IN THE COMPANIES TRIBUNAL OF THE REPUBLIC OF SOUTH AFRICA

Case No: CT02558ADR/2026

In the matter between:

DR MAHESHWERA NAIDU	**APPLICANT**
and	
MR GEOFF VAN DER BOSCH	**RESPONDENT**

In re: FIRM FAVOURITE INVESTMENTS 20 SHARE BLOCK (PTY) LTD
Registration Number: 2007/000133/07

PRESIDING MEMBER: D Terblanche
DATE: 4 June 2026

DECISION AND REASONS

A. INTRODUCTION

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[1] The Applicant, Dr Maheshwera Naidu, filed an application with this Tribunal on 10 January 2026 under Form CTR 142. He sought various forms of relief, including the removal of the Respondent, Mr Geoff van der Bosch, as a director of the Company in terms of section 71(8) of the Companies Act 71 of 2008 (the "Act").

[2] After the Respondent filed an Answering Affidavit raising *points in limine,* the Applicant narrowed his case. At the hearing on 15 May 2026, he confined the dispute to a single issue: whether the sale of his shares under clause 16.17.4 of the Company's Memorandum of Incorporation ("MOI") was procedurally valid, and in particular whether the notice required by clause 16.17.1 was properly given. The Applicant stated that he was not asking the Tribunal to determine final ownership of shares, but only whether the Respondent had demonstrated compliance with the procedural preconditions of the MOI before relying on the forfeiture process as a defence to standing.

[3] The Respondent raises two points *in limine* that, if upheld, are dispositive of the application.

First point in limine: jurisdiction

The Respondent contends that the Tribunal lacks jurisdiction to determine disputes concerning the interpretation and application of the Company's MOI, in particular clauses 16.17.1 and 16.17.4. In his Answering Affidavit, the Respondent states: "I*, in any event, submit that it is not a matter for the Tribunal to consider, but rather a court under section 163 of the Companies Act."* In oral argument, the Respondent further submitted that section 161 of the Act expressly directs a holder of securities to apply to a court for an order determining any rights under the MOI, and that this excludes the Tribunal's jurisdiction. In support, the Respondent relied on the Tribunal's decisions in ***nReach v Crede (Case No. CT00945ADJ2025, 5 May 2026), Rouvoet v In Excess Trading (Case No. CT01539ADJ2025, 2 December 2025) and Zotos v CIPC (Case No. CT003Mar2017, 15 August 2017).***

Second point in limine: standing

The Respondent submits that the Applicant lacks locus standi under section 71(8)(b) because he is no longer a shareholder of the Company. In support, the Respondent relies on documentary evidence showing that the Applicant's shares were transferred on 7 January 2026, before the application was filed. The Applicant does not dispute the authenticity of those documents; he disputes only the legality of the process that led to his removal.

B. FACTUAL BACKGROUND

[4] The Applicant was formerly a shareholder of the Company. On 7 January 2026, the Company issued share certificate No. 26 to the Respondent, reflecting a transfer of the Applicant's shares for R250,000. On the same date, the Applicant's existing share certificate, No. 16, was cancelled. An updated securities register dated 20 January 2026 no longer records the Applicant as a shareholder.

[5] The Applicant does not dispute the authenticity of the updated securities register or the cancelled share certificate. Instead, he contends that the forced sale of his shares under clause 16.17.4 of the MOI was procedurally invalid because the Respondent did not comply with clause 16.17.1. Specifically, he says the required notice of breach was not given to him personally but was sent to his wife, Dr Anushka Reddy, on 7 October 2025.

[6] At the hearing, the Applicant explained that the narrowing of the relief was a direct response to the Respondent's standing objection. He argued that the Tribunal has jurisdiction under section 15.6 of the Act, read with regulation 142, because a company's MOI forms part of its binding statutory governance framework and is enforceable in accordance with the Act (Transcript p.3). He also submitted that he was not seeking a determination of ownership, which he acknowledged belongs to the High Court, but only a finding on procedural compliance to overcome the standing objection (Transcript p.2).

C. THE TRIBUNAL NOW CONSIDERS THE SINGLE ISSUE THE PARTIES AGREED IT SHOULD DECIDE.

[7] The parties agree that the dispute has narrowed to a single question: whether the sale of the Applicant's shares under clause 16.17.4 of the MOI was procedurally valid, and in particular whether the notice required by clause 16.17.1 was properly given. The Applicant submits that if the Tribunal answers this question in his favour, the Respondent's standing objection would fall away.

[8] The Respondent opposes this on two grounds. First, he argues that the Tribunal lacks jurisdiction to interpret and enforce the MOI. Second, he submits that, in any event, the Applicant is not a shareholder on the face of the securities register and that any challenge to the validity of the share sale must be brought in the High Court. The Respondent further argued that he has been prejudiced because the Applicant changed his relief in the replying affidavit without following the proper procedure for amending pleadings, and that the company (which is the entity obligated to comply with the MOI) has not been joined as a party.

D. APPLICABLE LEGAL PRINCIPLES

The Tribunal's jurisdiction is strictly statutory

[9] The Tribunal is a creature of statute and has no inherent jurisdiction. Its powers are limited to those expressly conferred by the Act. Section 195(1)(a) provides that the Tribunal may "*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 ***Rouvoet v In Excess Trading*** the Tribunal held that it must raise jurisdiction mero motu and that no factual detail can cure the absence of statutory authority. In ***Zotos v CIPC*** the Tribunal confirmed that it may only adjudicate matters that the Act expressly allows.

The Tribunal cannot adjudicate contractual or common-law disputes

[10] The Tribunal's jurisdiction is confined to disputes that the Act expressly assigns to it. In ***nReach v Crede*** the Tribunal held (at paras 23-24) that a dispute concerning the validity of a share transfer under a pledge agreement is contractual and common-law in nature and falls outside the Tribunal's jurisdiction. The Tribunal stated: *"Stripped to its essentials, what the Applicants ask the Tribunal to do is to traverse what is, in substance, a contractual and common-law dispute ... Section 156(b), section 158(b) and section 195(1) do not, individually or collectively, confer jurisdiction on the Tribunal to undertake that exercise. The proper forum is the High Court."*

Standing under section 71(8) requires the applicant to be a shareholder

[11] Section 71(8)(b) requires that an applicant be a "shareholder" as defined in section 1: the holder of a share entered in the securities register. In ***Phakwe Mining Services (Pty) Ltd v Member of the Companies Tribunal (Gauteng Division, 2018)*** the High Court confirmed that the Tribunal's inquiry is limited to whether the applicant is entered in the register; it cannot decide whether the applicant should be entered. The ***nReach*** decision endorsed this principle, stating that "*whatever the 'true' position may be ... the Tribunal cannot make a ruling in that respect*".

E. ASSESSMENT AND ANALYSIS

First point in limine – the Tribunal cannot adjudicate MOI disputes

[12] The Applicant asks the Tribunal to determine whether the notice required by clause 16.17.1 was properly given. To decide that issue, the Tribunal would have to interpret clause 16.17 of the MOI, determine whether clause 16.17.1 creates a mandatory precondition to clause 16.17.4, decide whether notice sent to the Applicant's spouse constituted proper notice, and determine the legal consequences of any non-compliance. Each of these tasks involves the interpretation of a contract and the application of contractual and agency-law principles.

[13] As held in ***nReach v Crede,*** the Tribunal has no jurisdiction to determine such disputes. The proper forum is the High Court, where the full range of remedies – including

declaratory relief and rectification of the securities register – is available. The Applicant's reliance on section 15.6 does not alter this conclusion. Section 15.6 merely states that the MOI is binding; it does not confer adjudicative power on the Tribunal. Moreover, section 161 of the Act expressly directs a securities holder to apply to a court for an order determining any rights under the MOI. The legislature could not have been clearer.

[14] The Respondent also argued that the company is not a party to these proceedings, yet the obligations under clause 16.17 rest on the company. The Tribunal cannot grant relief against the Respondent in his personal capacity for the company's alleged non-compliance with the MOI. This is an additional reason why the Tribunal lacks jurisdiction to grant the relief now sought.

Accordingly, the first point *in limine* is upheld.

Second point in limine – the Applicant lacks standing

[15] The Respondent has produced undisputed documentary evidence that the Applicant's shares were transferred on 7 January 2026, and that an updated securities register dated 20 January 2026 no longer records the Applicant as a shareholder. The Applicant does not dispute the authenticity of these documents; he disputes only the validity of the process that led to the transfer.

[16] The Tribunal's role in determining standing is limited to examining the securities register. The Applicant is not entered in the register. Therefore he does not meet the definition of "shareholder" in section 1 of the Act and lacks locus standi to bring an application under section 71(8)(b). The Applicant's argument that a finding of procedural invalidity would neutralise the standing objection fails because the Tribunal cannot make that finding – it lacks jurisdiction to interpret the MOI, and in any event such a finding would concern whether the Applicant should be entered, which is a matter for the High Court under ***Phakwe*** Mining.

[17] The Respondent also argued that he has been prejudiced because the Applicant changed his relief in the replying affidavit without following the proper amendment procedure. The Presiding Member noted at the hearing that the Applicant had indeed shifted from seeking removal of the director to seeking a standalone determination of MOI compliance. While this change may have caused prejudice, the dispositive issue remains the lack of jurisdiction and standing.

The second point *in limine* is therefore upheld.

F. FINDINGS AND ORDER

[18] The Tribunal makes the following findings:

1. The Tribunal lacks jurisdiction to adjudicate the Applicant's claim that the sale of his shares under clause 16.17.4 of the MOI was procedurally invalid. Such disputes are contractual and common-law in nature and fall within the jurisdiction of the High Court (see nReach v Crede; section 161 of the Act).

2. In determining the Applicant's standing as a shareholder to bring an application under section 71(8) of the Act, , the Tribunal's role is limited to examining the securities register. The Applicant is not entered in the register and therefore lacks *locus standi* to bring an application under section 71(8)(b) (see ***Phakwe Mining***).

G. ORDER

[19] The Tribunal makes the following order:

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

D Terblanche

PRESIDING MEMBER

COMPANIES TRIBUNAL OF SOUTH AFRICA