the judicial officer during a hearing, he must overcome the presumption of impartiality and show that such comments “*were of such a number or quality as to go beyond any suggestion of mere irritation ... and establish a pattern of conduct sufficient to dislodge the presumption of impartiality and replace it with a reasonable perception of bias.*”⁵

Grounds for recusal and analysis

- [9] The applicant alleges that she has a reasonable apprehension of bias in that the court earlier remarked on her husband’s poor choice of attire and prevented him from reading the documents that he had already handed up to the court. By contrast, the applicant states, the first respondent’s representative was permitted to talk for more than an hour without interruption. This should be understood in context. On 9 May 2025, the applicant failed to attend court despite a court order directing her to do so. Instead, her husband, Mr Gous, attended court, dressed casually (in a tee shirt). When the court enquired about the whereabouts of the applicant, Mr Gous stood up, introduced himself, and informed the court that the applicant was ill. Mr Gous produced a medical certificate which made the following bare assertion:

⁴ SARFU (fn.1) at para [48]

⁵ S v Basson 566 (CC) at para [42]

“This is to certify that TASNEEM GOUS attended this practice on 8 May 2025. To my knowledge, she will be unfit to attend work, from 8 May 2025 to 16 May 2025. Due to: Illness.”

- [10] In *PFE International and Others v Industrial Development Corporation of South Africa Ltd*⁶ the Constitutional Court stated:

“Since the rules are made for courts to facilitate the adjudication of cases, the superior courts enjoy the power to regulate their processes, taking into account the interests of justice. It is this power that makes every superior court the master of its own process. It enables a superior court to lay down a process to be followed in particular cases, even if that process deviates from what its rules prescribe. Consistent with that power, this court may in the interests of justice depart from its own rules.

(own emphasis)

- [11] Given the absence of the applicant, the seriousness of the issue, and the applicant’s lack of representation, the court deemed it in the interest of justice to relax the rules of court and permit Mr Gous to address the court as the applicant’s representative. Mr Gous was advised that the medical certificate constituted hearsay evidence⁷ and further informed that he ought to dress appropriately. From the bar, Mr Gous volunteered to the court that his own unregistered company was the “true employer” of the first respondent. The court informed Mr Gous that his statements from the bar did not constitute evidence. Mr Gous then elected to testify but limit his evidence to the applicant’s medical condition. As a result, the application was postponed to 24 June 2025 to allow the applicant a further opportunity to attend.

⁶ 2013 (1) SA 1 (CC) at para [30]

⁷ *Mgobhozi v Naidoo NO & others* (2006) 27 ILJ 786 (LAC)

- [12] Unfortunately, the applicant did not appreciate that Mr Gous was allowed to address the court as an indulgence. Nor did the applicant appreciate that it is unnecessary for parties to read lengthy documents into the record.
- [13] The applicant submits that Mr Gous was improperly coerced to testify. The record will reflect that there is no merit to this. Instead, the court warned Mr Gous that he may wish to limit his testimony to the applicant's alleged medical condition.
- [14] The applicant submits that the court erred by accepting the submission of the first respondent's representative - that Mr Gous conceded that his company fell within the Genesis Group. This submission relates to the merits of the dispute, and an application for leave to appeal. It does not indicate bias or a reasonable apprehension of bias.
- [15] The applicant submits that the court's finding that her answering affidavit was inadequate indicates bias. She also submits that the court found that contempt was established without first hearing her version. These submissions are without foundation. The applicant was given a full opportunity to make submissions on 24 June and only found to be in contempt thereafter.
- [16] The applicant submits that the court behaved improperly by instructing first respondent's representative to draft the order which was not materially altered thereafter. First, this occurred after the court had heard the parties' submissions. Second, it is not improper.
- [17] The applicant submits that the refusal to grant her a further postponement was unfair. It is trite that a postponement is not merely for the asking and good cause must exist. The court must consider all relevant factors and

exercise its discretion judicially. The court considered *inter alia* that the applicant had earlier been afforded a lengthy postponement, more than adequate to secure legal representation for 24 June. The court also considered the prejudice to the first respondent, who had been trying to enforce the arbitration award in his favour for a substantial period.

[18] The applicant alleges that the cumulative effect of my conduct indicated hostility to her. This is without substance. The court initially postponed the matter at the applicant's request, permitted her a full opportunity to make submissions, and relaxed the rules of court in her favour. None of this suggests bias.

[19] On the true and objective facts, there can be no reasonable apprehension of bias.

[20] It is alarming that litigants feel free to accuse judicial officers of bias solely because they have made findings in favour of the other party. Judicial officers must be permitted to perform their duties impartially without fear, favour, or prejudice, including the fear of being labelled biased.

[21] Despite the frivolous nature of the application, given the applicant's limited legal knowledge, I have decided not to make a cost order against her.

Conclusion

[22] The application for my recusal is dismissed. There is no order as to costs.

RN Daniels
Judge of the Labour Court of South Africa

Appearances

For the Applicant:
Self-Represented

For the First Respondent:
Mr J Horn (pro bono)
Cowen Harper Madikizela Attorneys

LABOUR COURT