IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: A335/2026

(1) REPORTABLE: ~~YES~~/NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) REVISED.

[redacted]

SIGNATURE .... DATE 21/05/26

In the matter between:

CHRISTOPHER SETHOLE (NCRDC 2383) Applicant

and

THE NATIONAL CREDIT REGULATOR Respondent

JUDGMENT

LABUSCHAGNE J

[1] The applicant faced section 57 proceedings before the Tribunal to have his registration as debt counsellor cancelled. The applicant filed a notice of appeal indicating his intention to apply for leave to appeal to the Court against the whole of the Tribunal's judgment of 02 September 2023.

[2] The stated reason why leave to appeal is sought is because the applicant was out of time in complying with High Court rules as envisaged by Section 148(2) of the National Credit Act, 34 of 2005 (National Credit Act). The only thing that serves before the Court is the application for condonation.

[3] The applicant misconstrues his right to appeal. He could have timeously noted an appeal, (ie without leave) in terms of section 148 of the National Credit Act, 2005. However, as he has not complied with the High Court Rules pertaining to time periods for filing a notice of appeal and filing a power of attorney, as required by sec 148(2), read with rule 50, he is required to apply for condonation for the late noting of an appeal.

[4] When counsel rose, after the matter was called, there was a more fundamental difficulty. The notice of set down had been served by email on the legal advisor who had represented the respondent in the proceedings and not on the respondent as a party. There was, unsurprisingly, no representation of the respondent or the Tribunal. The matter was consequently not properly before us. The Tribunal, against whom the relief is sought, is not even cited as a party.

[5] The grounds for appeal include the following:

5.1 That the Tribunal misdirected itself by finding that the applicant updated consumers' status in a fraudulent manner by providing incorrect information, resulting in consumers being issued with irregular clearance certificates, and consequently misleading credit bureaus. The applicant's primary contention seems to be that he was misled by his clients.

5.2 The applicant contends that the Tribunal misdirected itself in finding that the applicant contravened the National Credit Act at the time that consumers were transferred to him, whereas the applicant's evidence shows that he complied with the National Credit Act when transferring the consumers. This ground is inherently contradictory and is not understood.

5.3 The applicant contends that the Tribunal misdirected itself in finding that the applicant acted *ultra vires* when providing the credit bureau with paid up letters and consequently removing their names. This seems however to be based thereon that the applicant acted on behalf of clients for whom he held no power of attorney.

5.4 The applicant contends that the Tribunal misdirected itself in finding that the applicant contravened the National Credit Act and its guidelines by charging fees in advance and failing to use the services of the PDA.

5.5 The Tribunal is alleged to have erred in failing to consider the fact that the system that was utilised to transfer consumers to the applicant changed and that a new system came into operation.

5.6 The Tribunal misdirected itself in finding that the applicant wilfully updated the incorrect information on the DHS System without considering that the fact that the applicant was misled by the consumers and/or third parties in providing him with falsified paid-up letters.

5.7 The Tribunal misdirected itself in finding that the fees charged by the applicant were unlawful and that consumers suffered loss through payment of such unlawful fees directly to the applicant without considering that the consumers and/or the agents knowingly provided the applicant with fraudulent paid-up letters with the intention to deceive the applicant.

5.8 The Tribunal has erred in law in finding that the applicant committed the act of fraud and not the consumers or their agents.

[6] The appeal record consists of the transcript of proceedings (52 pages thereof), but what is not part of the papers before Court is the ruling appealed against. The prospects of success of the condonation cannot be assessed without a full record.

[7] It therefore appears that:

7.1 The applicant has filed a defective condonation application.

7.2 The record of the appeal is deficient. Without the ruling appealed against the prospects of success of the condonation cannot be assessed.

7.3 Set down of the condonation application was not properly served on the respondent.

7.4 The Tribunal has not been cited as a party.

7.5 The applicant has failed to explain why only the condonation application was set down and not the appeal itself.

[8] Counsel then moved for the application to be removed.

[9] In the premises, the following order was made:

1. The condonation application is removed from the roll.
2. No order as to costs

[redacted]

LABUSCHAGNE J
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

[redacted]

LUKHAIMANE AJ
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION PRETORIA

Appearances

For Applicant:	Mr Caphus Mboweni (Caphus M Inc)
For Respondent:	No Appearance