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: **17 June 2026**
SIGNATURE: [redacted]

Case No. 2026-096408

In the matter between:

SEMAKALENG DAPHNEY MANAMELA	**APPLICANT**
And	
THE NATIONAL COMMISSIONER, SOUTH AFRICAN POLICE SERVICES	**FIRST RESPONDENT**
THE MINISTER OF POLICE	**SECOND RESPONDENT**
MAJOR GENERAL ZEPH MKHWANAZI	**THIRD RESPONDENT**
ADVOCATE LEON HALGRYN SC	**FOURTH RESPONDENT**
ADVOCATE K MILLARD	**FIFTH RESPONDENT**

ADVOCATE H CASSIM **SIXTH RESPONDENT**

Coram: Millar J

Heard on: 11 June 2026

Delivered: 17 June 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 09H00 on 17 June 2026.

JUDGMENT – LEAVE TO APPEAL

MILLAR J

[1] On 18 May 2026 I granted an order dismissing the application brought by the applicant, Ms. Manamela to hold the first respondent, the National Commissioner of Police in contempt of a court order granting an interdict against the holding of a statutory board of enquiry pending the finalization of certain proceedings *inter alia* before the Supreme Court of Appeal. Ms. Manamela has applied for leave to appeal against that order. It is opposed.

[2] The test for the granting of leave to appeal pertinent to the present matter is set out in section 17(1) of the Superior Courts Act[1] as follows:

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[1] 10 of 2013. See also *Dexgroup (Pty) Ltd v Trustco Group International (Pty) Ltd and Others* 2013 (6) SA 520 (SCA).

"(1) Leave to appeal may only be given where the judge or judges concerned are of the opinion that-

(a) (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"

[3] The application for leave to appeal was brought on 5 grounds. The first was that there had been a misinterpretation of the court order of 11 October 2024. The second was that the court had mis-directed itself in relying upon the hierarchy of courts in interpreting the order. The third ground was that the court erred in dismissing the contempt application, the fourth that the court had failed to properly address the applicant's claim for interdictory relief. Lastly, that the court had erred in awarding punitive costs against Ms Manamela.

[4] The first two grounds can conveniently be dealt with as one. Neither in my view has any merit. The interpretation of the order interdicting the proceedings was specifically dealt with in paragraphs [16] to [18] of the judgment.

[5] The Constitutional Court is the apex court in the Republic, and it is inconceivable that a judgment of that court, dismissing an application for leave to appeal against a judgment of the Supreme Court of Appeal (as occurred here), could nevertheless be thwarted and rendered nugatory by a judgment handed down in the High Court.

[6] It is quite clear that the judgment handed down by the High Court interdicting the board of enquiry was done so pending the determination of the proceedings in the Supreme Court of Appeal. In this regard, it was interlocutory in nature and expired when the application for leave to appeal in the Constitutional Court was dismissed.

[7] Regarding the third ground, an essential element in any application for contempt are the elements of willfulness and *mala fides.* The mere fact that there was a difference of opinion regarding the interpretation of the order of 11 October 2024 obviates these elements.

[8] This was the conclusion that I reached in paragraph [14] of the judgment. I am of the view that this approach was sound. Although Ms Manamela argued that the interpretation of the order and the requirements for civil contempt had been conflated and ought to have been dealt with separately, it was stated in the application for leave to appeal, in respect of what was contended to be the misinterpretation of the order that *"at minimum, the court ought to have found that the order was ambiguous and required judicial clarification.*" This argument to my mind, is dispositive of this ground of appeal.

[9] Regarding the fourth ground of interdictory relief, I dealt with this in paragraphs [21] to [23] of the judgment. Ms Manamela failed to establish a right to paid legal representation and additionally, although having previously some 3 years prior, indicated her intention to apply for this, had been dilatory and had done nothing until the urgent application was brought on 14 May 2026.

[10] Lastly, in respect of costs, this is eminently a matter within the discretion of the court. The reasons for the granting of a punitive costs order was set out in paragraph [25] and its sub-paragraphs and I am not persuaded that another court would come to a different conclusion.

[11] During the application, the court was informed that after the dismissal of the application, the board of enquiry had been constituted and was underway. Ms Manamela was represented at the board of enquiry and participating in its process. Counsel who appeared before me, indicated that they both appear at the board and that I could take cognizance of the fact that the board had commenced and Ms Manamela was participating. It was argued for the

respondents that the present application for leave to appeal is moot. It was argued that Ms Manamela was not merely attending the board of enquiry but was actively participating.

[12] In this regard, I was referred to *Zuma v Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State,*[2] in which this approach was specifically rejected. It was argued for the respondents that on this ground alone the application for leave to appeal ought to be dismissed.

[13] It was argued for Ms Manamela that the proper enquiry was not whether events have progressed since the judgment but whether the order sought on appeal would have any practical effect or result. This argument advanced on behalf of Ms Manamela understandably represents the "best of both worlds". It enables her to participate fully in the board of enquiry with the prospect of findings that may well suit her while at the same time retaining a right to appeal against the very proceedings should the findings not suit her. This is the very situation that the *Zuma* case has deprecated.

[14] I have considered the grounds upon which the application has been brought and the reasons given by me in the judgment for the order granted. I have also considered the submissions made by counsel for the granting of leave to appeal on the part of the applicant and those opposing the granting of leave to appeal on behalf of the respondents both in argument as well as in their respective written heads of argument.

[15] I am not persuaded that another court would come to a different conclusion or that there is some other compelling reason why leave to appeal should be granted. Additionally, I am persuaded that by Ms Manamela's participation in the board of enquiry, she has perempted her right to appeal in any event.

[16] The costs will follow the result.

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[2] 2021 JDR 2069 (CC).

[17] In the circumstances, I make the following order:

[17.1] The application for leave to appeal is dismissed.

[17.2] The applicant is ordered to pay the costs of the first, third and fourth respondents on the scale as between party and party, such costs are to include the costs consequent upon the engagement of two counsel, where so employed, on scale C.

[redacted]

A MILLAR

JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

HEARD ON:	11 JUNE 2026
JUDGMENT DELIVERED ON:	17 JUNE 2026
COUNSEL FOR THE APPLICANT:	ADV. T GOVENDER
INSTRUCTED BY:	THAPELO KHARAMETSANE ATT.
REFERENCE:	MR. T KHARAMETSANE
COUNSEL FOR THE FIRST, THIRD AND FOURTH RESPONDENTS:	ADV. M MOJAPELO SC ADV. L MUKOME
INSTRUCTED BY:	STATE ATTORNEY, PRETORIA
REFERENCE:	MS. C CORY