




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

**CASE NO: 2022-036866**

(1)	REPORTABLE: <u>NO</u>
(2)	OF INTEREST TO OTHER JUDGES: <u>NO</u>
	<b>S van Nieuwenhuizen AJ</b>
	
	SIGNATURE
<b>15-06-2026</b>	
DATE	

*This judgement was prepared and authored by the judge whose name is reflected and is handed down electronically by circulation to the parties/their legal representatives by email and by uploading it to the electronic file of this matter on Caselines. The date of the judgment is deemed to be 15 June 2026.*

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In the matter between:

**MUDAU AND NETSHIPISE ATTORNEYS**

**APPLICANT**

and

**INFORMATION OFFICER FOR THE COMMISSION FOR CONCILIATION**

**MEDIATION AND ARBITRATION**

**RESPONDENT**

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**JUDGMENT**

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**S. VAN NIEUWENHUIZEN AJ****Introduction**

[1] In this matter the applicant seeks the following relief:

*“1. That the decision taken by the Respondent to refuse the provision of the records requested by the Applicant on 29 June 2022 is reviewed and set aside;*

*2. Directing the Respondent to provide the requested records to the Applicant, within 15 days of the granting of this order;*

*3. Directing the Respondent to pay the costs of the application on attorney and own client scale;*

*4. Further and/ or alternate relief.”*

[2] The notice of motion pertaining to this relief was issued on 21 October 2022 and served on the respondent (the CCMA) on 7 November 2022.

[3] In preparation for the above the applicant (the firm) caused a request to be served on the CCMA on 29 June 2022 under the Promotion of Access to Information Act 2 of 2000. (PAIA)

*“The request called on the Respondent to provide the Applicant with access to the list of all legal instructions given to the panel attorneys for the period between 9 March 2021 – 27 June 2022, names of the panel attorney recipients of instructions referred to and list, list of all instructions issued to the panel of legal services since their appointment in 2021 and a list of panel attorneys under CCMA panel of attorneys reflecting instructions received by each legal service provider since 2021”*

- [4] Since no response was forthcoming within 30 days the request for access to records were deemed to be refused in terms of s27 of PAIA. The thirty days period lapsed on 10 August 2022.
- [5] On or about 19 August 2022 the firm caused an appeal to be lodged against the deemed refusal in accordance with s75 of PAIA. The CCMA failed to notify the firm of the decision of the internal appeal within the prescribed period. It is alleged that the CCMA's failure to make a decision of the internal appeal within the stipulated thirty days period is regarded as "having dismissed the internal appeal".
- [6] The purpose of requesting the records was to establish whether there has been any instruction allocated to other attorneys in the period between 9 March 2021 -27 June 2022. By then it was well over a year since the firm's appointment to the CCMA panel of attorneys,' yet no instruction had been allocated to it. A further purpose was to determine any available remedy to the firm.

### **Nature of the CCMA**

- [7] It is of some importance to take note of the fact that s112 of The Labour Relations Act 66 of 1995 brought about the establishment of the CCMA.

In terms of s 113 of this Act:

*"The Commission is independent of the State, any political party, trade union, employer, employers' organisation, federation of trade unions or federation of employers' organisations."*

[8] Its functions are defined in terms of s115 as follows:

“(1) The Commission must-

(a) attempt to resolve, through conciliation, any dispute referred to it in terms of this Act;

(b) if a dispute that has been referred to it remains unresolved after conciliation, arbitrate the dispute if-

(i) this Act requires arbitration and any party to the dispute has requested that the dispute be resolved through arbitration; or

(ii) all the parties to a dispute in respect of which the Labour Court has jurisdiction consent to arbitration under the auspices of the Commission;

(c) assist in the establishment of workplace forums in the manner contemplated in Chapter V;

(d) compile and publish information and statistics about its activities; and

(e) at least every second year, review any rules made in terms of this section.

[Para. (e) added by s. 18 (a) of Act 6 of 2014 (wef 1 January 2015).]

(2) The Commission may-

(a) if asked, advise a party to a dispute about the procedure to follow in terms of this Act;22

(b) if asked, assist a party to a dispute to obtain legal advice, assistance or representation;23

(bA) if requested, provide assistance of an administrative nature to an employee earning less than the threshold prescribed by the Minister under section 6 (3) of the Basic Conditions of Employment Act to serve any notice or document in respect of conciliation or arbitration proceedings in terms of this Act, provided that the employee remains responsible in law for any such service;

[Para. (bA) inserted by s. 18 (b) of Act 6 of 2014 (wef 1 January 2015).]

(c) offer to resolve a dispute that has not been referred to the Commission through conciliation;24

(cA) make rules-

(i) to regulate, subject to Schedule 3, the proceedings at its meetings and at the meetings of any committee of the Commission;

(ii) .....

[Sub-para. (ii) deleted by s. 18 (c) of Act 6 of 2014 (wef 1 January 2015).]

(iii) regulating the practice and procedure-

(aa) for any process to resolve a dispute through conciliation;

(bb) at arbitration proceedings; and

(iv) determining the amount of any fee that the Commission may charge under section 147, and regulating the payment of such a fee in detail;

[Para. (cA) inserted by s. 6 (a) of Act 127 of 1998 (wef 1 February 1999).]

(d) and (e) .....

[Paras. (d) and (e) deleted by s. 31 (a) of Act 42 of 1996 (wef 11 November 1996).]

(f) conduct, oversee or scrutinise any election or ballot of a registered trade union or registered employers' organisation if asked to do so by that trade union or employers' organisation;

(g) publish guidelines in relation to any matter dealt with in this Act; and

(h) conduct and publish research into matters relevant to its functions.

(i) .....

[Para. (i) deleted by s. 31 (a) of Act 42 of 1996 (wef 11 November 1996).]

(2A) The Commission may make rules regulating-

(a) the practice and procedure in connection with the resolution of a dispute through conciliation or arbitration;

(b) the process by which conciliation is initiated, and the form, content and use of that process;

(c) the process by which arbitration or arbitration proceedings are initiated, and the form, content and use of that process;

(d) the joinder of any person having an interest in the dispute in any conciliation and arbitration proceedings;

(e) the intervention of any person as an applicant or respondent in conciliation or arbitration proceedings;

(f) the amendment of any citation and the substitution of any party for another in conciliation or arbitration proceedings;

(g) the hours during which offices of the Commission will be open to receive any process;

(h) any period that is not to be counted for the purpose of calculating time or periods for delivering any process or notice relating to any proceedings;

(i) the forms to be used by parties and the Commission;

(j) the basis on which a commissioner may make any order as to costs in any arbitration;

(k) the right of any party to be represented by any person or category of persons in any conciliation or arbitration proceedings, including the regulation or limitation of the right to be represented in those proceedings;

[Para. (k) substituted by s. 18 (d) of Act 6 of 2014 (wef 1 January 2015).]

(kA) the consequences for any party to conciliation or arbitration proceedings for not attending those proceedings;

[Para. (kA) inserted by s. 18 (e) of Act 6 of 2014 (wef 1 January 2015).]

(l) the circumstances in which the Commission may charge a fee in relation to any conciliation or arbitration proceedings or for any services the Commission provides; and

(m) all other matters incidental to performing the functions of the Commission.

[Sub-s. (2A) inserted by s. 22 (a) of Act 12 of 2002 (wef 1 August 2002).]

(3) The Commission may provide employees, employers, registered trade unions, registered employers' organisations, federations of trade unions, federations of employers' organisations or councils with advice or training relating to the primary

objects of this Act or any other employment law, including but not limited to-

- (a) establishing collective bargaining structures;
- (b) designing, establishing and electing workplace forums and creating deadlock-breaking mechanisms;
- (c) the functioning of workplace forums;
- (d) preventing and resolving disputes and employees' grievances;
- (e) disciplinary procedures;
- (f) procedures in relation to dismissals;
- (g) the process of restructuring the workplace;
- (h) affirmative action and equal opportunity programmes; and
- (i) the prevention of sexual harassment in the workplace.

[Para. (i) substituted by s. 31 (b) of Act 42 of 1996 (wef 11 November 1996).]

[Sub-s. (3) amended by s. 18 (f) of Act 6 of 2014 (wef 1 January 2015).]

(4) The Commission must perform any other duties imposed, and may exercise any other powers conferred, on it by or in terms of this Act and is competent to perform any other function entrusted to it by any other law.

(5) The governing body's rules of procedure, the terms of appointment of its members and other administrative matters are dealt with in Schedule 3.

(6) (a) A rule made under subsection (2) (cA) or (2A) must be published in the Government Gazette. The Commission will be responsible to ensure that the publication occurs.

(b) A rule so made will not have any legal force or effect unless it has been so published.

(c) A rule so made takes effect from the date of publication unless a later date is stipulated.

[Sub-s. (6) added by s. 6 (b) of Act 127 of 1998 (wef 1 February 1999) and substituted by s. 22 (b) of Act 12 of 2002 (wef 1 August 2002).]

22 See section 148

23 See section 149

24 See section 150"

- [9] The above provides some backdrop to its functions and assists in contextualising the defence raised by the CCMA.

## **The Merits**

- [10] The firm's approach is that it has a constitutional right of access to the information sought. This is based on the CCMA being a public body and the aims and objectives of PAIA. A reference to the Preamble of PAIA seems appropriate:

RECOGNISING THAT-

- \* *the system of government in South Africa before 27 April 1994, amongst others, resulted in a secretive and unresponsive culture in public and private bodies which often led to an abuse of power and human rights violations;*
- \* *section 8 of the Constitution provides for the horizontal application of the rights in the Bill of Rights to juristic persons to the extent required by the nature of the rights and the nature of those juristic persons;*
- \* *section 32 (1) (a) of the Constitution provides that everyone has the right of access to any information held by the State;*
- \* *section 32 (1) (b) of the Constitution provides for the horizontal application of the right of access to information held by another person to everyone when that information is required for the exercise or protection of any rights;*
- \* *and national legislation must be enacted to give effect to this right in section 32 of the Constitution;*

AND BEARING IN MIND THAT-

- \* *the State must respect, protect, promote and fulfil, at least, all the rights in the Bill of Rights which is the cornerstone of democracy in South Africa;*
- \* *the right of access to any information held by a public or private body may be limited to the extent that the limitations are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom as contemplated in section 36 of the Constitution;*
- \* *reasonable legislative measures may, in terms of section 32 (2) of the Constitution, be provided to alleviate the administrative and financial burden on the State in giving effect to its obligation to promote and fulfil the right of access to information;*

AND IN ORDER TO-

- \* *foster a culture of transparency and accountability in public and private bodies by giving effect to the right of access to information;*
  - \* *actively promote a society in which the people of South Africa have effective access to information to enable them to more fully exercise and protect all of their rights,*
- BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:-"*

[11] According to section 1 of the Act a "public body" means"

- " (a) *any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or*
- (b) *any other functionary or institution when-*

- (i) exercising a power or performing a duty in terms of the Constitution or a provincial constitution; or
- (ii) exercising a public power or performing a public function in terms of any legislation”

[12] In contrast thereto a “private body” means”

- “(a) a natural person who carries or has carried on any trade, business or profession, but only in such capacity;
  - (b) a partnership which carries or has carried on any trade, business or profession;
  - (c) any former or existing juristic person; or
  - (d) a political party,
- but excludes a public body;”

[13] Section 2 enjoins me as follows:

“(1) When interpreting a provision of this Act, every court must prefer any reasonable interpretation of the provision that is consistent with the objects of this Act over any alternative interpretation that is inconsistent with those objects.

(2) Section 12 must not be construed as excluding-

- (a) the Cabinet and its committees; or
- (b) an individual member of Parliament or of a provincial legislature, from the operation of the definition of 'requester' in relation to a private body in section 1, section 50 and all other provisions of this Act related thereto.

[Sub-s. (2) amended by s. 22 of Act 42 of 2001 (wef 7 December 2001).]”

[14] Section 9 is also instructive:

“The objects of this Act are-

- (a) to give effect to the constitutional right of access to-
  - (i) any information held by the State; and
  - (ii) any information that is held by another person and that is required for the exercise or protection of any rights;
- (b) to give effect to that right-
  - (i) subject to justifiable limitations, including, but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance; and
  - (ii) in a manner which balances that right with any other rights, including the rights in the Bill of Rights in Chapter 2 of the Constitution;
  - (c) to give effect to the constitutional obligations of the State of promoting a human rights culture and social justice, by including public bodies in the definition of 'requester', allowing them, amongst others, to access information from private bodies upon compliance with

*the four requirements in this Act, including an additional obligation for certain public bodies in certain instances to act in the public interest;*

*(d) to establish voluntary and mandatory mechanisms or procedures to give effect to that right in a manner which enables persons to obtain access to records of public and private bodies as swiftly, inexpensively and effortlessly as reasonably possible; and*

*(e) generally, to promote transparency, accountability and effective governance of all public and private bodies by, including, but not limited to, empowering and educating everyone-*

*(i) to understand their rights in terms of this Act in order to exercise their rights in relation to public and private bodies;*

*(ii) to understand the functions and operation of public bodies; and*

*(iii) to effectively scrutinise, and participate in, decision-making by public bodies that affects their rights."*

[15] The CCMA responded with an assertion that the firm was provided with the information sought within the scope of the Act and where the request exceeded such scope the relevant grounds of refusal provided for in the Act were relied upon and/pr invoked.

[16] It is also asserted that the relief sought is disjointed in as much as the firm pleads for an interdict but the pleaded case does not support same. This must be an error and should be read as if the firm seeks a *mandamus*. There is no interdict of any nature sought at all. As a first step to the *mandamus* a review is of course sought.

### **Defences Raised**

[17] It is firstly pointed out that the firm was appointed as part of the CCMA panel to provide legal services for a period of 36 months effective 1 April 2021 to 31 March 2024. The award letter required the firm to accept the offer by signing a service level agreement (SLA). Due to an administrative oversight on the part of the CCMA the SLA was never transmitted to the firm.

[18] On or about 29 June 2022 the firm served its request on the CCMA by email seeking the following:

18.1 the list of all legal instructions given to the panel of attorneys between 9 March 2021 to 27 June 2022;

18.2 the names of the panel attorneys recipients of instructions referred to above; and

18.3 a list of the panel of attorneys.

[19] The aforesaid is the request I must adjudicate and no other. On 19 August 2022 the firm served its notice of appeal per email and on 19 September 2022 it launched an application under case number 2022/023405 seeking an order directing the CCMA to provide it with the Service Level Agreement within 15 days of granting of the order.

[20] On 20 September 2022 after receipt of the above application the CCMA transmitted an email to the firm in an effort to resolve the issues between the parties amicably. To this end a meeting was convened on MsTeams on 21 September 2022 between (a representative) of the firm and the CCMA. On 22 September 2022, a draft SLA was transmitted to the firm, and it was confirmed per email that the firm would remove the matter from the roll. On 27 September 2022 the signed SLA was sent to the CCMA together with confirmation that the aforesaid application will be removed from the roll. A copy of such removal is attached to the answering affidavit.

[21] That together with the emails exchanged and annexed to the answering affidavit put an end to the earlier litigation under case number 2022/023405. Despite this the SLA issue rears its head again in the replying affidavit on the basis that its term has expired and the fact that no direct relief in respect of same is sought in this matter.

[22] The present matter (although proceedings purport to be instituted on 21 October 2022) comes with a founding affidavit dated 26 October 2022. The CCMA did not raise this as an issue, and I will thus refrain from any comment. The present application was served on 7 November 2022 and was expected by the CCMA, same having been anticipated during the earlier MsTeams' meeting. This gave rise to another meeting per MsTeams on 25 November 2022. This meeting was followed by correspondence from the firm dated 28 November 2022 and annexed to the CCMA's answering affidavit as Annexure "AA4".

[23] According to this letter "the following resolutions were made" at the aforesaid meeting:

*"1. CCMA is to furnish Mudau And Netshipise Attorneys with all the records sought in terms of the PAIA application.*

*2. Upon receipt of all the requested documentation, Mudau And Netshipise Attorneys is to with- draw the PAIA application.*

*3. Mudau And Netshipise Attorneys sought legal costs occasioned by the PAIA application. It was resolved that CCMA would internally discuss the issue of costs and revert to Mudau and Netshipise Attorneys. It was further resolved that Mudau And Netshipise Attorneys would provide CCMA with an estimation of its costs. We trust the above is in order."*

[24] The CCMA came to a different conclusion at this meeting and confirmed their views on 28 November 2022 as follows:

*"Following our meeting held on Friday, 25th November 2022, we confirm the following :-*

*1. Stemming from our last discussion with the Director of Mudau and Netshipise Attorneys, we confirm having been under the impression that your firm had withdrawn both applications and that the issues were resolved, thus we did not act on the PAIA application. We however apologise for this oversight.*

*2. The CCMA can place on record with conviction that we have given majority of the small firms on our Panel of Attorneys one matter each. Due to confidentiality and POPIA requirements, we will not be in a position to disclose the names of the other firms.*

*3. In good faith however, please see attached herewith confirmation of the number of small firms given instructions on a rotation basis using our Panel of Attorneys tool. We confirm that your firm will be next in line to receive instructions, in respect of small firms.*

*4. With that said, the CCMA enquires as to whether your firm will be amenable to withdrawing the PAIA application. For all intents and purposes, it was never our intention not to respond to your PAIA application. We inadvertently did not respond as per the reason given in point 1 above. As such, we plead with yourselves that you reconsider the issue of costs, taking into account that the CCMA is a public entity and thus funded by public funds.*

*5. We shall await your favourable response herein."*

[25] Undeterred by the aforesaid the firm pressed on and on 2 December 2022 demanded further information as per annexure "A6" to the answering affidavit. This demand is not strictly part of the notice of motion and founding affidavit. For the sake of completeness, I nevertheless refer thereto:

*“Kindly note that CCMA is a public institution and therefore, the names of the attorneys on the panel are accordingly, public knowledge and should therefore not be concealed. With regards to the issue of costs, kindly note that we have incurred costs as a result of this matter whereas, same could have been avoided. Further note that should you not tender costs, we hold instructions to set down the matter for purposes of costs.*

*In addition kindly note that we require from you the following information:*

- 1. List, names and location of all law firms (large, medium sized and small firms) under CCMA tender number CCMA/2019/13 (A) - LEG;*
- 2. Reasons why each firm was placed under those categories;*
- 3. Evaluation committee deliberations in relation to the categorization of panel attorneys;*
- 4. Reasons why Mudau and Netshipise Attorneys have not received a single instruction where as two firms within the small firms category have already received two instructions to the exclusion of Mudau and Netshipise Attorneys;*
- 5. Name of the administrator who took the decision to allocate instructions to the exclusion of Mudau and Netshipise Attorneys;*
- 6. List and type of instructions given to large and medium-sized firms and reasons why the said instructions were given to those firms and the complexity thereof.*

*Kindly be advised that in terms of section 5 of the Promotion of Administration of Justice Act. 3 of 2000, you have ninety (90) days from transmission hereof to furnish us with written reasons for the above mentioned decisions. Should you fail to furnish reasons within the stipulated period kindly be advised that we will seek the necessary legal remedies. We how- ever trust that same will not be necessary.*

*We trust the above is in order and await to hear from you.”*

- [26] The CCMA responded hereto but given that the aforesaid interrogatories are not part of the relief sought in the founding papers

there is no basis I may, or any need to deal therewith. My judgment is to be confined to the request of 28 June 2022.

[27] The present application was only pursued again when a notice of set-down was received by the CCMA on 23 March 2023 for hearing on 12 April 2023. The CCMA made enquiries about the matter and was informed on 24 March 2023 per email annexed as "AA9" that:

*"2. The requested application was served on the CCMA by the Sheriff of the High Court on 9 November 2022.*

*3. Therefore, the Application shall be forwarded to the CCMAS the following costs:*

*3.1 Copy of the Application at R5.00 per page.*

*3.2 Attendance to forward the application shall be charged per quarter of an hour in accordance with the High Court Tariff."*

[28] At that point, the CCMA handed the matter over to its present attorneys of record who filed a notice of intention to oppose on 3 April 2023.

[29] The aforesaid was followed by a letter from the firm annexed to the answering affidavit as "AA10" reading as follows:

*"1. The above matter bears reference as well as your Electronic mail dated 03 April 2023.*

*2. We acknowledge receipt of your notice of intention to oppose and we shall provide you electronic access to court online.*

*3. The above matter shall be removed from the roll as requested. However, prior to the removal of the matter from the roll, we kindly request that you provide us with an undertaken that the costs*

*occasioned by the removal of the matter from the roll shall be tendered by the Respondents.*

*4. We trust that the above is in order.”*

[30] On 5 April 2023, the CCMA's attorneys sent a letter to the firm proposing that the question of costs should be reserved for later argument. However, this proposal was rejected by the firm in a letter dated 6 April 2023. Both the letters are attached hereto and marked "AA11" and "AA12", respectively.

[31] The answering affidavit is filed late, and reliance is placed on the fact that in the CCMA's understanding Primarily, it was under the impression that it has sufficiently and adequately responded to the firm's PAIA request through the various correspondence between the parties on the issue. It is further alleged that:

*“42. The Respondent was under the bona fide impression that the matter had been adequately addressed in its last email correspondence to the Applicant on 2 March 2023. For all intents and purposes the CCMA and the Applicant were in discussions from November 2022 to March 2023 to find an amicable solution to the matter.*

*43. It came as a surprise to the Respondent, having engaged meaningfully with the Applicant on this matter, when the Notice of Set down was served electronically on the CCMA, on 23 March 2023.”*

[32] The CCMA regards the application as an abuse. It says so partially because, after providing the information set out in the Notice of Motion and founding affidavit read with the PAIA request of 29 June 2022 to the extent it deemed feasible, the firm expanded on the aforesaid with interrogatories which are not part of the founding papers.

[33] The answer furnished by the CCMA to the effect that:

*“44.1. Firstly, the Applicant's was properly and adequately respondent to by the CCMA. The Applicant in its initial list as part of the PAIA application requested for 3 items (i.e., the record). The three items in terms of the Applicant's list were the following:*

*44.1.1. List of all legal instructions given of attorneys between 9 March 2021 to 27 June 2022;*

*44.1.2. Names of the panel attorneys recipients of instructions referred to above; and*

*44.1.3. List of the panel of attorneys.,” is patently false.*

[34] Such responses as were given were only provided after the litigation was instituted and most certainly not in an open and transparent way. One has to pick this out from a load of unnecessary and long-winded quotes from PAIA interspersed with belated explanations for such information as was not disclosed. The information furnished on 28 November 2022 in Annexure “AA5” is woefully inadequate. Additional information was only made available after the interrogatories in annexure “AA6” were launched and in any event no proper and direct response was ever furnished in response to the 28 June 2022 PAIA request.

[35] On its own version the CCMA admits that the list of the panel attorneys was never provided, even after the list of interrogatories from the firm followed. It must be born in mind the access requested was to the record of the CCMA and PAUA defines same as follows.

*“In this Act, unless the context otherwise indicates-*

.....  
 “record” of, or in relation to, a public or private body, means any recorded information-

- (a) regardless of form or medium;
- (b) in the possession or under the control of that public or private body, respectively; and
- (c) whether or not it was created by that public or private body, respectively”

[36] The CCMA’s attempt to conflate the withdrawal of the earlier application with the present application is unconvincing given the firm’s correspondence and conduct. It is clear that no responses were forthcoming timeously and that the defences that were raised were only forthcoming in the answering affidavit. The assertions that information was given and given timeously are not true with regard to the 29 June 2022 request that underpins the present application.<sup>1</sup>

[37] Although some information may be gleaned from the response to the interrogatories same is unhelpful. The notion that the request touches on personal information as defined in PAIA may well be correct but does not mean it may not be disclosed given the context in which it is sought. I take full cognisance of the fact that “*personal information*”:

*“In this Act, unless the context otherwise indicates-,,,,,,*

*means information relating to an identifiable natural person, including, but not limited to-*

- (a) *information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;*
- (b) *information relating to the education or the medical, financial, criminal or employment history of the person;*
- (c) *any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assigned to the person;*
- (d) *the biometric information of the person;*

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<sup>1</sup> Cf para 24

- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person, but excludes information about an individual who has been dead for more than 20 years;”.

[38] There is no reason to believe that the PAIA request involves:

*“the unreasonable disclosure of personal information about a third party”*

[39] Any firm or individual that makes itself available for the performance of legal work on behalf of any institution should by the very nature of his/her/its functions expect that personal information in the context of the request may be made available. Those who serve on such panels cannot hide behind a veil of secrecy. The mere thought flies in the face of the Constitution and the Pre-Ambles to and the objects of the Act. The vague reliance on correspondence found no support by a pleading of a specific section of POPIA being relied upon.

## **Conclusion**

[40] In the absence of any valid pleaded defence and my own scrutiny of the Act and bearing in mind that only certain Parts are relevant to private bodies the application should in my view be granted. The CCMA's conduct and deliberate attempt to conflate the earlier application with the present and specifically to respond timeously to the PAIA request warrants a punitive costs order.

[41] In the circumstances I make the following order:

(1) The CCMA's deemed refusal to grant the PAIA request of 29 June 2022 is hereby reviewed and set aside;

(2) The CCMA is ordered to comply with the PAIA request of 29 June 2022 to its fullest extent including the furnishing of the following information:

2.1 A comprehensive list of all legal instructions given to attorneys between 9 March 2021 to 27 June 2022;

2.2 The names of the panel attorneys being recipients of instructions referred to in 2.1 above;

2.3 The list of names on the panel of attorneys.

2.4 The CCMA is ordered to pay the costs of this application on the attorney and client scale.

  
S VAN NIEUWENHUIZEN

**ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION  
JOHANNESBURG**

*Electronically submitted*

Date of hearing:

29 January 2026

Date of judgment:

15 June 2026

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