



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

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED. ✓

DATE: 28/04/2026

SIGNATURE [REDACTED]

Case No. 2023/128106

In the matter between:

ENERGI LICENCES (PTY) LTD

Applicant

and

THE CONTROLLER OF PETROLEUM PRODUCTS

First Respondent

KHAZAMULA PROPERTIES (PTY) LTD

Second Respondent

AND 3 OTHERS

AND

Case No. 2026/036574

In the matter between:

KHAZAMULA PROPERTIES

Applicant

and

THE CONTROLLER OF PETROLEUM PRODUCTS

First Respondent

THE MINISTER OF MINERAL AND PETROLEUM
RESOURCES

Second Respondent

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

The judgment and order are published and distributed electronically.

PA VAN NIEKERK, J

INTRODUCTION:

- [1] Applicant applies for leave to appeal against the order and the whole of the judgment of this Court dated 30 March 2026 (*"the judgment"*). For sake of convenience the parties will be referred to herein as they were referred to in the judgment. The Applicant in this application for leave to appeal is Energi. Energi was the Applicant in the Energi review under case no. 2023/128106 and was the only party which opposed the relief sought by Khazamula in the Khazamula review under case no. 2026/036574.
- [2] The application for leave to appeal consists of 20 paragraphs, some of which contain various sub-paragraphs, and contain not only grounds upon which leave to appeal is sought but also set out argument in support thereof. This verbose application for leave to appeal is supported by heads of argument filed on behalf of Energi, which consists of 40 pages, containing elaborate quotations from authorities.
- [3] The aforesaid heads of argument essentially relate to the Applicant's argument that the retail licence of Khazamula lapsed by virtue of the provisions of Regulation 24 and could

therefore not have been revived by the Controller. It also serves to support the Applicant's argument that the lapse of the licence by virtue of Regulation 24 does not constitute a "decision" as defined in PAJA and is therefore not reviewable under PAJA. The finding of this Court that PAJA applies is attacked, not only in the application for leave to appeal but also in the heads of argument filed in support thereof. In essence, the Applicant relies on the contention that a legality review is appropriate and further that this court erred in not holding that the impugned licence lapsed by virtue of Regulation 24 and the subsequent extension granted by the controller was therefore a nullity.

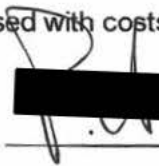
- [4] A perusal of prayer 1 of the notice of motion in the Energi review (referred to in paragraph 28 of the judgment) clearly confirms that Energi seeks to review the initial issue of the site and retail licences by the Controller. A perusal of prayer 2 of the notice of motion in the Energi review clearly confirms that Energi seeks to review the extension of those licences, which were granted by the Controller. Prayer 3 of the notice of motion in the Energi review is consequential on a finding in favour of Energi insofar as relief claimed in paragraphs 1 and 2 of the notice of motion is concerned. In the judgment I have quoted from the contents of the founding affidavit in support of the Energi review which leaves no doubt that the Energi review application is clearly aimed to impugn the decisions of the Controller who initially granted the licences and thereafter extended the licences.
- [5] In paragraph 52 of the judgment the reasons why it was held that the Energi review is a review to be conducted under PAJA, based on the supporting authorities and applicable sections of PAJA, are set out. Put concisely, the impugned decisions of the Controller squarely fall under the definition of "decision" in section 1 of PAJA. Having found that *in casu* that the only pathway to review is PAJA, it was found that Applicant falls foul of section 7(2)(a) of PAJA. In my view there is no reasonable possibility that another Court

will arrive at a different conclusion, because the legal principles referred to in the judgment in support of this finding constitutes established law.

- [6] The application for leave to appeal against the Khazamula review follows a similar fate. On the common cause facts, when cancelling the Khazamula licence, the Controller failed to comply with the prescripts of Regulation 29.2.¹ That failure renders the impugned decision of the Controller to cancel the licence reviewable in terms of PAJA.² This fact was never disputed by applicant. The principles in relation to this finding also constitute established law and in my view there is no reasonable possibility that another Court will arrive at a different conclusion.

IN THE RESULT I MAKE THE FOLLOWING ORDER;

The application for leave to appeal is dismissed with costs to be taxed on Scale C.


P A VAN NIEKERK
JUDGE OF THE GAUTENG DIVISION,
PRETORIA

APPEARANCES

FOR ENERGI LICENCES (PTY) LTD

BG SAVVAS

INSTRUCTED BY:

MURRAY KOTZE & ASSOCIATES

¹ *Vide* judgment, paras [66].

² *Vide* judgment, para [69].

FOR KHAZAMULA PROPERTIES (PTY) LTD:

JA VENTER

INSTRUCTED BY:

WEAVIND & WEAVIND INC.