IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

Not reportable
Case no: 109951/2025

In the matter between:

MARIUS XAVIERUS COETZEE Applicant

and

THE CONGREGATION OF THE DUTCH REFORMED CHURCH KARATARA-SEDGEFIELD First Respondent

THE CHURCH COUNCIL OF THE CONGREGATION OF THE DUTCH REFORMED CHURCH KARATARA-SEDGEFIELD Second Respondent

THE KNYSNA PRESBYTERY OF THE DUTCH REFORMED CHURCH Third Respondent

THE DISCIPLINARY BODY OF THE PRESBYTERY OF KNYSNA Fourth Respondent

THE SYNOD OF THE DUTCH REFORMED CHURCH OF THE WESTERN CAPE Fifth Respondent

THE SYNODICAL BODY FOR APPEAL OF THE SYNOD OF THE DUTCH REFORMED CHURCH OF THE WESTERN CAPE Sixth Respondent

THE GENERAL SYNOD OF THE DUTCH REFORMED CHURCH Seventh Respondent

THE GENERAL SYNODICAL BODY FOR APPEAL OF THE DUTCH REFORMED CHURCH Eighth Respondent

GENERAL SYNOD MODERAMEN OF THE DUTCH REFORMED CHURCH Ninth Respondent

GENERAL TASK TEAM LEGAL OF THE Tenth Respondent

GENERAL SYNOD OF THE DUTCH

REFORMED CHURCH

Neutral citation: *Marius Xavier Coetzee v The Congregation of the Dutch Reformed Church Karatara-Sedgefield and Others* (Case no 109951/2025) [2026] ZAWCHC (2 June 2026)

Coram: LOUW AJ

Heard: 2 June 2026

Delivered: 2 June 2026

EX TEMPORE JUDGMENT

Louw AJ:

[1] This is an opposed review application brought in terms of Rule 53 of the Uniform Rules of Court. The applicant seeks an order reviewing and setting aside decisions of the fourth, sixth and eighth respondents in terms of which he was found guilty of skeurmakery (schism or causing division within the church) and was subsequently removed from office as a minister of the Dutch Reformed Church.

[2] The applicant, Mr Coetzee, further seeks an order remitting the matter to the disciplinary body of the Knysna Presbytery of the Dutch

Reformed Church ("the DBPK"), being the fourth respondent, for reconsideration before a differently constituted disciplinary tribunal.

[3] The applicant is employed as reverend (in Afrikaans "dominee") by the Congregation of the Dutch Reformed Church Karatara-Sedgefield and the congregation and has an employment contract with the Church Council of the Congregation of the Dutch Reformed Church Karatara-Sedgefield (the second respondent). This is thus a triparty relationship. In addition to his contractual obligations, the applicant is subject to the disciplinary jurisdiction of the structures established under the Church Order of the Dutch Reformed Church.

[4] The disciplinary proceedings giving rise to this review originated from approximately thirty-two complaints lodged by members of the congregation. Following a preliminary investigation, the DBPK formulated three disciplinary charges against the applicant. The principal allegation was that he had been guilty of skeurmakery, namely conduct alleged to have caused division within the congregation and the broader church community. Two additional charges were pursued, one relating to an allegedly false (dishonest) statement he made concerning church funds not being paid over. The applicant was ultimately acquitted on one of the additional charges, and nothing further turns on that aspect.

[5] The DBPK found the applicant guilty of the remaining charges. These findings ultimately resulted in his removal from the ministry. The applicant unsuccessfully pursued internal appeals before the Synodical

Appeal Body of the Dutch Reformed Church in the Western Cape ("the SBA") and thereafter before the General Synodical Appeal Body ("the GSBA").

[6] The central question before this Court is whether the proceedings before the DBPK were so procedurally irregular and fundamentally unfair as to warrant judicial intervention. If that question is answered in the affirmative, it necessarily follows that the subsequent appellate proceedings cannot cure the defects that occurred at first instance.

[7] The disciplinary processes of the Dutch Reformed Church are not regulated by legislation. Rather, they derive their authority from the Church Order and the voluntary association constituted by the church and its members. It is common cause that the Promotion of Administrative Justice Act 3 of 2000 does not apply to the present dispute. Accordingly, the matter falls to be determined primarily with reference to the Church Order and the common-law principles of natural justice.

[8] The courts have repeatedly recognised that disciplinary proceedings conducted by voluntary associations are not to be approached with the same degree of technical rigidity applicable to statutory tribunals. Nevertheless, such bodies remain bound to observe the fundamental requirements of procedural fairness. At the heart of those requirements lie the principles of natural justice.

[9] The first is the *audi alteram partem* principle, which requires that a person whose rights or interests may be adversely affected must be afforded adequate notice of the allegations against him and a reasonable opportunity to present his case. The second is the rule against bias, encapsulated in the *maxim nemo judex in causa sua*, which requires that disciplinary proceedings be conducted by impartial decision-makers. Closely associated with these principles is the requirement that decisions be properly reasoned, thereby promoting transparency, accountability and meaningful appellate scrutiny.

[10] The Church Order itself expressly incorporates these principles. Regulation 22 provides that disciplinary proceedings must be conducted in a manner that is fair, just and consistent with Biblical principles. Article 60 specifically provides that official supervision and discipline within the church are pastoral and canonical in nature and must be exercised from a Biblical and spiritual perspective in a fair and equitable manner.

[11] Regulation 22 further expressly recognises the principles of natural justice, including sufficient notice, a fair hearing, the absence of prejudice, and adherence to the *audi alteram partem* rule.

[12] Regulation 22.4.2.1 prescribes the composition of a presbytery disciplinary body. Such a body must consist of no fewer than five members, including three members appointed by the presbytery (or its delegate) and at least two members appointed by the Synodical Legal Commission, Church Order Commission or relevant task team.

Provision is further made for the co-option of additional suitably qualified members. Importantly, Regulation 22.4.3.1 requires the disciplinary body to be approved by the relevant church assembly or its delegate before commencing its functions.

[13] The regulation further recognises that circumstances may arise in which a fair and impartial hearing cannot be achieved because of the composition of the disciplinary body. In such circumstances either the disciplinary body or the accused may request the appointment of a differently constituted tribunal. Conflicts of interest, close familial relationships and circumstances giving rise to reasonable apprehensions of bias are expressly identified as relevant considerations. The counsel for the third to tenth respondents submitted that regulation 22.8.3, read with Article 25, provides for circumstances in which, due to unforeseen developments necessitating the withdrawal or inability of certain members to continue, a disciplinary body may nonetheless proceed with a reduced composition of three members, irrespective of which members withdraw. That reliance, however, is misplaced. The present matter does not concern a situation where members of the disciplinary body were unable to continue due to unforeseen circumstances. Accordingly, the provisions relied upon find no application on the facts before this Court.

[14] The Church Order also makes provision for mediation and reconciliation processes as alternatives to formal disciplinary proceedings, reflecting the pastoral nature of church discipline.

[15] Regulation 22.7.2.2 provides that an accused person must receive at least seven days' notice of a disciplinary hearing. Regulation 22.9.5.4 regulates the presentation of evidence and requires that written evidence be disclosed to all parties with sufficient time to enable proper preparation. The names of witnesses are similarly required to be furnished in advance.

[16] Against this framework, it is unnecessary to recount every factual dispute appearing in the papers. Rather, it is sufficient to focus upon those facts relevant to the procedural fairness of the disciplinary process. It is not the function of this Court to determine whether the applicant was guilty of the charges preferred against him or whether the sanction ultimately imposed was appropriate. The issue is whether the process leading to those findings was lawful, fair and consistent with the Church Order.

[17] The applicant received notice of the disciplinary hearing on Monday, 20 May 2024. The hearing was scheduled to commence on Tuesday, 28 May 2024. Whilst this seemingly provided eight days' notice, the evidence demonstrates that all the supporting documentation would only be made available after midday on the intervening Friday, namely 24 May 2024. In practical terms, the applicant had little more than one and a half business days within which to prepare or 3,5 days if all days are counted to prepare his defence to serious allegations carrying potentially career-ending consequences.

[18] Upon receiving the notice, the applicant promptly requested on 21 May 2024 an extension of at least fourteen days to enable him to prepare properly for the hearing. In his written request, he explained that the proposed hearing date fell during Pentecost, one of the busiest periods in the church calendar, and that his ministerial duties required his presence within the congregation. The request was supported by his employer, by one Nico Basson, the chairperson of the Church Council of the Congregation of the Dutch Reformed Church Karatara-Sedgefield, the second respondent. Significantly, the applicant did not refuse to participate in the disciplinary proceedings; he merely sought a reasonable extension of time within which to prepare adequately. In substance, the request amounted to no more than an additional week beyond the period already afforded to him, a modest indulgence sought to ensure that he could prepare properly and participate meaningfully in the hearing.

[19] The request was summarily refused. The applicant was advised that, if he elected not to attend the hearing, the disciplinary proceedings would proceed *in absentia*. It duly did so.

[20] On 22 May 2024, Reverend (in Afrikaans "dominee") Stanley informed the applicant in writing that the disciplinary board required him to furnish a list of all witnesses he intended to call, together with the details of the person who would assist him during the hearing. This request was made notwithstanding the fact that the applicant had not yet been provided with the names of the complainants, copies of the

original complaints or sufficient information regarding the composition of the disciplinary body.

[21] Against this backdrop, the applicant addressed a further letter to Reverend Stanley on 24 May 2024. In paragraph 2 of that letter, he recorded that, because Reverend Stanley had not furnished him with the names of the complainants or the original complaints, he was left to speculate as to the composition of the disciplinary body and was consequently unable to assess the independence and impartiality of its members. The applicant expressly emphasised that he required this information to ensure that he received a fair and equitable hearing and to enable him properly to prepare his defence, including the identification and calling of relevant witnesses. The correspondence illustrates that, despite being required to disclose his witnesses and prepare for the hearing, the applicant remained without the information he had repeatedly requested and considered necessary for that purpose. On the papers before this Court, there appears to have been no response to this correspondence.

[22] In assessing whether the applicant received sufficient notice, regard must be had not merely to the number of calendar days between notice and hearing, but to the actual opportunity afforded to prepare for proceedings of this magnitude. Relevant considerations include the seriousness of the charges, the complexity of the allegations, the potential consequences, and the prejudice occasioned by inadequate preparation time. It is noteworthy that approximately four years elapsed between the initial complaints and the formal institution of disciplinary

proceedings. The complaints giving rise to the present matter date back to 2 February 2024, yet the formal complaint was only forwarded to the applicant on 20 May 2024. This significant delay creates the impression that the matter was not treated as urgent, considering the considerable time taken to initiate formal proceedings against the applicant. In these circumstances, it is difficult to see how the granting of a further short extension of one week could have resulted in any material prejudice to the DBPK. Against that background, it is difficult to discern what prejudice would have arisen had the hearing been postponed for a short period.

[23] The applicant also objected to the composition of the disciplinary body. His objection centred on the involvement of Reverend Stanley, whom he alleged had been involved in matters or had personal knowledge of events relating to the complaints and with whom he had previously held differing views on contentious religious issues. All communications concerning the disciplinary proceedings were exchanged through Reverend Stanley during the month of May 2024.

[24] Respondents three to ten contend that Reverend Stanley merely acted as a scribe and was not a member of the disciplinary body. However, this submission gives rise to a difficulty. If Reverend Stanley was not a member of the disciplinary body, the body consisted of only four members and therefore failed to satisfy the minimum composition requirements prescribed by Regulation 22. It would thus amount to the DBPK being inquorate. In that event the disciplinary body was not properly constituted and lacked the authority to proceed.

[25] Conversely, if Reverend Stanley formed part of the disciplinary body, serious concerns arise regarding his independence and impartiality. On either version, the composition of the disciplinary tribunal was fundamentally problematic.

[26] Counsel for the respondents three to ten contended that the applicant's conduct amounted to a deliberate defiance of both the disciplinary structures of the Dutch Reformed Church and the Church Order to which he had subjected himself upon becoming a member. This submission, however, cannot be sustained. As correctly argued on behalf of the applicant, the conduct in question does not reflect a refusal to submit to authority, but rather an attempt to raise legitimate and substantive concerns regarding the composition and constitution of the disciplinary body convened to hear his matter. In my view, the applicant's actions are more appropriately characterised as a *bona fide* challenge to procedural fairness rather than an act of wilful non-compliance.

[27] I am persuaded that the applicant's challenge to the constitution of the disciplinary body is well-founded. The DBPK bore an obligation to ensure strict compliance with the Church Order. It failed to do so.

[28] The hearing proceeded in the applicant's absence. Approximately six witnesses testified in person at the hearing, representing only a fraction of the complainants whose complaints formed the basis of the disciplinary charges. No recordings or transcripts of the proceedings

were made available to the applicant. Instead, he received only brief notes and a summary prepared by Reverend Stanley. To this day, Mr Coetzee has not been furnished with copies of the affidavits and statements upon which the proceedings were based.

[29] The consequences of this are self-evident. The applicant was denied the opportunity to confront adverse witnesses, challenge their evidence, or test their credibility through questioning. He was similarly deprived of a proper record upon which to formulate meaningful appeals before the SBA and GSBA. At no stage was he afforded a genuine opportunity to present his case before either the disciplinary tribunal or the appellate structures.

[30] Of some significance is the fact that neither the applicant's employer, the second respondent, with whom the applicant concluded his employment contract, nor the congregation was called to testify during the disciplinary proceedings. Nor does it appear that any written statement was obtained from either entity regarding the allegations levelled against the applicant. This is somewhat peculiar. Given the tripartite nature of the relationship and the employer's direct involvement in the applicant's day-to-day employment, the employer would ordinarily be best placed to assess the applicant's performance, conduct, and the factual basis, if any, for the charges brought against him. The absence of any evidence from the employer raises questions as to whether all relevant and potentially material evidence was placed before the disciplinary body. At the very least, this circumstance may

warrant scrutiny through the lens of natural justice and the applicant's entitlement to an equitable and fair hearing.

[31] Counsel for respondents three to ten placed considerable emphasis on the allegation that the applicant acted in defiance of his suspension, as communicated in the letter dated 20 May 2024, by continuing to perform his duties. On this basis, it was argued that the applicant did not consider himself bound by the disciplinary framework of the Dutch Reformed Church. This contention, however, does not withstand closer scrutiny.

[32] The letter issued by Reverend Stanley afforded the applicant only two days within which to object to his suspension. Counsel for the applicant correctly drew the Court's attention to regulation 22.5.2, which requires that the disciplinary body notify the accused in advance, in writing, of a proposed suspension. Such notice must include a brief description of the alleged doctrinal and/or ethical transgression and must further inform the accused that written representations may be submitted within three days before a decision to suspend is finalised. In the present instance, the applicant was afforded only two days' notice, in clear deviation from the prescribed procedural requirements contained in the Church Order.

[33] This failure to adhere to the applicable procedure lends credence to the submission that the outcome may have been pre-determined. Furthermore, it is significant that the second respondent, being the applicant's employer, supported the applicant's request for an

extension to prepare his case and for him to continue performing his duties during Pentecost. In these circumstances, it can hardly be contended that the applicant acted in open defiance of his suspension; rather, his conduct must be viewed in light of the procedural irregularities and the support he received from his employer.

[34] The failure to pursue mediation is likewise noteworthy. While the Church Order expressly contemplates mediation and reconciliation as alternatives to formal disciplinary proceedings, no meaningful attempt was made to invoke or pursue these mechanisms at the time the complaints were received on 2 February 2024, nor at any stage prior to the commencement of the disciplinary process. This is difficult to reconcile with the spirit and objectives of the Church Order.

[35] Much argument was directed at the delay in launching these proceedings. However, the explanation advanced by the applicant is both plausible and reasonable. He sought first to exhaust the internal remedies available to him within the structures of the church. In the circumstances, I am satisfied that any delay ought to be condoned.

[36] Having considered the papers and the submissions of counsel, I am unable to conclude that the principles of natural justice were observed. The applicant was not afforded sufficient notice. He was denied a reasonable opportunity to prepare and present his case. His request for a modest postponement was reasonable and made in good faith. No material prejudice would have been suffered by the DBPK had the request been granted. The refusal was, in my view, unreasonable.

[37] Furthermore, the disciplinary body was not properly constituted in accordance with the Church Order. The involvement of Reverend Stanley, whether as a member or merely as a scribe, rendered the proceedings irregular. The disciplinary process was therefore fundamentally flawed from its inception.

[38] These defects strike at the heart of procedural fairness. They are not irregularities capable of being cured on appeal. The subsequent appellate proceedings could not remedy the absence of a fair hearing before a properly constituted disciplinary tribunal.

[39] The proceedings before the DBPK were consequently inconsistent with the Church Order and the requirements of natural justice. The review must therefore succeed.

[40] There is a further aspect of this matter that warrants comment. The Church Order expressly recognises mediation, reconciliation and pastoral engagement as mechanisms through which disputes may be resolved before resorting to formal disciplinary proceedings. These provisions are not incidental. They reflect the theological foundations upon which the Church is built and embody values of grace, reconciliation, forgiveness and restoration.

[41] Against that backdrop, it is regrettable that no meaningful attempt was made to mediate this dispute before embarking upon a disciplinary process that ultimately resulted in the applicant's removal from the

ministry. Equally concerning is the refusal to grant what was, on any objective assessment, a modest and reasonable request for a short postponement. The granting of such an extension would have occasioned little, if any, prejudice to the disciplinary body, whilst significantly advancing the interests of fairness.

[42] This Court is mindful that it should be slow to interfere in the internal affairs of a religious body. Courts are neither theologists nor religious tribunals. Matters of doctrine and church governance are, as a general principle, best left to the institutions entrusted with those responsibilities. It is therefore always unfortunate when disputes of this nature find their way into the secular courts.

[43] However, where a church voluntarily adopts procedures designed to ensure fairness and justice, and where those procedures are not observed, the courts cannot simply avert their gaze. Respect for the autonomy of religious institutions does not extend to permitting proceedings that fall short of the standards of fairness which those very institutions have chosen to impose upon themselves.

[44] There is a particular irony in a matter such as the present. One would have expected that an institution founded upon principles of reconciliation, forgiveness and redemption would have exhausted every reasonable avenue to restore relationships before resorting to measures carrying such profound consequences for both the applicant and his congregation. Regrettably, the record reveals little evidence that such efforts were genuinely pursued.

[45] Whilst this Court expresses no view on the merits of the allegations against the applicant, the manner in which the disciplinary process unfolded is difficult to reconcile with both the spirit of the Church Order and the foundational values which it seeks to promote.

[46] In the result, the following order is made:

1. The decision of the fourth respondent (DBPK), dated 30 May 2024 (contained in annexure FA8 to the founding affidavit), which found the applicant guilty of count 1 ("skeurmakery") and of count 2.2 ("dishonesty") as contained in the Disciplinary Notice (dated 20 May 2024), and which imposed a sanction of delegitimation, is hereby reviewed and set aside.

2. The decision of the sixth respondent (SBA), dated 31 August 2024, dismissing the applicant's appeal against the decision of the fourth respondent is reviewed and set aside.

3. The decision of the eighth respondent (GSBA), dated 27 December 2024, dismissing the applicant's further appeal against the decision of the fourth respondent, is reviewed and set aside.

4. The matter is remitted to a new presbytery disciplinary body (ringtugliggaam) of the Dutch Reformed Church to be convened and constituted in accordance with the Church Order and Regulations, for

the *de novo* investigation of the complaints submitted in respect of the applicant and, if warranted, to hold a formal disciplinary hearing.

5. The third to tenth respondents are ordered, jointly and severally, the one paying the other to be absolved, to pay the applicant's costs of this review application, such costs to include the costs of two counsel, where so employed, on the High Court scale C.

6. The third to tenth respondents are ordered, jointly and severally, the one paying the other to be absolved, to pay the applicants' costs of the urgent interdict application (under case number 112215/2025), such costs to include the costs of two counsel, where so employed, on the High Court scale C, which costs are costs in the cause in this review application.

M LOUW

ACTING JUDGE OF THE HIGH COURT