

Reportable:	NO
Circulate to Judges:	NO
Circulate to Magistrates:	NO
Circulate to Regional Magistrates:	NO



IN THE HIGH COURT OF SOUTH AFRICA

NORTHWEST DIVISION MAHIKENG

CASE NO: 2026-160672

In the matter between:

CLLR CORNEL DRYER

APPLICANT

And

NGAKA MODIRI MOLEMA DISTRICT

FIRST RESPONDENT

MUNICIPALITY

MUNICIPAL COUNCIL OF NGAKA

SECOND RESPONDENT

MODIRI MOLEMA DISTRICT MUNICIPALITY

CLLR NTHABISENG SHUPING N.O SPEAKER

THIRD RESPONDENT

OF COUNCIL OF NGAKA MODIRI MOLEMA DISTRICT

MUNICIPALITY

TEMEKI MABOKELA N.O MUNICIPAL MANAGER

FOURTH RESPONDENT

OF NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

CLLR COLLEN MOHELEKETI

FIFTH RESPONDENT

MEC OF THE NORTHWEST DEPARTMENT

SIXTH RESPONDENT

OF CORPORATIVE GOVERNANCE, HUMAN

SETTLEMENT AND RURAL DEVELOPMENT

*Judgment is handed down electronically by e-mail to the parties' legal representatives.
The date on which the judgment was deemed to have been handed down is 27 July
2026 at 16H00.*

Coram: B Mabuza

Heard on: 17 JULY 2026

Judgment delivered on: 27 July 2026.

ORDER

As a result, the following order is made:

1. The notice convening the Special Council Meeting of 22 June 2026 is declared unlawful and invalid.
2. The proceedings and resolutions adopted at the meeting held on 23 June 2026 are reviewed and set aside.
3. The decision removing the applicant, Councillor Cornel Dreyer, as Chairperson of the Municipal Public Accounts Committee is declared unlawful and invalid.
4. The election of Councillor Collen Mohelekete as Chairperson of the Municipal Public Accounts Committee is set aside.
5. The applicant is reinstated forthwith as Chairperson of the Municipal Public Accounts Committee.
6. The respondents are directed to take all necessary steps under the Municipal Structures Act 117 of 1998 and the Council's Standing Orders to give effect to this order.
7. The first to the fifth respondents are ordered to pay the costs of this application, jointly and severally, the one paying the others to be absolved, including the costs of counsel, on the attorney-and-client scale.

Summary: Municipal governance – Urgent application to review removal of MPAC Chairperson – Special Council Meeting convened on inadequate notice contrary to Municipal Structures Act 117 of 1998, and Standing Orders – Principle of legality requires strict compliance with prescribed procedures – Resolutions removing applicant and electing successor declared unlawful and set aside – Applicant reinstated as MPAC Chairperson – Costs awarded against respondents on attorney-and-client scale.

JUDGMENT

MABUZA AJ

INTRODUCTION

- [1] This application concerns the removal of Councillor Cornel Dreyer from his position as Chairperson of the Municipal Public Accounts Committee (MPAC) of the Ngaka Modiri Molema District Municipality. The applicant seeks to review and set aside the notice convening the Special Council Meeting of 22 June 2026, the proceedings of the meeting held on 23 June 2026, and the resolution adopted thereat removing him from office. He further seeks reinstatement as MPAC Chairperson and consequential relief.

FACTUAL BACKGROUND

- [2] The applicant was elected MPAC Chairperson in November 2024. On 19 June 2026, the Speaker issued a notice convening a Special Council Meeting for 22 June 2026. The meeting was ultimately held on 23 June 2026, at which a motion of no confidence in the applicant was adopted and Councillor Collen Mohelekete was elected as his successor. The applicant contends that the

notice and meeting were convened contrary to the Municipal Structures Act¹ and the Council's Standing Orders, rendering the process unlawful.

URGENCY RELIEF

- [3] The applicant alleges that the matter is urgent because the unlawful removal continues to produce ongoing prejudice and undermines the oversight role of MPAC. He seeks immediate judicial intervention to restore legality and prevent further harm.

Applicant's Case

- [4] The applicant contends that the impugned municipal decisions were unlawful from inception. He submits that the Speaker acted outside the powers conferred by law in convening the Special Council Meeting on inadequate notice, contrary to the Municipal Structures Act and the Council's Standing Orders. He argues that mandatory procedural safeguards were ignored, rendering the entire process invalid. Urgency, he maintains, arises from the continuing prejudice caused by his removal and the ongoing unlawful exercise of public power.

Respondents' Case

- [5] The respondents oppose the application in its entirety. They argue that the meeting was lawfully convened, that authorised structures adopted the resolutions, and that any procedural shortcomings were inconsequential. They submit that urgency was self-created, as the applicant delayed in approaching this Court, and that judicial interference would unduly disrupt municipal governance.

¹ Municipal Structures Act 117 of 1998.

The dispute

- [6] The essential dispute is whether the procedural defects alleged by the applicant were material and rendered the resolutions invalid, and whether the matter warrants urgent judicial intervention.

COMMON CAUSE FACTS

- [7] It is not disputed that the applicant was elected Chairperson of MPAC in November 2024, that on 19 June 2026 the Speaker issued a notice convening a Special Council Meeting, and that the meeting was held on 23 June 2026. At that meeting a motion of no confidence in the applicant was adopted, pursuant to which he was removed from office and Councillor Collen Mohelekete was elected as his successor.

ISSUES FOR DETERMINATION

- [8] The questions for decision are whether the application warrants urgent intervention under Rule 6(12), and if so, whether the notice convening the Special Council Meeting, the proceedings of 23 June 2026, and the resolutions adopted thereat complied with the Constitution², the Municipal Structures Act, and the Council's Standing Orders.
- [9] If material non-compliance is established, this Court must determine whether the resulting decisions are invalid and susceptible to review, and whether the applicant is entitled to the declaratory and consequential relief sought, including reinstatement and costs.

THE LEGAL PRINCIPLES

- [10] Rule 6(12) of the Uniform Rules empowers a court to dispense with ordinary forms and service where circumstances justify urgent intervention. As Coetzee J explained in *Luna Meubel Vervaardigers (Edms) Bpk v Making and another*:³

² The Constitution of the Republic of South Africa, 1996.

³ *Luna Meubel Vervaardigers (Edms) Bpk v Makin and another* 1977 (4) SA 135 (W) at 137 E-F.

'Practitioners should carefully analyse the facts of each case to determine, for the purposes of setting the case down for hearing, whether a greater or lesser degree of relaxation of the rules and of the ordinary practise of the court is required. The degree of relaxation should not be greater than the exigency of the case demands. It must be commensurate therewith.'

- [11] The principle was restated in *East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd*,⁴ that "The important issue is whether, despite the delay, the applicant can or cannot be afforded substantial redress at a hearing in due course."
- [12] Where the exercise of public power is challenged, urgency must be assessed considering the continuing effect of the impugned conduct. See *EFF v Speaker of the National Assembly; DA v Speaker of the National Assembly*.⁵ According to this case, the rule of law requires that all public power must be exercised lawfully, rationally and consistently with the Constitution.
- [13] The Constitutional Court cautioned in *National Treasury v Opposition to Urban Tolling Alliance*,⁶ that Courts must remain mindful that interim or urgent relief against the exercise of statutory powers may have significant consequences for governance.

Principle of Legality

- [14] Section 1(c) of the Constitution enshrines the supremacy of the Constitution and the rule of law. In *Fedsure Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council*,⁷ the Court held:

'the Legislature and Executive in every sphere are constrained by the principle that they may exercise no power and perform no function beyond that conferred upon them by law.'

⁴ *East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd* 2011 JDR 1832 (GSJ) para 8.

⁵ *EFF v Speaker of the National Assembly; DA v Speaker of the National Assembly* 2016 (3) SA 580 (CC) paras 1 and 75.

⁶ *National Treasury and Others v Opposition to Urban Tolling Alliance and Others* 2016 (3) SA 580 (CC) paras 44-47.

⁷ *Fedsure Life Assurance Ltd and Others v Greater Johannesburg Transitional Metropolitan Council and Others* 1999 (1) SA 374 (CC) para 58.

[15] Similarly, in *Pharmaceutical Manufacturers Association of SA: In re Ex parte President of the Republic of South Africa*,⁸ Chaskalson P stated:

‘The exercise of all public power must comply with the Constitution, which is the supreme law, and the doctrine of legality, which is part of that law.’

Ngcobo J in *Affordable Medicines Trust v Minister of Health*⁹ emphasised that the exercise of public power must therefore comply with the Constitution, which is the supreme law, and the doctrine of legality, which is part of the law.

Judicial Review of Municipal Decisions

[16] Municipal councils derive their authority from the Constitution and the Municipal Structures Act. Their resolutions must comply with mandatory statutory provisions and Standing Orders. As Cameron J observed in *MEC for Health, Eastern Cape v Kirland Investments (Pty) Ltd*,¹⁰ that ‘*The courts alone, and not public officials, are the arbiters of legality.*’

[17] In *Oudekraal Estates (Pty) Ltd v City of Cape Town*,¹¹ Howie P explained:

‘Until the administrator’s approval and thus also the consequence of the approval is set aside by a court in proceedings for judicial review, it exists in fact, and it has legal consequences that cannot simply be overlooked.’

ANALYSIS

[18] The applicant approached this Court on urgent grounds. The facts demonstrate that his removal from office continues to produce ongoing prejudice by depriving him of the oversight functions attached to MPAC. Applying *Luna Meubel* and *East Rock Trading* supra, the question is whether substantial redress could be obtained in due course. Given the continuing effect of the impugned decision, and consistent with *Apleni v President of the Republic of*

⁸ *Pharmaceutical Manufacturers Association of SA and Another: In re Ex parte President of the Republic of South Africa and Others* 2000 (2) SA 674 (CC) para 20.

⁹ *Affordable Medicines Trust and Others v Minister of Health and Another* 2006 (3) SA 247 (CC) para 49.

¹⁰ *MEC for Health, Eastern Cape and Another v Kirland Investments (Pty) Ltd* 2014 (3) SA 481 (CC) para 103.

¹¹ *Oudekraal Estates (Pty) Ltd v City of Cape Town and Others* 2004 (6) SA 222 (SCA) para.

South Africa,¹² this Court is satisfied that effective relief cannot await the ordinary course. The delay in approaching this Court has been adequately explained and does not render the urgency self-created.

- [19] The principle of legality requires that every exercise of public power be authorised by law and comply with mandatory procedures. The Speaker's notice convening the Special Council Meeting was issued on inadequate notice, contrary to the Council's Standing Orders. In terms of *Fedsure and Pharmaceutical Manufacturer supra*, a municipal council may exercise no power beyond that conferred by law, and must do so in the prescribed manner. The failure to comply with mandatory notice requirements was not a trivial irregularity but a jurisdictional defect that tainted the entire process.
- [20] Not every procedural defect renders a decision invalid. The enquiry is whether the requirement breached was mandatory and whether non-compliance materially affected the lawfulness of the process. Here, the Standing Orders prescribed notice periods and procedures for introducing motions. The Speaker's failure to comply with those requirements deprived the Council of lawful authority to entertain the motion. Applying *Minister of Environmental Affairs and Tourism and Others v Pepper Bay Fishing (Pty) Ltd*,¹³ where legislation prescribes the way power must be exercised, that procedure must ordinarily be followed. The irregularity was therefore material and rendered the resolutions invalid.
- [21] In *Kirland and Oudekraal supra*, the courts emphasised that even unlawful decisions exist in fact until set aside by a competent court. Once set aside, however, their legal consequences cannot survive absent independent authority. The removal of the applicant and the election of his successor were consequences of an unlawful process. They must therefore be reviewed and set aside.

¹² *Apleni v President of the Republic of South Africa and Another* [2017] ZAGPPHC 656; [2018] 1 All SA (GP) para 10.

¹³ *Minister of Environmental Affairs and Tourism and Others v Pepper Bay Fishing (Pty) Ltd; Minister of Environmental Affairs and Tourism and Others v Smith* 2004 (1) SA 308 (SCA) para 32

[22] The respondents urged judicial restraint, relying on *National Treasury v Opposition to Urban Tolling Alliance*.¹⁴ While courts must remain mindful of the impact of urgent relief on governance, the Constitution requires that legality be restored where public power has been exercised unlawfully. Declaratory relief alone would be insufficient, as it would leave the municipality governed by an invalid resolution. Reinstatement of the applicant as MPAC Chairperson is necessary to restore legality and prevent continuing prejudice.

FINDING

[23] This Court is satisfied that the application warrants urgent intervention under Rule 6(12). The Speaker's notice convening the Special Council Meeting was issued contrary to the Council's Standing Orders and the Municipal Structures Act. The resulting meeting and resolutions were therefore unlawful. The removal of the applicant and the election of his successor were consequences of that unlawful process and cannot stand.

[24] As a result, the following order is made:

1. The notice convening the Special Council Meeting of 22 June 2026 is declared unlawful and invalid.
2. The proceedings and resolutions adopted at the meeting held on 23 June 2026 are reviewed and set aside.
3. The decision removing the applicant, Councillor Cornel Dreyer, as Chairperson of the Municipal Public Accounts Committee is declared unlawful and invalid.
4. The election of Councillor Collen Mohelekete as Chairperson of the Municipal Public Accounts Committee is set aside.
5. The applicant is reinstated forthwith as Chairperson of the Municipal Public Accounts Committee.

¹⁴ *National Treasury and Others v Opposition to Urban Tolling Alliance and Others* 2016 (3) SA 580 (CC) paras 44-47.

6. The respondents are directed to take all necessary steps under the Municipal Structures Act 117 of 1998 and the Council's Standing Orders to give effect to this order.
7. The first to fifth respondents are ordered to pay the costs of this application, jointly and severally, the one paying the others to be absolved, including the costs of counsel, on the attorney-and-client scale.



B MABUZA

**ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA
NORTHWEST DIVISION, MAHIKENG**

Appearances

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