



IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

DELETE WHICHEVER IS NOT APPLICABLE

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

DATE: 20 March 2026

SIGNATURE: [REDACTED]

Case No. 2023-134392

In the matter between:

**INTERNATIONAL PENTECOSTAL CHURCH
CHOIR NPC**

APPLICANT

And

COMPANIES TRIBUNAL OF SOUTH AFRICA

FIRST RESPONDENT

**MODISE, TSHEPISO SAMUEL MOGOLO
NTJELE**

SECOND RESPONDENT

Coram: Millar J

Heard on: 25 February 2026

Delivered: 20 March 2026 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 10H00 on 20 March 2026.

Summary: *Review of a decision of the Companies Tribunal – Section 160(2)(b) – “good cause” for late objection to registration of a Nonprofit Company – uncontroverted that delay was deliberate occasioned by reliance on legal advice as part of a broader litigation strategy – deliberate action absent a full and truthful explanation in regard thereto can never be “just cause” – decision of the Tribunal to allow the objection reviewed and set aside with costs.*

ORDER

It is Ordered:

- [1] The decision of the Companies Tribunal under case number CT00447/ADJ2020 dated 21 November 2023 is reviewed and set aside.
- [2] The Second Respondent is declared non-suited by reason of his delay in lodging his objection to the Applicant's company name in terms of s. 160(1)(b) of the Companies Act, No. 71 of 2008.

- [3] The Second Respondent shall pay the Applicant's costs, which costs are to include the costs consequent upon the engagement of two counsel on scale C.

JUDGMENT

MILLAR J

- [1] This is an application in which the order sought by the applicant (IPCC) turns on the determination of what is meant by "*good cause*" as set out in Section 160(2)(b) of the Companies Act.¹
- [2] The background and context as to the singular issue on which this application turns, is uncomplicated and is not in dispute between the parties. In the papers filed by the parties and in argument, there was a great deal of time and effort expended setting out the background relating to a dispute between various persons for the control of an entity called the International Pentecostal Holiness Church (IPHC). This dispute formed the subject matter of litigation before this Court over several years and was quite evidently hotly contested.
- [3] It suffices for purposes of these proceedings, to record that the proceedings for control of the IPHC concluded on 24 July 2023 when the second respondent (Mr. Modise) withdrew the proceedings instituted by him in 2016 in respect thereof and withdrew his plea and counter claim in the proceedings instituted against him in 2019.²

¹ 71 of 2008.

² Besides with the withdrawal of the proceedings instituted by Mr. Modise under case no 11935/16 and his plea and counter claim in the proceedings under case no 14038/19 in which he was cited as a

[4] On 21 May 2019, IPCC was registered with the Companies and Intellectual Properties Office (CIPC). Thereafter on 1 September 2020, Mr. Modise lodged an objection with CIPC. The objection was lodged some 15 months after IPCC's registration.

[5] Section 160(2) of the Companies Act provides that:

"(2) An application in terms of subsection (1) may be made—

- (a) within three months after the date of a notice contemplated in subsection (1), if the applicant received such a notice; or*
- (b) on good cause shown at any time after the date of the reservation or registration of the name that is the subject of the application, in any other case."*

[6] The objection was placed before the first respondent (the Tribunal) for a decision on whether "good cause" had been shown by Mr. Modise for lodging his objection when he had. It was self-evidently lodged outside the 3-month period provided for in Section 160(2)(a).

[7] The Tribunal is empowered to consider objections in terms of Section 160(2)(b) by virtue of the provisions of Section 195(1)³ of the Act. The Tribunal adjudicates applications before it in terms of the provisions of Section 180.⁴ The Section

defendant, he was also ordered to pay costs on the scale in respect of both proceedings on the scale as between attorney and own client inclusive of the costs of three counsel.

³ The section provides that "*The Tribunal, or a member of the Tribunal acting alone in accordance with this Act, may – (a) adjudicate in relation to any application that may be made to it in terms of this Act, and make any order provided for in this Act in respect of such an application.*"

⁴ "(1) The Companies Tribunal –

empowers an expeditious and fair process informed by the application of natural justice.

- [8] The totality of the explanation provided by Mr. Modise for only lodging the objection some 15 months after the fact, was set out in an affidavit deposed to by him on 31 August 2020 as follows:

"The NPC was incorporated on 21 May 2019. More than a year has passed since its incorporation.

Although the Applicants were aware of the existence of the NPC, they were advised not to proceed with an objection to the company name as the First Applicant is involved in litigation against Mr. Bhekumzi Mike Gilbert Sandlana, one of the directors of the NPC, and the First Applicant's attorneys were of the view that any objection to the name of the NPC would distract from the ongoing litigation in the High Court.

I obtained advice from different attorneys who advised that this objection should not be delayed as the papers in the High Court make no reference to the objectionable corporate name and therefore form a different cause of action.

This objection has been submitted as soon as practicable after obtaining the advice and collating the evidence required."

- [9] In considering this explanation, the Tribunal found that good cause had been shown for the lodging of the objection some 15 months after registration. In coming to this finding, the Tribunal found *inter alia* that:

(a) must conduct its adjudication proceedings contemplated in this Act expeditiously and in accordance with the principles of natural justice; and
(b) may conduct those proceedings informally."

"At first the Applicant laboured under the misapprehension that the objection could not have been lodged whilst such High court litigation was ongoing but was finally advised by his current attorneys of record that it should apply to the Tribunal under section 160 of the Act which is what this case before me is all about.

and

It is my view that this misapprehension is hardly unreasonable or unfounded, given the complex and often interwoven nature of the various proceedings involving the Church in the High Court as outlined above.

and

It is my view that the Applicant has passed the test for "good cause" shown in terms of Section 160(2)(b) for the application to be brought at any time, considering the complex High court cases which were underway. The issues regarding the factions of the Church and its crucial identity of the "true church" were further complicating the launching of a name dispute before the tribunal."

[10] Additionally, the Tribunal also found that:

"I believe that the amount of time the Applicant spent in weighing up whether to proceed with the section 160 at the Tribunal was enormous and was not only distracted by the High Court cases but was engulfed and embroiled by the intricacies of these matters."

[11] IPCC, dissatisfied with the decision of the Tribunal seeks its review and setting aside. The application for review is predicated on 3 broad grounds. Mr. Modise for his part, opposed the review contending that the decision of the Tribunal was properly arrived at and unimpeachable. IPCC's grounds were the following:

[11.1] The first, is that the Tribunal failed to conduct itself and adjudicate the matter in accordance with the principles of natural justice as set out in Section 180(1) of the Act.

[11.2] The second, is in terms of the Promotion of Administrative Justice Act (PAJA).⁵

[11.3] Lastly, the Tribunal's decision is subject to review on the principle of legality.

[12] Turning to the first ground upon which the review is brought. This has been brought in terms of Section 160(4) of the Act which provides that within 20 business days after a decision of the Tribunal, an interested party may "*apply to a court to review the notice or decision.*" It is not in issue that the decision of the Tribunal delivered on 21 November 2023 was timeously taken on review.

[13] The Tribunal set out in some detail, the history relating to the litigation between the various parties claiming rights in terms of the IPHC. The Tribunal placed a great deal of store on this history in justification for finding that the decision of Mr. Modise, firstly not to object when he came to know of the registration of IPCC and secondly to delay his objection for the 15 months that he did was nevertheless for "*good cause.*" The Tribunal justified this when it found that:

"...it is imperative to understand the complexities and smoke and mirrors of these cases. In order to establish the time spent by the Applicant on not only understanding his case as leader of the church, but also the intricate, complex and confusing understanding of the legalities of who the true church is in terms of the three factions."

⁵ 3 of 2000.

- [14] It is not in issue that there has and continues to be litigation surrounding control of the IPHC. The issue in this review is whether “good cause” was shown in terms of Section 160(2)(b). The ruling of the Tribunal is that:

“The legal interpretation of Section 160(2)(b) of the Act is that the applicant has shown “good cause” to have disputed the registration of the company name of the Respondent at the time he launched his application in terms of Section 160(2)(b).”

- [15] This review is accordingly confined to consideration of what constitutes “good cause” and whether it was shown here by Mr. Modise.

- [16] In *Minister of Defence and Military Veterans v Motau and Others*,⁶ it was held that:

“Good cause may be defined as a substantial or ‘legally sufficient reason’ for a choice made or action taken. Assessing whether there is good cause for a decision is a factual determination dependent upon the particular circumstances of the case at hand.”

- [17] Courts have eschewed defining the legal concept “good cause”.⁷ In early decisions it was remarked that:

“It would be quite impossible to frame an exhaustive definition of what would constitute sufficient cause to justify the grant of [an] indulgence. Any attempt to do so would merely hamper the exercise of a discretion which the rules have purposely made very extensive, and which it is highly desirable not to abridge.”⁸

⁶ 2014 (5) SA 69 (CC) at para 54.

⁷ *Brangus Ranching (Pty) Ltd v Plaaskem (Pty) Ltd* 2011 (3) SA 477 (KZP) at para 30.

⁸ As above at para 30.

[18] In granting an indulgence:

*"The applicant must furnish a reasonable and satisfactory explanation for its default. Second, it must show that it has a bona fide defence which prima facie carries some prospect of success on the merits."*⁹

[19] A Court may grant an indulgence, but this is subject to the circumstances of each case. Attempting a definitive definition of "good cause" would erode the discretion of the Court. This position is the same with regards to the Tribunal. It was argued for Mr. Modise that since the Tribunal was required to conduct its process expeditiously, that this meant that it was granted latitude in not only reaching its decision but in the decision itself. The nub of this contention was that its substantive findings and decision should be considered through this lens. This contention is misplaced. While the procedure may be tailored to an expeditious hearing, the substantive outcome remains one that must withstand scrutiny.

[20] In *Voltex (Pty) Limited v Waco Trading Enterprise (Pty) Limited*,¹⁰ a case dealing pertinently with an application in terms of Section 160(2) of the Act, the Court held that an applicant is expected to show "good cause" "by giving a reasonable explanation of his default; ... by showing that his application is made bona fide; and ... by showing that he has a bona fide defence to the plaintiff's claim which prima facie has some prospect of success." In this case, the Court went on to set out 7 different factors to be considered in making the determination.¹¹

⁹ *FPM Business Solutions (Pty) Ltd v Masakhane Mining Supply and Construction* 2024 JDR 0707 (NWM) at para 17.

¹⁰ *Voltex (Pty) Limited v Waco Trading Enterprise (Pty) Limited* (CT005Dec2017) [2018] COMPTRI 30 (28 May 2018) at para 38.

¹¹ *Voltex* above n 4 at para 40.

[21] Germane to the present application are the first 2 factors set out in *Voltex*.¹² These are:

“40.1 the degree of lateness or non-compliance with the prescribed time frame;

40.2 the explanation for the lateness or the failure to comply with time frames;

[22] It is clear from the explanation furnished by Mr. Modise to the Tribunal, as set out in paragraph [8] above, that the explanation provided by him to the Tribunal for the 15-month delay in lodging his objection, was not in consequence of any ignorance or failure of knowledge of his right to objection to the registration of IPCC.

[23] In *Voltex*, the Tribunal dismissed the objection, notwithstanding that it appeared that the objector had good prospects of success on the merits. It was held:

*“A proper explanation for the delay entails and explanation by the Applicant for each period of the delay and the disclosure of all the details relevant to the delay. The Applicant is, therefore, required to make full disclosure with regard to all the facts that are relevant to the delay in filing its Application for Relief. In other words, the Applicant is required to be generous with the truth about the real cause of the delay, thereby taking the Tribunal into its total confidence.”*¹³ [My underlining].

[24] The crux of Mr. Modise’s explanation for the 15-month delay, notwithstanding knowledge of the registration of IPCC was legal advice. From the explanation

¹² *Ibid.*

¹³ *Voltex* above n 4 at para 45. See also *Westhuizen V Supa Braai and Firewood Proprietary Limited* (CT01392ADJ2023) [2023] COMPTRI 83 (15 August 2023), para 23. It was also held that the condonation should have been specifically addressed in Form CTR142.

furnished to the Tribunal set out in para [7] above, it is readily apparent that Mr. Modise acted upon legal advice. His *volte face* thereafter was occasioned by the advice of a different legal practitioner.

[25] On the explanation provided for the delay to the Tribunal, there was no indication that the advice that had been relied upon initially was wrong. Rather it is that if it were not for the subsequent advice, Mr. Modise would not have lodged the objection when he did.

[26] Implicit in the explanation is that the advice relied upon initially was incorrect however, this was never put before the Tribunal for a finding. The Tribunal characterized Mr. Modise's reliance on this legal advice as placing him:

*"under the misapprehension that the objection could not be lodged whilst he was embroiled in High court litigation regarding his authority and leadership of the church."*¹⁴

[27] There was nothing placed before the Tribunal to indicate what advice had been sought and what advice had been given by the first set of attorneys. Similarly, there is nothing before the Court to indicate what was considered by the new attorneys in arriving at a different view. It is impermissible in circumstances where a full and proper explanation is required of a party, such as Mr. Modise, in justification for a 15-month delay, to simply refer to "*advice given by his attorney*" without making a full disclosure of that advice.

¹⁴ Para [2] of the Tribunal's ruling.

[28] There was nothing from the initial attorney (whether by way of a written opinion or affidavit placed before the Tribunal) setting out the circumstances under which the advice was sought and the opinion furnished.

[29] This omission is particularly noteworthy in the present case because had something more been placed before the Tribunal; it would have been able to have evaluated the true length of the delay and whether the disclosed approach was the true approach taken.

[30] Additionally, there was nothing placed before the Tribunal to indicate when the mandate of the initial attorney was terminated or when the advice of the new attorney was given. All these facts would have elucidated how the 15-month delay came about and whether there was any “good cause” for it.

[31] It was argued for IPCC, and it is self-evident that:

“Whatever way one looks at it, 15 months is a substantial amount of time. (Even the Tribunal called Mr. Modise’s delay enormous). And, notably, the period in the Voltex case (19 months) was not significantly lengthier than that in casu. The Presiding Member in that matter demanded an explanation for not bringing the objection “immediately” after becoming aware of the registration of the Respondent’s name. A useful comparator is Whitcher v Competition Commission of South Africa [2008] ZACT 108, para53. The Tribunal found a 75-day delay to be unreasonable where the objector had adopted a “wait-and-see” attitude, which can never be interpreted as “good cause” for the delay.” [Footnote omitted].

[32] The explanation provided by Mr. Modise for his delay, rather than explaining it, left open rather obvious questions. These include:

- [32.1] When he first became aware of the registration of IPCC?
- [32.2] When he sought legal advice?
- [32.3] What advice he sought?
- [32.4] When the advice was given?
- [32.5] When the first attorney's mandate was terminated?
- [32.6] When were the new attorney appointed?
- [32.7] When advice was sought on the question from the new attorney?
- [32.8] When that advice was given?

- [33] Furthermore, Mr. Modise asserts that he owns the trademarks that form key components to the relevant company name. In this regard, IPCC submitted:

"That being so, why would Mr. Modise even need to await the outcome of a dispute as to the leadership of the "true church" before objecting about the corporate name of another individual or entity – whether they represent the "true" church or not? These were legally, conceptually and practically separate matters. The need to await the resolution about the disputes about the true church and the legitimate leadership thereof could never form a legitimate reason for the delay."

- [34] This submission, goes to the heart of the explanation and why the questions set out in paragraph [32] above, reasonably required answering as part of the explanation explaining both the period of the delay and the reason for the delay.

On what was before the Tribunal, this pivotal question was unanswered. Without an answer, it could never be said that “good cause” had been established.

- [35] While section 160(2)(b) of the Act does not impose a time limit on when the application can be brought, the open ended and indeterminate period which the section permits is subject to the requirement of “good cause”.
- [36] If it is a statutory obligation that this be shown to validate an objection, then it follows that if Mr. Modise failed to show this, any decision incorrectly finding that he did is susceptible to being set aside on review.
- [37] Besides the finding by the Tribunal that Mr. Modise had shown “good cause,” it also found a lack of prejudice to IPCC. This was premised on the finding that:

“The Modise brothers withdrew as applicants in the High Court leadership case recently. Thus, the Respondent, as a transacting entity in view of the pending leadership case, which is now withdrawn, needs not function as a transacting entity.”

- [38] There is no basis for this finding as evidenced by the submission set out in paragraph [33] above. The one issue has absolutely nothing to do with the other but in any event, while the Tribunal may have assumed that IPCC is nothing more than a shell, this was never the case for Mr. Modise. It was not open to the Tribunal to make this finding, and it erred in doing so.
- [39] The ineluctable inference to be drawn in consequence of Mr. Modise’s failure to properly explain the delay is that his decision was advertant and that having had a change of heart and with no proper explanation for the delay¹⁵, sought to attribute

¹⁵ See *Uitenhage Transitional Local Council v South African Revenue Services* 2004 (1) SA 292 (SCA) at para [6] where it was held: “A full, detailed and accurate account of the causes of the delay and their

it to legal advice. The Tribunal clearly misdirected itself by accepting that the explanation for the delay, established any “good cause”.¹⁶ For the reasons set out above the decision of the Tribunal is to be reviewed and set aside.

[40] In view of the finding on the first ground of review, I need not deal in any detail with the grounds advanced under PAJA or legality. It suffices to state that the Act provides a “*tailor-made alternative remedy that Parliament has created*”, and it is this remedy in the first instance that is to be exercised.¹⁷ However, for the reasons set out above, had this review been decided on the basis of either PAJA or legality, I would in any event also have reviewed and set aside the decision of the Tribunal.

[41] Turning now to the question of remedy. In *Trencon Construction (Pty) Ltd v Industrial Development Corporation of South Africa Ltd and Another*,¹⁸ it was held that:

“If the administrator is found to have been biased or grossly incompetent, it may be unfair to ask a party to resubmit itself to the administrator’s jurisdiction. In those instances, bias or incompetence would weigh heavily in favour of a substitution order. However, with regard to the notion of fairness, a court may still substitute even when there is no instance of bias or incompetence.” [My underlining]

[42] It was argued by IPCC that if the review were to succeed, a substitution order by this Court is appropriate. This is so, because Mr. Modise having failed to establish

effects must be furnished so as to enable the court to understand clearly the reasons and assess their responsibility. It must be obvious that, if the non-compliance is time related, then the date, duration, and extent of any obstacle on which reliance is placed must be spelt out.”

¹⁶ *Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs and Tourism and Others* 2004 (4) SA 490 (CC) at para [48].

¹⁷ *Commissioner for the South African Revenue Service and Another v Richards Bay Coal Terminal (Pty) Ltd* 2025 (6) BCLR 639 (CC) at paras [124] – [133] but especially [124] where the principle of subsidiarity was stated as follows: “A hierarchical ordering of institutions, of norms, of principles, or of remedies, and signifies that the central institution, or higher norm, should be invoked only when the more local institution, or concrete norm, or detailed principle or remedy, does not avail.”

¹⁸ 2015 (5) SA 245 (CC) at para [54].

"good cause" in lodging his objection in terms of Section 160(2)(b), when he did, the outcome, if remitted and properly considered, is a foregone conclusion. I agree, and hence the order that I intend to make.

[43] Costs will follow the result. In the circumstances of the matter, I find that it was a wise and reasonable precaution for IPCC to have engaged more than one counsel. In view of the nature, complexity and importance of the matter to the parties and in particular IPCC, the costs of counsel are to be taxed by the taxing master on scale C.

[44] In the circumstances, I make the order that:

[44.1] The decision of the Companies Tribunal under case number CT00447/ADJ2020 dated 21 November 2023 is reviewed and set aside.

[44.2] The Second Respondent is declared non-suited by reason of his delay in lodging his objection to the Applicant's company name in terms of s. 160(1)(b) of the Companies Act, No. 71 of 2008.

[44.3] The Second Respondent shall pay the Applicant's costs, which costs are to include the costs consequent upon the engagement of two counsel on scale C.


A MILLAR

**JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA**

HEARD ON:

25 FEBRUARY 2026

JUDGMENT DELIVERED ON:

20 MARCH 2026

COUNSEL FOR THE APPLICANT:

ADV. H EPSTEIN SC

ADV. P KHOZA

INSTRUCTED BY:

S TWALA ATTORNEYS

REFERENCE:

MR. S TWALA

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MS. V LAWRENCE

NO APPEARANCE FOR THE FIRST RESPONDENT