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- (1) Reportable: Yes/NO  
(2) Of interest to other Judges: Yes/No  
(3) Revised

Signature

Date

**THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG**

Case No: 2025 – 075712

As Consolidated with CASE NO: J2896/18

In the matter between:

**THE REGISTRAR OF LABOUR RELATIONS**

**Applicant**

and

**SIPHO ERIC SONO N.O.**

**First Respondent**

**(Administrator of the Chemical, Energy Paper, Printing,  
Wood and Allied Workers' Union)**

**CHEMICAL, ENERGY, PAPER, PRINTING, WOOD AND  
ALLIED WORKERS' UNION (Under Administration)**

**Second Respondent**

**GERHARD VOSLOO**

**Third Respondent**

**CEPPWAWU INVESTMENTS (PTY) LTD**

**Fourth Respondent**

**Decided : In Chambers**

**Delivered : This judgment was handed down electronically by uploading on  
Caselines; and circulation to the parties' legal representatives by  
email; and publication on the Labour Court's website and SAFLII.  
The date for hand-down is deemed to be on 16 March 2026**

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**JUDGMENT – LEAVE TO APPEAL**

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**TLHOTLHALEMAJE, J***Introduction:*

- [1] In this application, the First and Second Respondents seek leave to appeal against the whole of the judgment (with the exception of certain conclusions) and order of this Court delivered on 28 January 2026. The application is opposed by both the Applicant (Registrar) and the Third Respondent (which is referred to as “CI”) in the main judgment.
- [2] The background and the facts leading to the consolidated applications and the appointment of Sono as Administrator of the Union, are summarised in detail in the main judgment, and there is no need to burden this judgment with those issues.
- [3] Before the Court leading to the impugned judgment, were two consolidated applications brought under the provisions of section 103A of the LRA. In the first application (‘Removal Application’), the Registrar sought that the administration of the Second Respondent (Union) be extended, and that the First Respondent (Sono) be removed and replaced by the Third Respondent (Vosloo) as the Administrator. In the second application (counter-application) (‘Extension Application’), Sono had essentially agreed with the relief pertaining to the extension of the administration of the Union. He had however sought that his tenure as administrator of the Union be extended.
- [4] The application for leave to appeal is supported by submissions spanning 50 pages. These can be distilled into twelve grounds upon which leave to appeal is sought. Essentially, Sono challenges the judgment of the Court and asserts material factual misdirection, failures to apply evidentiary principles, failure to exercise discretion under section 103A(5) of the LRA, procedural unfairness and misdirection, and misapplication of legal principles.
- [5] Leave to appeal is also sought on the basis that the matter raised before the Court important questions concerning the proper application of Section 103A of the LRA, including the limits of judicial supervision over union administration, the evidentiary standards applicable to the removal of an administrator in motion proceedings, and the distinction between outcome

based dissatisfaction and conduct based culpability. It was submitted that the judgment implicated the manner in which serious adverse findings such as *mala fides* and breach of fiduciary duty may be made against a court appointed administrators without oral evidence. The contention was further that the matter warranted consideration by the Labour Appeal Court given the broader significance of the issues to the administration of trade unions and the exercise of supervisory jurisdiction under the LRA.

*The legal approach and application:*

- [6] The test in applications for leave to appeal is trite flowing from the provisions of section 17 of the Superior Courts Act (SCA Act)<sup>1</sup>. Various authorities<sup>2</sup> have reiterated that an applicant for leave to appeal faces a higher threshold, and that such applications should not be granted unless there truly is a reasonable prospect of success.
- [7] Leave to appeal may only be given where the judge concerned is of the opinion that the appeal *would* have a reasonable prospect of success; or there is some other compelling reason why it should be heard. Thus, an applicant for leave to appeal must convince the court on proper grounds that there is a reasonable prospect or realistic chance of success on appeal<sup>3</sup>. A mere possibility of success, an arguable case or one that is not hopeless, is not enough. There must be a sound, rational basis to conclude that there is a reasonable prospect of success on appeal<sup>4</sup>. Even if the Court may be unpersuaded of any prospects of success, a further enquiry is whether there

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<sup>1</sup> Act No 10 of 2013

Section 17(1)(a) provides that:-

“Leave to appeal may only be given where the judge or judges concerned are of the opinion that-

(i) the appeal would have a reasonable prospect of success; or  
(ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration”

<sup>2</sup>See *Ramakatsa and Others v African National Congress and Another* [2021] JOL 49993 (SCA) at para [10]; *Seatlholo and others v Chemical Energy Paper Printing Wood and Allied Workers Union and others* (2016) 37 ILJ 1485 (LC) at para 3; *Mont Chevaux Trust v Tina Goosen and 18 others* 2014 JDR 2325 (LCC) at para 6; *Mothule Inc Attorneys v The Law Society of the Northern Provinces and Another* [2017] ZASCA 17 para 18; *Woolworths Ltd v Matthews* [1999] 3 BLLR 288 (LC).

<sup>3</sup> *MEC for Health, Eastern Cape v Mkhitha and Another* (1221/2015) [2016] ZASCA 176 (25 November 2016)

<sup>4</sup> At paras 16 - 17

are compelling reasons to grant the leave to appeal under section 17(1)(a)(ii) of the SCA Act<sup>5</sup>.

- [8] Within the context of labour law, the Labour Appeal Court has since held that this Court must take great care in ensuring a balance between expeditious resolution of a dispute and the rights of the party which has lost when considering applications for leave to appeal, and that there must be a reasonable prospect that the factual matrix could receive a different treatment, or there is a legitimate dispute on the law that deserves attention on appeal<sup>6</sup>.

*Evaluation:*

- [9] Against the submissions made by or on behalf of Sono, and as against those of the Registrar and the CI in opposition to the application for leave to appeal, it can only be reiterated that there were three grounds upon which the removal of Sono was sought. It was not in dispute that Sono had since his appointment in March 2022 until the expiry of his term on 30 June 2025, failed to compile and complete all the outstanding audited financial statements of 2018, 2019, 2020, 2021, 2022, 2023 and 2024 as well as 2025 financial years.
- [10] Inasmuch as he might have completed some of these statements, the fact remains that he failed to carry out his mandate in that regard despite various extensions of his tenure,. The failure to complete the financial statements invariably impacted on the convening of the National Congress before and after Sono's tenure as administrator, which failure constituted the second ground upon which his removal was sought.
- [11] Sono had consistently attributed the failures in respect of the completion of the financial statements and convening of National Congress, to the lack of the necessary funding. This however on the common cause facts, turned out to be

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<sup>5</sup> *Caratco (Pty) Ltd v Independent Advisory (Pty) Ltd* 2020 (5) SA 35 (SCA) para 2; See also *S v Smith* 2012 (1) SACR 567 (SCA) at para 7, where it was held that:

'[w]hat the test of reasonable prospects of success postulates is a dispassionate decision, based on the facts and the law, that a court of appeal could reasonably arrive at a conclusion different to that of the trial court. In order to succeed, therefore, the appellant must convince this court on proper grounds that he has prospects of success on appeal and that those prospects are not remote, but have a realistic chance of succeeding. ... There must, in other words, be a sound, rational basis for the conclusion that there are prospects of success on appeal'.

<sup>6</sup> *Martin and East (Pty) Limited v National Union of Mine Workers and others* (2014) 35 ILJ 2399 (LAC).

untrue. This was so in that such funding, *albeit* conditional, had always been available from the CI as the Union's investment arm. The conditions merely required accountability and transparency, which however Sono for reasons that are neither acceptable nor reasonable, had refused to accept and abide by. Sono's unreasonable refusal to accept available funding was at the core of the failures to ultimately place the Union in a position where it could run and manage its own affairs, having failed to do so since 2018. This unreasonable posture was hardly in the interests of advancing Sono's mandate, and further constituted a breach of his fiduciary duties towards the Union and its members as correctly pointed out on behalf of the CI.

- [12] The third ground upon which Sono's removal was sought related to his failures in managing the Union's funds. In this regard, it was not in dispute as already set out in the main judgment that his predecessor, had helped herself to the Union's bank account on the basis that this was a set-off for amounts owed to her during her tenure as Administrator. It was common cause that Sono as guardian of the Union's funds, had refused to recoup those funds let alone pursue any process in recouping those funds. For reasons as set out in the main judgment, Sono effectively condoned self-help, and again failed in his fiduciary duties towards the Union and its members.
- [13] In the end, the three grounds upon which the removal of Sono was sought were indeed valid. The invariable conclusion to be reached in the light of the grounds upon which leave to appeal is sought and the submissions in that regard, is that this application does not meet the high threshold for leave to appeal to be granted. It is apparent that the application is merely Sono's disgruntlement with the outcome, and a re-argument of the issues already ventilated and decided upon in the consolidated applications.
- [14] Having reflected on my judgments and the conclusions reached therein, and further having considered the submissions in opposition to the application, clearly there can be no basis for any conclusion to be reached that Sono enjoys any reasonable prospect that the LAC would come to a different conclusion on the factual matrix, nor is there any legitimate dispute on the law that deserves the attention of the LAC.

[15] On the opposite scale, it is not in the interests of the Union, which Sono purportedly serves, to be placed in a position where an expeditious resolution of its inability to run its own affairs remains elusive as a result of Sono own interests. The continuous financially draining litigation which Sono has relentlessly pursued, does not advance the interests of the Union. It is therefore of substantial importance and in the interests of the Union, that Vosloo, who is prepared to accept the conditional funding as shall be provided by CI, to take over from Sono to ensure the Union's ultimate independence. Effectively there are no other compelling reasons why the LAC should be burdened with having to hear this matter on appeal, specifically when considered in the context of prospects of success on the merits.

[16] Against the above conclusions, the following order is made;

Order:

1. The application for leave to appeal is dismissed.
2. There is no order as to costs

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Edwin Tlhotlhemaje

Judge of the Labour Court of South Africa