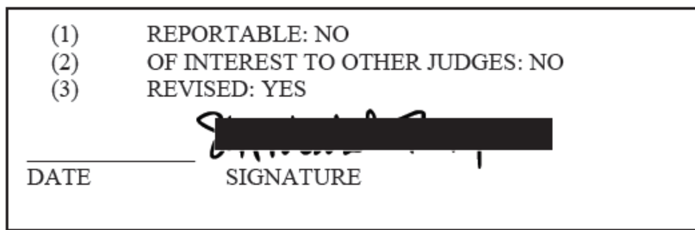
REPUBLIC OF SOUTH AFRICA

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

Case Number: 2026-117253


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

DATE SIGNATURE

In the matter between:

MAROTHI JOSIAS MASHASHANE	Applicant
and	
THE SOUTH AFRICAN BROADCASTING CORPORATION SOC LTD	First Respondent
THE INFORMATION OFFICER: SOUTH AFRICAN BROADCASTING CORPORATION SOC LTD	Second Respondent

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JUDGMENT

WENTZEL -THOMPSON J

Introduction

[1] This is an urgent application in which the applicant seeks to compel the South African Broadcasting Corporation and its information officer ("the SABC") to provide him, within five days, with records relating to Speak Out, Season 3, Episode 25, including a full audiovisual copy of the episode, written confirmation of all broadcast dates and times, verified viewer statistics for each broadcast, and a transcript of the specific allegations of fraud made against him. He further seeks a declaration that the refusal of access based upon sections 42(3)(c) and 45 of the Promotion of Access to Information Act 2 of 2000 ("PAIA") is unlawful and invalid, together with attorney-and-client costs.

[2] The applicant's case is that the programme, broadcast many years ago, portrayed him as a fraudster in relation to allegations concerning taxi transactions, that he has since been cleared in criminal proceedings and obtained orders favourable to him, and that he requires the records in order to quantify and pursue a damages claim arising from the alleged reputational harm caused by the broadcast. The correspondence shows that he has sought the episode since at least late December 2025 and that his request was pursued through the SABC during January, February, March and April 2026.

[3] I accept that the applicant seeks access to material which, on his version, concerns serious allegations made about him in a public broadcast and which he says may bear upon his dignity, reputation and contemplated damages claim.

[4] The constitutional right of access to information in section 32 of the Constitution and its legislative embodiment in PAIA are designed to enable persons to obtain information required for the exercise or protection of rights. As the Constitutional Court held in *Brümmer v Minister for Social Development*, access to information is instrumental to accountability and to the protection of other rights.[1]

[5] The application is brought on an urgent basis. The applicant contends that the requested material is required to enable him to pursue and quantify damages arising from allegedly defamatory allegations broadcast by the first respondent many years ago. He asserts that various courts have already vindicated him in relation to the underlying allegations

[1] *Brümmer v Minister for Social Development and Others* 2009 (6) SA 323 (CC) paras 62-63.

and that disclosure of the records is necessary to enable him to complete the litigation process.

[6] Although the applicant's complaint is directed at the refusal of a PAIA request, the present proceedings raise broader questions concerning the proper use of PAIA, the relationship between PAIA and pending litigation, the nature of the relief sought and the appropriateness of urgent intervention.

Background

[7] The programme which forms the subject of the request was broadcast approximately seventeen years ago. The applicant alleges that the programme portrayed him as a fraudster involved in irregular transactions concerning the supply of motor vehicles and that the broadcast caused substantial and continuing damage to his reputation.

[8] During late 2025 and early 2026 the applicant sought access to the relevant programme and associated records from the SABC. Correspondence passed between the parties and culminated in the submission of a formal request under PAIA. The request sought, amongst other things, a copy of the episode, information concerning its broadcast history, audience statistics and a transcript of the allegations allegedly made against him.

[9] The SABC ultimately refused the request on 29 April 2026. The refusal relied principally upon sections 42(3)(c), 42(3)(d) and 45 of PAIA. The letter records, amongst other things, that disclosure might prejudice the SABC because the material could be used against it in contemplated legal proceedings and that the SABC regarded the request as objectionable for reasons linked to its ownership of the programme and associated rights.

[10] The applicant thereafter disputed the refusal and delivered correspondence challenging the validity of each of the reasons advanced by the SABC. He contended that the refusal constituted a misapplication of PAIA, that the material was required to vindicate his rights and that he would approach the High Court if access was not granted.

[11] The present application followed.

The relief sought

[12] The notice of motion seeks, amongst other relief:

a. an order compelling the respondents to provide the applicant with a copy of the episode;

b. written confirmation of all dates and times upon which the episode was broadcast;

c. verified audience statistics;

d. a transcript of the allegations made concerning the applicant; and

e. a declaration that the respondents' refusal to grant access is unlawful and invalid.

[13] The applicant further seeks attorney and client costs.

The related litigation

[14] The applicant alleges:

a. he was arrested in November 2008 in relation to numerous fraud allegations concerning taxi vehicle transactions;

b. those matters were centralised in Boksburg;

c. he was acquitted in July 2013;

d. despite that acquittal he was arrested again in September 2015 on a complaint by one Gwamanda;

e. the subsequent matter allegedly arose from the same factual matrix as the earlier cases;

f. he repeatedly requested that the prosecution centralise the cases;

g. the NPA refused to do so;

h. he remained in custody for approximately 234 days before being acquitted.

[15] The thrust of his case is that the refusal to centralise the later prosecution was irrational and resulted in an unlawful arrest, detention and piecemeal prosecution.

[16] In the papers before me, the applicant repeatedly states that courts have cleared him of allegations of fraud and that his arrest and detention have already been declared unlawful. The applicant contends that the remaining purpose of the information sought is to assist in determining or proving quantum in related damages proceedings.

[17] What the applicant states in his heads of argument in response to the argument that the urgency in the current matter was self-created is instructive:

"*3.2 The Applicant was legally precluded from launching civil defamation or quantum proceedings while the underlying criminal prosecution remained unresolved and sub judice.*

3.3 The Applicant's constitutional right to act and his need for these public records only matured when this Honourable Court judicially vindicated his name by declaring his detentions unconstitutional via two sealed orders of record:

a) Case No: 2025/150558 (Before Kekana AJ): Declaring the Applicant's 21 months of detention in custody irrational, unlawful, and unconstitutional.

b) Case No: 2025/218383 (Before Khaba AJ): Declaring the Applicant's arrest and subsequent 234 days of detention irrational, unlawful, and unconstitutional.

3.4 The urgency is not self-created; it is dictated by the structural timelines of the criminal justice system. The quantum trial is live and active, and without the SABC's data, the Applicant is legally paralyzed from proving his accurate damages."

[18] During argument, the applicant informed me that he had brought an application to strike out the respondents' defences for failure to adhere to his Rule 41A notice requiring mediation that was contained in his Rule 30A notice that was heard by Ally AJ on 15 April 2026, who had reserved his judgment. He maintained that if his application was successful he would be entitled to a judgment by default in respect of his damages claim.

[19] However, perusal of the papers in these matters reveals a more complex picture. They disclose continuing disputes concerning the legal effect of the declaratory order granted by Kekane AJ on 3 November 2026 under case number 2025/150558 and the Order granted by Khaba AJ on 29 January 2026 under case number 2025/218383 against the Minister of Police and the National Prosecuting Authority ("NPA") and others for wrongful and unlawful arrest and detention. As I understand it, the former order related to the first period of detention and the latter order related to the later period of detention referred to above.

[20] Perusal of case no 20225/150558 indicates that on 2 February 2026, the respondents brought an application for the rescission of Kekane AJ's Order as well as Nthambeleni AJ's Order granted on 30 October 2025. The latter Order was an Order for consolidation of the wrongful arrest actions brought under case numbers 2017/15369 and 2017/15370

that had been served on the respondents on 29 October 2025- when the matter was already before Nthambeleni AJ. This application was served on the respondents providing no time frames within which the respondents would be afforded to oppose the relief sought. The very next day, the order was granted, without any notice of set down being served.

[21] After the applicant obtained the order on 30 October 2025 on an extremely urgent basis, the applicant then served an interlocutory application on 31 October 2025 on the respondents that was already set down for 3 November 2025, affording the respondents only the weekend to respond (31 October 2025 being a Friday and 3 November 2025 being a Monday). An Order was taken against the newly joined respondents on 3 November 2025 by default under circumstances where the respondents should have been afforded 20 days to answer the consolidated action brought by the applicant.

[22] On 16 February 2026, the applicant filed an answering affidavit in the rescission application and then on 26 February 2026, served notices in terms of Rule 41A and 30A on the respondents stating that their failure to respond to the Rule 41A notice constituted an irregular step and seeking to strike out their defence and seeking to strike out the respondent's rescission applications. This is the matter that came before Ally AJ on 15 April 2026, who, after hearing argument, reserved his judgment, The next day, the applicant then filed supplementary heads of argument without the leave of the Court that was objected to by the respondents and noted on caselines by Ally AJ, who stated that he would disregard these further heads of argument.

[23] In case number 2025/218383, the application was filed during November 2025. During April 2026, the applicant filed what he termed was a "replication to special pleas" that was met by a Rule 30 notice by the respondents in which it was stated that the applicant had not filed a summons or declaration, no plea had been delivered and thus a replication to a supposed plea of prescription was premature. The respondents requested the applicant to withdraw the replication and to serve proper initiating processes.

[24] It is unclear why the applicant filed the replication when he had already obtained declaratory relief by default on 29 January 2026. The respondents were patently also unaware that the applicant had on 23 January 2026 and 27 January 2026 uploaded a notice motion and founding affidavit seeking declaratory relief dated 30 October 2025 together with a return of service dated 20 December 2025 and that judgment had been granted by default on 29 January 2026. There is no explanation why the application

dated 30 October 2025 was only served on 20 December 2025. There can be little doubt that when the respondent learns about this judgment it will bring an application to rescind it.

[25] Furthermore, on 4 December 2025 under case number 2025/ 232610, the applicant uploaded an urgent application dated 26 November 2025 for hearing on 9 December 2025 based on Kekane AJ's Order dated 3 November 2025 for the allocation of an urgent trial date. In this application, the applicant refers to the Special Pleas filed by the respondents in Case number 15371/2017. This appears to be the cause of confusion, but does not explain why under case number 2025/218383, the applicant filed replications to the special pleas.

[26] I mention this background as it evidences that the applicant is not your average lay litigant and is a seasoned litigant. It also demonstrates that the applicant took the same underhand approach in bringing the proceedings in case number 2025/150158 under the pretext of extreme urgency where none existed, affording the respondents insufficient time to answer his application and resulting in default judgments and rescission applications. Similar tactics were employed in case number 2025/218383 where the application was served on 20 December 2025.

[27] The background is furthermore important in that it demonstrates uncontrovertibly that the underlying basis for the applicant seeking the relief in the current proceedings, namely that the applicant has two declaratory orders by default in his favour paving the way for a damages claim by default, are by no means clear. This bears directly upon both urgency and the purpose for which the requested records are sought.

The response to the request for information from the SABC

[28] The SABC's stance has shifted over time. It initially confirmed that it had located or possessed the episode but declined to sell or provide it because, in its view, it would not assist the applicant in the manner described and because the episode did not contain his response to the allegations. It later refused access under PAIA, relying principally on sections 42(3)(c), 42(3)(d) and 45, and stated expressly that use of the episode in legal proceedings against the SABC would place it at a disadvantage which it "*cannot risk*".

[29] There is also force in the applicant's criticism of the SABC's reason that disclosure may assist litigation against it. PAIA would be seriously undermined if a public body could refuse access merely because the record may found or assist a claim against that body. The burden rests on the public body to justify a statutory ground of refusal; a general

fear of litigation is not, without more, a sufficient answer to a request for access. That approach accords with the constitutional character of PAIA and with the insistence in *President of the Republic of South Africa v M & G Media Ltd* that courts must scrutinise claims of secrecy or refusal consistently with the statute's purpose.[2]

[30] The reliance on copyright is also, at least on the papers presently available, problematic. Ownership of copyright in a broadcast and access to a record under PAIA are distinct questions. Access does not confer a licence to reproduce, publish or commercially exploit the work. Section 42(3)(d), on its wording, concerns a "*computer program*" as defined in the Copyright Act 98 of 1978. It is not immediately apparent how an audiovisual television episode, as such, falls within that provision. That issue may ultimately require proper argument, but the SABC's reliance upon the provision does not appear self-evidently sound.

[31] Those observations, however, do not dispose of the application. The first and decisive issue is urgency.

Urgency

[32] The applicant invokes Rule 6(12) and contends that urgent intervention is necessary because he requires the requested records to pursue damages arising from the broadcast.

[33] The principles governing urgency are well established. A litigant seeking relief under Rule 6(12) must demonstrate not merely inconvenience but an inability to obtain substantial redress in due course.[3] Urgency is not created by a litigant's preference for expedition nor by a desire to advance existing litigation more rapidly.

[34] The broadcast at the centre of the dispute occurred approximately seventeen years ago. The applicant has long been aware of its existence and of the alleged reputational harm flowing from it. The damages litigation to which he refers has itself been ongoing for a considerable period of time and indeed since 2017.

[35] Against that background, it is difficult to identify any event giving rise to genuine urgency. The refusal to provide the requested information relied upon by the applicant occurred

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[2] *President of the Republic of South Africa and Others v M & G Media Ltd* 2012 (2) SA 50 (CC); see also *M & G Media Ltd v 2010 FIFA World Cup Organising Committee South Africa Ltd and Another* 2011 (5) SA 163 (GSJ).
[3] *Unitas Hospital v Van Wyk and Another* 2006 (4) SA 436 (SCA) paras 26-28.

only recently, but the underlying information has existed for many years and the applicant has not demonstrated why immediate intervention is required now.

[36] The explanation advanced is that the information is required to prove or quantify damages. Yet the existence of litigation does not itself create urgency. Nor does the desire to strengthen one's position in pending proceedings constitute the kind of prejudice contemplated by Rule 6 (12).

[37] The applicant argued that he brought the matter in the urgent court because the respondent itself challenged him to get an Order court, failing which they would not provide the information sought. However, that did not justify his seeking an order in the urgent court; there is no reason why an order to compel the respondent to provide the requested information could not have been brought in the normal course.

[38] The applicant's past conduct appears to be that as a matter of course, if the matter is urgent to him subjectively, he is entitled to bring an application in the urgent court and afford the respondent in those proceedings extremely truncated periods within which to respond, to his advantage. That is not how the urgent court works. It is not a court to steal a march on one's opponent and thereby obtain orders by default. The applicant's service of his application on the state attorney on 20 December 2025 as aforementioned notwithstanding that the notice of motion was dated a month earlier, is further testimony to this.

[39] Rule 6(12) is not available merely because a litigant wants relief quickly. The applicant must set out explicitly the circumstances rendering the matter urgent and why he will not obtain substantial redress in due course. The principle stated in *Luna Meubel Vervaardigers (Edms) Bpk v Makin* remains apposite: the procedure is reserved for cases where the ordinary rules cannot provide effective relief.[4] More recently, *East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd* emphasised that the central enquiry is whether the applicant will be afforded substantial redress at a hearing in due course.[5]

[40] The applicant's urgency case is that he requires the records to determine the quantum of a damages claim. That is not enough. The programme was aired in 2009, some 17 years before the present application. The applicant has known of the broadcast for many years. The papers do not allege that the records are about to be destroyed, that a trial

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[4] *Luna Meubel Vervaardigers (Edms) Bpk v Makin and Another* 1977 (4) SA 135 (W) at 137F-G.

5 East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others [2011] ZAGPJHC 196 para 6.

is imminent, that prescription will occur before the matter can be heard in the ordinary course, or that some irreversible prejudice will result unless the records are produced within five days. The inconvenience and delay occasioned by having to litigate in the ordinary course does not constitute urgency.

[41] The applicant's correspondence reinforces, rather than cures that difficulty. It shows persistence, frustration and a genuine desire to obtain the material. It does not show why ordinary PAIA proceedings, or appropriate discovery and subpoena mechanisms in pending or contemplated damages litigation, would not afford adequate relief. The request is important to the applicant, but importance is not urgency.

The failure to pursue internal remedies under PAIA

[42] There is a further procedural difficulty. The relief sought is, in substance, a challenge to a refusal under PAIA. PAIA contains its own remedial structure. Section 78 regulates applications to court after the prescribed internal appeal or complaint procedures have been exhausted where applicable, and section 82 empowers the court to grant appropriate relief.

[43] The applicant says in his heads of argument that he timeously submitted a formal internal appeal letter, but that the respondent chose to completely ignore this internal remedy, thereby forcing the applicant to seek urgent judicial intervention to protect his rights.

[44] I see no evidence of this on the papers, either in the founding affidavit or in the replying affidavit. Amongst the documents in the section titled "Annexures" on caselines is an email dated 4 May 2026 in response to the respondent's letter refusing the information sought dated 29 may 2026. That does not constitute an internal appeal but only a threat to lodge an internal appeal. Under the heading "*Way Forward*", this is what the applicant stated:

"*The SABC's suggestion that I must obtain a further court order to see a program that was already broadcast to the public is an unnecessary hurdle that contradicts the spirit of PAIA.*

I hereby request that the SABC reconsider this refusal within 10 business days. Failing this, I reserve my right to lodge an internal appeal or approach the Information Regulator and the High Court for appropriate relief, including a costs order."

[45] The applicant did not lodge an internal appeal; instead he brought an urgent application in the High Court. He thus did not exhaust internal remedies as required by PAIA.

[46] Section 78 requires exhaustion of the internal appeal or complaint procedure before a court application may be brought in the circumstances it specifies. The applicant's papers do not explain why all applicable statutory remedies were not first exhausted, why the ordinary PAIA timetable should be displaced, or why the matter should proceed as a Rule 6(12) urgent application.

Section 7 of PAIA

[47] There is also the possible relevance of section 7 of PAIA. It provides:

> *"**7 Act not applying to records requested for criminal or civil proceedings after commencement of proceedings***
>
> *(1) This Act does not apply to a record of a public body or a private body if-*
>
> *(a) that record is requested for the purpose of criminal or civil proceedings;*
>
> *(b) so requested after the commencement of such criminal or civil proceedings, as the case may be; and*
>
> *(c) the production of or access to that record for the purpose referred to in paragraph (a) is provided for in any other law.*
>
> *(2) Any record obtained in a manner that contravenes subsection (1) is not admissible as evidence in the criminal or civil proceedings referred to in that subsection unless the exclusion of such record by the court in question would, in its opinion, be detrimental to the interests of justice.*"

[48] The effect of this provision means that if the records are sought for the purposes of civil proceedings that have already commenced, PAIA may not apply where access is provided for in another law. On the applicant's own version, the records are required to enable him to establish his damages claim in his actions against the Minister of Police and the National Prosecuting Authority and others for wrongful arrest and prosecution that he suggests will be imminently determined by way of default judgment. On his own version, these applications are pending and the proper course would be for him to subpoena these records for the hearing.

[49] The Constitutional Court has recognised that PAIA should not be transformed into a parallel and unrestricted system of pre-trial discovery.[6] That observation does not mean that PAIA ceases to operate whenever litigation exists. It plainly does not. What it does mean is that courts should remain alert to attempts to employ PAIA as a substitute for ordinary forensic mechanisms where the dominant purpose of the request is to obtain evidence for litigation.

[50] The material sought in the present case illustrates the point. The applicant seeks audience figures, transmission records, transcripts and recordings. These are precisely the types of material ordinarily relied upon to establish publication, extent of dissemination and quantum of damages. The application therefore bears the hallmarks of an attempt to obtain litigation-related evidence through PAIA.

[51] That consideration does not necessarily defeat a PAIA claim. It does, however, materially undermine the suggestion that urgent intervention is required and reinforces the availability of alternative procedures within the pending litigation itself.

[52] Again, the fact that the applicant believes that his entitlement to seek default judgment is imminent, does not make the matter urgent. As in the case of all other litigants, the applicant would need to make sure that he obtained the requisite evidence to establish his damages claims via subpoena before applying to set down his matters for default judgment.

[53] However, in so far as the claim is one based on a claim for defamation, that claim could only lie against the SABS itself that was responsible for the publication. It cannot be relevant to the applicant's claim against the Minister of Police and the National Prosecuting Authority and others for damages for wrongful arrest and detention as they were not responsible for the publication. The applicant stated in argument that members of the police were interviewed on the programme, but I do not see this in the papers.

[54] What is readily apparent is that any claim for defamation against the SABC arose two decades ago and would have long prescribed, even if one assumes that the applicant's acquittal was the triggering event.

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[6] *PFE International Inc (BVI) v Industrial Development Corporation of South Africa Ltd* 2013 (1) SA 1 (CC) paras 14-19; see also *Clutchco (Pty) Ltd v Davis* 2005 (3) SA 486 (SCA); *Brümmer v Minister for Social Development and Others* 2009 (6) SA 323 (CC); *President of the Republic of South Africa v M & G Media Ltd* 2012 (2) SA 50 (CC).

[55] In any event, on the applicant's own say- so, the information is required to support his damages claims for wrongful arrest and detention. In these circumstances, the applicant must use the procedures for obtaining documentation prescribed in the Rules of Court and not PAIA. To get this information, the applicant will need to establish why it is relevant to his claim against the Minister of Police and the NPA and others and why thye would be liable for his claim for defamation.

The true nature of the application

[56] The application is framed as one to compel disclosure. Upon closer examination that description is incomplete. The applicant submitted a request under PAIA. The request was considered and refused. The applicant thereafter challenged the refusal and disputed the correctness of the reasons advanced.

[57] The present notice of motion seeks a declaration that the refusal is unlawful and invalid.

[58] The applicant cannot obtain that relief without first persuading the Court that the Information Officer's decision should not stand.

[59] The application is therefore, in substance, not merely an application to compel performance of a statutory duty; it is a challenge to an administrative decision taken under PAIA.

[60] Courts have consistently emphasised that the substance rather than the form of proceedings determines their true character.[7] Once the SABC made a decision refusing access, the central issue ceased to be whether a response should be given and became whether decision refusing to provide the information was lawful.

[61] The applicant's challenge is therefore in fact a review, not an application to compel compliance with a PAIA notice.

The statutory framework

[62] Section 32 of the Constitution guarantees the right of access to information. PAIA was enacted to give effect to that constitutional right.

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[7] *National Director of Public Prosecutions v King* 2010 (2) SACR 146 (SCA) para 50; *MEC for Education, KwaZulu-Natal v Pillay* 2008 (1) SA 474 (CC) para 40.

[63] Where legislation has been enacted to give effect to a constitutional right, litigants are ordinarily required to pursue the remedies and procedures established by that legislation rather than bypass them.[8]

[64] PAIA creates a comprehensive scheme regulating requests for access, refusals, internal remedies where available, judicial oversight and the powers of courts reviewing decisions taken under the Act.

[65] The applicant's complaint is not that the SABC ignored his request; the complaint is that the SABC considered the request and reached the wrong conclusion. That complaint necessarily requires scrutiny of the decision itself.

[66] Yet the founding affidavit engages only superficially with the legal character of the decision, the statutory framework governing challenges to refusals, the decision-making process adopted by the Information Officer and the basis upon which the Court should interfere. Instead the application proceeds directly from the proposition that the refusal is wrong to the conclusion that disclosure should immediately be ordered.

[67] That approach overlooks a fundamental principle of our administrative law.

The effect of the refusal decision

[68] An administrative decision exists in fact and continues to have legal consequences until set aside by a court of competent jurisdiction.[9] Whether right or wrong, the refusal remains operative unless and until displaced by judicial order. The applicant cannot simply disregard its existence and seek disclosure as though no refusal had occurred.

[69] The consequence is that the Court must first confront the validity of the refusal before it can consider compelling disclosure. The structure of the present application does not properly engage that enquiry.

The merits of the refusal

[70] The conclusion reached above renders it unnecessary finally to determine whether the SABC's refusal was correct. I should nevertheless record that some of the reasons advanced by the respondents appear open to serious question.

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[8] *My Vote Counts NPC v Speaker of the National Assembly and Others* 2016 (1) SA 132 (CC) paras 53-61.
[9] *Oudekraal Estates (Pty) Ltd v City of Cape Town and Others* 2004 (6) SA 222 (SCA) paras 26-37; *Merafong City Local Municipality v AngloGold Ashanti Ltd* 2017 (2) SA 211 (CC) para 41.

[71] The proposition that access may be refused because information may be used against a public body in litigation sits uneasily with the constitutional commitment to openness and accountability reflected in PAIA. Similarly, copyright ownership does not automatically extinguish rights of access conferred by statute.

[72] I also disagree that the listenership statistics are not required as the extent of the publication is relevant to any claim for defamation.

[73] However, in so far as the claim is one based on a claim for defamation, that claim could only lie against the SABS itself that was responsible for the litigation. It cannot be relevant to the applicant's claim against the Minister of Police and the National Prosecuting Authority and others for damages for wrongful arrest and detention.

Conclusion

[74] The applicant has failed to establish urgency. He has also failed to show why the information sought from the respondent is in any way relevant to his damages claims for wrongful arrest and detention.

[75] The application is, in substance, directed at setting aside a refusal decision taken under PAIA. The challenge has not been properly formulated or pursued within the framework ordinarily applicable to such disputes. The information is sought primarily for use in pending litigation. Alternative internal remedies remain available. In all the circumstances the application cannot succeed.

Costs

[76] Only because the applicant is a lay litigant, and because he states that he believed that his challenge by the SABS to get a court order justified his bringing this application in the urgent court, do I make no order of costs against the applicant.

[77] But the applicant is forewarned, should he pursue further applications in this matter, he will be liable for costs where appropriate, and these may be costs on a punitive scale; he does not litigate as lay litigant in these courts with impunity.

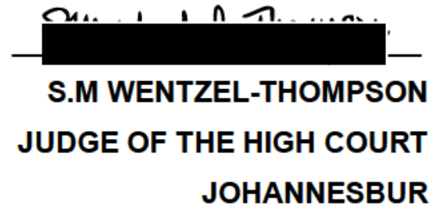
Order

[78] In the result, I make the following order:

(1). The application is struck from the urgent roll for lack of urgency.

(2). The applicant is not precluded from enrolling the application in the ordinary course, subject to compliance with PAIA and the Uniform Rules of Court.

(3). No order is made as to cost.



S.M WENTZEL-THOMPSON

JUDGE OF THE HIGH COURT

JOHANNESBUR

HEARING:

Date of the hearing: 2 June 2016

Date of the judgment: 18 June 2016

APPEARANCES

For the applicant: In person

For the respondent: ME Manala
Instructed by: Malatji & Co Attorneys