



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

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

SIGNATURE

DATE: 22 June 2026

Case No. 2026-113853

In the matter between:

MOTSUMI MATHE

Applicant

and

SEDIBENG DISTRICT MUNICIPALITY

First Respondent

**EXECUTIVE MAYOR,
SEDIBENG DISTRICT MUNICIPALITY**

Second Respondent

**MEC: GAUTENG DEPARTMENT OF COOPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS**

Third Respondent

**ACTING MUNICIPAL MANAGER,
SEDIBENG DISTRICT MUNICIPALITY**

Fourth Respondent

JUDGMENT

WILSON J:

- 1 The first, second and fourth respondents (collectively “the municipality”) seek leave to appeal against my decision of 11 June 2026, in which I set aside the Sedibeng municipal council’s resolution placing the applicant, Mr. Mathe, on

precautionary suspension. I held that the resolution was taken in breach of section 1 (c) of the Constitution, 1996, because the municipality had failed to seek representations on whether any of the jurisdictional requirements set out in Regulation 6 (1) of the Local Government: Disciplinary Regulations for Senior Managers, 2011 had been established. I found that Regulation 6 (2) confers the right to make such representations upon Mr. Mathe.

2 The mainstay of the appeal the municipality proposes is that I was wrong to read Regulation 6 (2) in this way. The municipality contends that it need not have set out the basis on which it believed the requirements of Regulation 6 (1) had been met in order to allow Mr. Mathe to make meaningful representations in relation to his proposed suspension.

3 This argument is plainly untenable. Regulation 6 (2) affords Mr. Mathe the right to make “a written representation to the municipal council [on] why he . . . should not be suspended”. Mr. Mathe may only be suspended if one of Regulation 6 (1) requirements is met. Mr. Mathe is entitled to know, in order to make his representations, which of those requirements has, in the municipality’s view, been met, as well as the factual basis on which it is asserted they have been met. The municipality never set that out – either to Mr. Mathe or to me. Without that information, Mr. Mathe’s Regulation 6 (2) rights are hollow.

4 This is also how the municipal council itself understood the purpose of Mr. Mathe’s representations. In its resolution to suspend him, the council criticised Mr. Mathe on the basis that he “fail[ed] to respond to the allegations brought against him as to why he should not be placed on precautionary suspension”.

The municipality cannot now be heard to argue that the absence its own council identified in Mr. Mathe's representations – the very absence that formed a material part of the basis on which it suspended him – never really mattered after all.

5 It was also contended that I failed to align my judgment with what the municipality calls “the broader body of South African labour and administrative law”. I cannot see what could be meant by that, other than that I concluded that the decision in *Long v South African Breweries (Pty) Ltd* (2019) 40 ILJ 965 (CC) is of no application to this case. My reasons for saying so were set out in my judgment *a quo*. There is, in my view, no prospect of a court of appeal deciding otherwise.

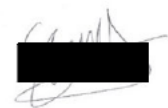
6 It was finally suggested that my judgment “paralyses municipal councils from swiftly moving to protect municipal assets, public funds, and administrative integrity following allegations of senior executive misconduct”. My judgment does no such thing. Nobody has been “paralysed”. All that is required, before giving notice of a possible precautionary suspension to one of its senior managers, is that a municipality applies its mind to the bases on which the Regulation 6 (1) requirements have met, and that it communicates its views to the senior manager concerned.

7 In this case, all the municipality need do is reformulate its notice of suspension to advert to the Regulation 6 (1) grounds which it believes justify Mr. Mathe's suspension. If it can do that, the municipality may proceed against Mr. Mathe

much more quickly than any appeal would allow. If it cannot, it was never entitled to suspend Mr. Mathe in the first place.

8 It seems to me that the municipality's grounds of appeal are so transparently poor that they have been made out purely for the purposes of delay. For that reason, and because I ordered punitive costs *a quo*, the application for leave to appeal must be refused with costs on the attorney and client scale.

9 Accordingly, the application for leave to appeal is dismissed with costs on the scale as between attorney and client.



S D J WILSON
Judge of the High Court

This judgment was prepared by Judge Wilson. It is handed down electronically by circulation to the parties or their legal representatives by email, by uploading it to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 22 June 2026.

HEARD ON: 22 June 2026

DECIDED ON: 22 June 2026

For the Applicant: WP Scholtz
Instructed by Scholtz Attorneys Inc

For the First, Second
and Fourth Respondents: KM Choou
Instructed by KLM Maja Attorneys Inc