IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

JUDGMENT

CASE NO: 2026-258188

In the matter between:

ABDULKADER ELYAS	Applicant
and	
THE DEMOCRATIC ALLIANCE	First Respondent
THE CHAIRPERSON: FEDERAL LEGAL COMMISSION, OF THE DEMOCRATIC ALLIANCE	Second Respondent
THE CHAIRPERSON: FEDERAL EXECUTIVE, OF THE DEMOCRATIC ALLIANCE	Third Respondent
THE CITY OF CAPE TOWN	Fourth Respondent
THE CITY MANAGER: CITY OF CAPE TOWN	Fifth Respondent
THE INDEPENDENT ELECTORAL COMMISSION	Sixth Respondent

Coram: Justice Nziweni
Heard: 28 October 2026
Delivered electronically: 2 November 2026 (electronically)

Summary - Interim Interdict - Application under Part A to suspend termination of political party membership pending review under Part B.

Urgency - Matter heard urgently under Uniform Rule 6(12) due to imminent local government elections. Delays in launching the application were sufficiently explained by the production of internal records. Urgency was objective and not self-created.

Prima Facie Right - Applicant failed to establish a *prima facie* right under the *OUTA* threshold framework. The case turned on the interpretation of a signed disciplinary settlement pact (the P&P Agreement) prohibiting the applicant from "standing for an elective or non-elective position."

Contractual Interpretation - Applying *Endumeni*, the clause is structured disjunctively to bar both ballot elections and administrative staff appointments. The explicit retrospective requirement to resign from existing roles bridges any semantic gap between "standing for" and "holding" an appointed office. The applicant's narrow interpretation is textually unsustainable.

Rules of Construction - Under *expressio unius est exclusio alterius*, the explicit mention of two narrow exemptions (ordinary public representative and councillor) strictly excludes unmentioned campaign staff roles, such as Ground War Lead. The penal canon *in poenis strictissima verborum significatio accipienda est* is a rule of last resort and inapplicable because the text is unambiguous.

Authority & Condonation - Subsequent campaign invitations extended by individual regional and provincial leaders were unauthorized, made outside the collective scope of the Federal Executive (FedEx), and carried no legal force to vary or waive the federal disciplinary sanction.

Constitutional Rights - Section 19 political rights are not absolute and may be contractually regulated. Distinguishing *De Lille*, due process was meticulously observed through multiple internal hearings before termination. Enforcing agreed contractual consequences is *prima facie* lawful and does not violate the *Ramakatsa* principle of legality.

ORDER

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1. The applicant's non-compliance with the ordinary forms, timeframes, and rules of service is condoned, and this application is heard as a matter of urgency pursuant to Uniform Rule 6(12).

2. The application for an interim interdict to stay and suspend the first respondent's executive decision to terminate the applicant's party membership, pending the final determination of the main judicial review under Part B, is dismissed.
3. The applicant is ordered to pay the costs of the application on Scale B, including the costs of two counsel where so employed.

JUDGMENT

Nziweni, J

Introduction

[1] This opposed application has its genesis in charges levelled against the applicant in 2024, wherein he was charged with misconduct for breaching the constitution of the first respondent, the Democratic Alliance ("the DA"). Specifically, the applicant was accused of misrepresenting his academic qualifications in applications to become a public representative of the DA and a candidate for its Young Leaders' Programme.

[2] This is a review application that is composed of two parts, A and B. Part A, is the exclusive focus of this Court. Hence, this Court is seized with Part A of the application, related to the issues wherein the applicant seeks an interim interdict, pending the determination of the review in Part B. The present application for an interim interdict was brought on an urgent basis.

[3] At the commencement of the hearing, it was agreed that the issue of urgency would be heard simultaneously with the merits of the matter.

Urgency

[4] In addressing the threshold question of urgency under Uniform Rule 6(12), I am satisfied that the applicant has met the requisite criteria and that the urgency is not self-created. The reasons for concluding in the manner I which I have are set out below.

[5] The first respondent contends that the applicant sat on his rights after receiving the Federal Legal Commission ("FLC") minutes on 2 October 2026 and following the City Manager's declaration of a vacancy on 6 October 2026. However, the record shows that the applicant launched this bifurcated application on 19 October 2026. A period of thirteen days to consult counsel, gather evidence, and draft complex review and interdict papers cannot be characterised as dilatory conduct or tactical procrastination. It represents an expeditious response to a rapidly unfolding administrative crisis.

[6] Given that the impending local government elections are scheduled for 4 November 2026, a date formally gazetted since 7 August 2026, the timeline available to the applicant to secure effective relief was severely compressed. Had the applicant followed the ordinary motion roll, the matter would not be heard for months, rendering his underlying review in Part B entirely academic and causing him irreversible harm. The urgency is objective, structural, and legally condoned. Accordingly, the matter is heard as one of urgency under Rule 6(12) and the applicant's non-compliance with the ordinary forms and timeframes for service is condoned.

The interdict

[7] In his opening remarks, Mr Corbett SC, counsel for the applicant, introduced the applicant as a Proportional Representative Councillor of the fourth respondent, the City of Cape Town. On that premise, he submitted that, for the purposes of securing interim relief under Part A, the applicant maintains a prima facie right to remain in that position. Further, it was contended on the applicant's behalf that, although the first respondent has purported to terminate his party membership, such termination was unlawful, a central issue to be determined definitively by the review court in Part B. That being said it does, of course, follow that the central questions presented by this component of this application is whether the applicant satisfies the requirements for an interdict.

[8] The background facts of this matter are straightforward and largely undisputed. As adverted to above, this case turns on whether the applicant has established a *prima facie* right regarding the proper interpretation of clause 4.1.1.2 of the Plea and Penalty Agreement ("P&P Agreement"). In addition to the parties' extensive oral submissions, I

was provided with comprehensive bundles of authorities and helpful heads of argument, for which I express my gratitude to counsel.

[9] The applicant joined the first respondent ("the DA') in 2018 and was subsequently elected as a Proportional Representative Councillor of the City of Cape Town in 2021.

[10] In 2024, the applicant was disciplined by the DA for misrepresenting his qualifications over an extended period, including by holding himself out to be a fully qualified medical doctor and /or qualified actuary. The FLC, in its investigation report stated that the applicant misrepresented his qualifications in several candidate selection and the DA application processes. According to the DA, these representations were calculated to advance the applicant's standing in the DA.

[11] After its investigations, the FLC, found that there was sufficient evidence of a prima facie act of misconduct having taken place and recommended that the evidence it unearthed to be presented to the disciplinary panel for consideration. It was then recommended that the applicant be charged accordingly and that his matter be referred for disciplinary hearing.

[12] In 2024, the applicant accepted responsibility and agreed to a penalty, culminating in the P&P Agreement.

[13] It is common ground between the parties that the applicant withdrew his candidature for the 2024 National and Provincial Government Elections. It is recorded in the P&P Agreement that the applicant's withdrawal was seen as a bona fide attempt to limit any further reputational harm to the DA in the runup to the 2024 elections.

[14] The underlying dispute in this matter raises a question of interpretation regarding clause 4.1.1.2 of the P&P Agreement, which inter alia, spells out the agreed-upon sanction. Indeed, it was in this vein that, as I have previously observed, that the purposes of the interim relief sought under Part A, this Court is not called upon to definitively interpret the clause. Rather, the immediate inquiry is limited to determining whether the applicant has established a prima facie right, among other requirements, to warrant an interdict preserving the status quo, pending the final determination of that interpretive question in Part B.

[15] It is convenient to set out the entirety of that provision before considering whether the applicant has established a prima facie case regarding its proper meaning. The sanction imposed upon the applicant in terms of the P&P Agreement reads as follows:

> "4.1.1 That the Charged Member's membership be terminated, which termination shall be suspended for the remainder of his current term of office as a public representative in the City of Cape Town, or the 2026 Local Government Elections which ever date is the latest, which suspension will be subject to the following condition:
> 4.1.1.1. ...
> 4.1.1.2 That the Charged Member will be barred from standing for any position in the Party – elected or non-elected - other than that of ordinary public representative (MP/MPL/Councillor) and constituency head and that the Charged Member will resign from all such position, except that of councillor, that he currently holds for the suspension period."

[16] In this opposed application, the applicant seeks the suspension of the following decisions pending the final determination of the judicial review application in Part B:

1. The decision of the first respondent's Federal Legal Commission dated 15 July 2026 that the applicant's membership of the first respondent ("the DA") has been terminated;
2. The decisions of the first respondent's federal executive ("the Fedex"), dated 30 September 2026:

2.2.1 To adopt the FLC report;

2.2.2 Not to amend the sanction whereby the applicant's membership of the DA has been terminated;

2.2.3 To terminate the applicant's DA membership with effect from 30 September 2026.

3. The declaration of the vacancy (the declaration") on 06 October 2026, by the fifth respondent ("the City Manager"), in respect of the seat held by the applicant in the municipal council ("the council") of the fourth respondent ("the municipality").
4. That the DA restore the name of the applicant to its proportional lists of municipal councillors for the council ("the lists"), relating to the council's terms of office namely:

4.1 That will end, following the general election for local government scheduled for 4 November 2026;

4.2 That will commence, following the general election for local government scheduled for 4 November 2026;

4.3 And not to fill the position of the applicant on the said proportional lists with the name of any other person, pending the final determination of the review.

5. That the sixth respondent ("the IEC") will not fill any vacancy on the lists, relating to the position/s of the applicant in respect thereof pending the final determination of the review.

6. That the orders in paragraphs 1 and 5 will have the effect of an interim interdict pending the final determination of the review.

[17] In his founding affidavit, the applicant states that he has been unemployed since the purported termination of his party membership on 30 September 2026. This termination resulted not only in the loss of his political membership but also in the automatic forfeiture of his municipal council seat. The thrust of the applicant's case is that the FLC and the Fedex acted arbitrarily and unlawfully. In this regard, Mr Corbett SC strenuously contended during oral argument that the Fedex failed to independently exercise its discretion, choosing instead to merely rubber-stamp the decision of the FLC.

[18] In addition, the crux of the applicant's argument is that his membership was terminated because he held positions within the DA's election campaign, which the FLC subsequently ruled he was prohibited from holding.

[19] According to the applicant, the impugned provisions of the FLC's ruling provides as follows:

> "6. The Panel is of the view that the position currently occupied by Elyas, to wit that of Ground War Lead /Manager of the Western Cape Campaign Team constitutes a position as envisaged in terms of section 4.1.1.2 of sanction as being one other than that of an ordinary public representative (MP /MPL/Councillor) or constituency head. Accordingly, this Panel deems Elyas' occupation of this position to warrant non-compliance with the condition contained in section 4.1.1.2.

7. As the suspensive condition contained in section 4.1.1.2. has been breached, the sanction specified in terms of section 4.1.1 is deemed to have taken effect, to wit: '4.1.1 That the Charged member's membership be terminated . . ."

[20] It is common cause that on 30 September 2026, the Fedex resolved to adopt the FLC's ruling. The applicant further submitted that he occupies the fourth position on the DA's proportional representation ("PR") list for the City of Cape Town for the impending local government elections scheduled for 4 November 2026. However, as a direct consequence of the termination of his DA membership, he stands disqualified from being elected to the incoming municipal council.

[21] According to the applicant, the termination of his DA membership and the consequential loss of his seat on the municipal council are the direct results of a patently flawed ruling by the FLC. The applicant denied that he breached the P&P Agreement, strongly disputing the finding that his conduct fell foul of clause 4.1.1.2 thereof.

[22] He argued that he was not in breach of the provisions of clause 4.1.1.2 of the P&P Agreement, which prohibited him from standing for any position in the Party, whether elective or non-elective, other than that of an ordinary public representative (MP/MPL/Councillor) or a constituency head. The applicant maintained that his disputed roles were filled by direct administrative appointment, rather than an internal party election, and therefore did not require him to 'stand' as a candidate within the meaning of the prohibition.

[23] The applicant asserted that, by the time of the Fedex decision on 30 September 2026, it was common cause that he had complied with all requirements of paragraph 4 of the P&P Agreement, save for the compliance dispute arising from the FLC's ruling of 15 July 2026. That ruling found that the applicant's position as Ground War Lead / Manager of the Western Cape Campaign Team constituted a breach of clause 4.1.1.2 of the agreement. Crucially, the applicant emphasises that he was never facing any formal complaint, nor was any adverse finding ever made against him, regarding his alleged role as the Deputy Campaign Manager in Cape Town.

[24] The applicant highlighted the contradictory nature of the first respondent's stance; despite having concluded the P&P Agreement, leadership structures within the DA actively appointed him to two separate campaign roles the following year. Specifically, the applicant contended that on 30 January 2025, he was approached and requested to assist by the Regional Chairperson, and on 30 March 2025, a similar request was extended to him by Minister Tertius Simmers. Mr Corbett SC characterised these requests as anomalous, particularly given that they were extended by the party leadership the year immediately following the imposition of the sanction.

[25] The essence of the applicant's argument is that the positions were not elective offices. The applicant buttressed this argument by stating that he was appointed, rather than elected, to that position on 30 March 2025. According to the applicant, there was no objection to his name. He submitted that the positions of deputy campaign manager and Ground War Lead/Manager are not official positions in the DA. So, the argument ran, neither of these are a position in the Party as contemplated in paragraph 4.11.2. According to the applicant, these positions are operational roles to help ensure successful election outcome for the DA. He further argued that the roles he held did not require him to stand for the positions.

[26] Mr Corbett SC further contended on the applicant's behalf that the first respondent's interpretation of clause 4.1.1.2 is unsustainable.

[27] It was further argued on the applicant's behalf that the internal legal opinion provided to the DA by Advocate Bishop underscored the lack of merit in the FLC's finding. The essential thrust of that opinion was that the positions assumed by the applicant did not constitute internal party offices but were merely operational roles. The applicant submits that by ignoring this counsel, the Fedex exercised its powers capriciously.

[28] The applicant further contended that; following an inquiry by the FLC Manager, his attorney responded on 13 February 2025, explaining why the applicant was not in breach of the P&P Agreement. The applicant argues that because the Fedex and the FLC took no further steps for over a year, his appointments continued undisturbed. He places great reliance on a subsequent letter dated 28 February 2026, wherein the FLC

Regional Manager wrote to the FLC Chairperson, stating that the applicant's interpretation was correct and that no violation had occurred. Mr Corbett SC strenuously argued that this correspondence carries definitive weight, as it demonstrates how the party's own internal structures interpreted the contract and shows that they did not view the assumption of these roles as a transgression.

[29] The counsel further submitted that clause 4.1.1.2 is a strict penal provision and, in accordance with established principles of interpretation, such provisions must be construed restrictively rather than expansively so as to preserve the applicant's remaining political rights.

The DA submissions

[30] In assessing the factual matrix, regard must be had to the submissions advanced by the DA. The DA contends that in January 2025, the applicant made himself available for, and subsequently accepted, a leadership role within the City's campaign team. Consequently, on 31 January 2025, the applicant was appointed as the Deputy Campaign Manager. The DA maintained that this role constitutes a formal leadership position which vested the applicant with considerable authority and influence.

[31] The DA asserted that because the provision incorporates non-elective positions, the phrase 'stand for' must textually encompass the mere acceptance of an administrative appointment, thereby characterising the applicant as having 'stood' for office by agreeing to assume those campaign roles.

[32] Although the applicant contends that he was appointed to his campaign roles by the leadership structures of the party themselves, the DA strenuously asserts that he failed to comply with the terms of the P&P Agreement, and that the resulting termination of his membership was an automatically triggered, contractually agreed consequence.

[33] According to the DA, the agreed terms barred the applicant from standing for any position in the party, whether elective or non-elective. Other than that, of an ordinary public representative, for a period of suspension lasting for the remainder of his term in office or until the impending local government elections.

[34] It is further asserted by the DA that the purpose of this restrictive provision was to ensure that while the applicant was effectively on probation, he did not exercise any administrative power or leadership within the party, nor occupy roles requiring a high degree of trust and integrity.

[35] The DA contended that the applicant directly breached the conditions of the P&P Agreement by accepting the role of Ground War Lead and Manager of the Western Cape Campaign Team. According to the DA, this is a prominent leadership position that yields authority over other party members, grants access to highly confidential strategic operations and enabled the applicant to accumulate internal performance points. These points, the DA argues, directly improved his ranking on the PR list, effectively enabling him to secure a candidacy for a second term as a PR Councillor.

[36] The DA argued that the applicant cannot escape the clear operational consequences of the P&P Agreement merely because he was appointed to the position rather than elected, or simply because he was encouraged by certain individual members of the party to accept the role.

[37] Although Mr Corbett SC contended that the leadership of the DA was fully aware of the agreed-upon sanction imposed on the applicant, the DA maintains that the sole responsibility for ensuring strict compliance with the terms of the P&P Agreement rested squarely on the applicant. The DA maintains that this is so because the P&P was not distributed within the Party. The DA further contended that the applicant knew that he should not take any leadership roles while serving his period of suspended termination. It is clear that the period of suspension is operational until either the expiration of the applicant's current term or the conclusion of the 2026 Local Government Elections, whichever of the two dates occurs first.

[38] Ultimately, the DA maintained that there is nothing procedurally unfair or substantively unlawful in the enforcement of these consequences. It asserts that due process was meticulously followed, and that the applicant was afforded multiple internal hearings and exhaustive opportunities to make representations before the terms of the P&P Agreement were strictly enforced.

Issues to be considered

a. Whether the applicant has established a prima facie right, even if open to some doubt, to the relief sought in the main review;
b. Whether there is a well-grounded apprehension of irreparable harm to the applicant if the interim relief is refused and the main review eventually succeeds;
c. Whether the balance of convenience favours the granting of the interim interdict, weighing the prejudice to the applicant against the prejudice to the respondents; and
d. Whether the applicant has any other ordinary, satisfactory alternative remedy available to them to protect their rights in the interim.

Discussion

The Assessment of a Prima Facie Right

[39] As pointed out previously, before evaluating the text of the P&P Agreement, it is necessary to clarify the nature of this Court's inquiry under Part A. While the definitive interpretation of clause 4.1.1.2 is a matter reserved exclusively for the review court in Part B, this Court cannot evaluate the existence of a *prima facie* right in a vacuum. In accordance with established precedent, I am required to examine the contractual text transiently to determine whether the applicant's underlying case is serious and plausible, or whether it is textually unsustainable on the face of it. Mr Corbett had conceded as much. The analysis that follows is conducted strictly through this threshold lens.

[40] It is well-established in our law, following the principles underscored in *National Treasury and Others v Opposition to Urban Tolling Alliance and Others* 2012 (6) SA 223 (CC), para 49, that in assessing a *prima facie* right for interim relief, this Court is enjoined to consider the applicant's prospects of success in the main review. As I have already mentioned, this requires a transient evaluation of the merits to determine if the applicant has made out an answerable case. If the underlying contractual interpretation advanced by the applicant is textually unsustainable, the prospects of success are non-existent,

and the threshold requirement for a *prima facie* right cannot be met. It is for this limited purpose that I turn to examine clause 4.1.1.2 of the P&P Agreement.

[41] I wish to state from the onset that the applicant's assertion regarding the restrictive interpretation of penal provisions, while tracking a well-recognised common-law canon of construction, fails to establish a *prima facie* right. While it is true that strict penal provisions or clauses limiting vested rights are generally construed restrictively, this interpretive rule cannot be used to distort the clear text or defeat the manifest purpose of an agreement.

[42] This common law canon that penal clauses must be interpreted strictly [*in poenis strictissima verborum significatio accipienda est*] means that if a clause imposes a penalty or forfeits a right, any real ambiguity must be resolved in favour of the person being penalised. However, the applicant's contention ignores the fact that under the modern *Endumeni* framework, this canon only applies as a last resort if the text remains genuinely ambiguous after looking at its language, context, and purpose.

[43] The common law interpretation, fails in this matter for the following reasons:

a. Absence of textual ambiguity. The written text is unambiguous, a fact conceded by the parties;
b. Nature of the instrument. The clear context remains an integrated disciplinary settlement agreement designed for strict probation.
c. Impact of the retrospective prong: As will be discussed in more detail below, the P&P Agreement is explicitly two-pronged. The P&P Agreement mandatorily commands the applicant to resign retrospectively from 'all such positions' currently held, completely counters the prospective semantic distinctions advanced on his behalf.

[44] Furthermore, in assessing whether the applicant has established a prima facie right, close regard must be had to the text of clause 4.1.1.2 of the P&P Agreement, which renders the applicant ineligible to 'stand for' any elective or non-elective position. The core of the interpretive dispute is what constitutes 'standing for'. While this term is not explicitly defined in the agreement, the applicant's argument that it must be read

narrowly is heavily contested by the express language of the clause itself. The inclusion of 'non-elective' positions strongly suggests, on a *prima facie* basis, that the restriction is broader than merely contesting an internal election; it textually encompasses making oneself available for administrative selection or appointment. Because non-elective roles do not involve a democratic ballot, the DA's contention that the clause was intended to block the active assumption of any party leadership role carries significant contextual weight. As such, the applicant's counter arguments are unavailing.

[45] But, more importantly, in this regard, in determination as to whether the applicant has established a *prima facie* right to the interim relief sought under Part A, close regard must be had to the strength of his underlying interpretive case. The applicant's contention that the restriction does not apply to his appointed roles relies [as conceded] on a highly restricted definition of the word 'stand for'. He argued that because the senior leadership of the DA approached him and offered him the position Ground War Lead role / Manager directly, he was passively appointed and therefore did not 'stand' or campaign for it within the meaning of the prohibition.

[46] This argument relies on a false dichotomy and appears, on a prima facie basis, to be contextually untenable and grammatically strained. I believe that it is important to keep in mind two significant facts: While the applicant currently holds standard employee status, this does not preclude the fact that such employment was secured by virtue of standing for a position within the broader contemplation of the P&P Agreement. Clause 4.1.1.2 also explicitly refers to standing for a 'non-elected position'. A non-elective position, by its very nature, does not involve a vote of delegates; it involves an administrative appointment. To accept the applicant's narrow definition would render the term 'non-elective' in the agreement entirely redundant.

[47] In this context, it is significant that the interpretive principle underlying clause 4.1.1.2 is that the phrase 'standing for an elective or non-elective position' is structured disjunctively. More significantly, the P&P Agreement establishes two distinct categories of disqualification; positions filled by direct election and positions filled by non-elective means. By using this disjunctive framing, the agreement ensures that all forms of party office fall within the scope of the restriction. Hence, the *prima facie* interpretation of 'standing for' under this specific framework must be necessarily broad.

[48] Furthermore, the sanction which is in terms of the constitution of the DA is explicitly two-pronged: it prospectively bars the applicant from 'standing for' any position, explicitly defined to include both elective and non-elective roles and retrospectively mandates that he 'will resign from all such positions that he currently holds.' The applicant's argument that he did not 'stand' for his current positions because they were filled by appointment is entirely neutralised by this retrospective requirement. By explicitly commanding the applicant to resign from 'all such' non-elective positions currently held, the clause deliberately bridges any semantic gap between the act of 'standing' for office and the act of 'holding' office.

[49] While our courts approach the maxim *expressio unius est exclusio alterius* with a degree of circumscription, recognising it as a rule of logic rather than a rigid principle of law, its application in this instance is entirely appropriate. This rule of construction, *expressio unius est exclusio alterius* simply stated, means that the mention of one thing implies the exclusion of another thing.

[50] In the instant case, it appears that the P&P Agreement does not deploy open-ended, illustrative language; rather, it sets out a closed, precise enumeration of exactly two permitted exemptions, namely, an ordinary public representative and a councillor. In accordance with established contractual interpretation under *Natal Joint Municipal Pension Fund v Endumeni Municipality* 2012 (4) SA 593 (SCA), where a strict disciplinary instrument selectively carves out specific allowances from a general prohibition, the express mention of those roles must, by necessary implication, denote the exclusion of all unmentioned operational or campaign roles, such as Ground War Lead. To hold otherwise would yield an insensible, unbusinesslike result that completely eviscerates the manifest purpose of the suspension conditions.

[51] This is further fortified by the clear commercial purpose of the contract, which is to prohibit the individual from putting himself forward for, or accepting, any party role whatsoever, regardless of how it is filled. If I may venture to repeat what I said on this point, this purpose is supported by the fact that the clause explicitly carves out its own narrow exceptions, namely an ordinary public representative and a councillor. Under

the established principle of *expressio unius est exclusio alterius,* the explicit mention of these specific exemptions strictly excludes any unmentioned appointed positions.

[52] Under any fair prima facie reading of the P&P Agreement, there is no lack of clarity as to what it intended with respect to what the applicant was prohibited from doing. While the applicant attempts to attribute an alternative interpretation to these terms, a mere disagreement between litigants does not create an ambiguity where none exists. When read in the context of the agreement as a whole, the prohibition is open to only one sensible, business-like interpretation. Consequently, the applicant has failed to establish even a prima facie right, open to some doubt, to sustain his interpretation in the main review. The contractual foundation of his case is textually unsustainable.

[53] Thus, on the papers before me, the underlying contractual interpretation advanced by the applicant is so textually strained that his prospects of success in the main Part B review appear, on a *prima facie* basis, to be wholly insufficient to justify the extraordinary remedy of an interim interdict.

[54] In addition, the argument regarding the applicant's appointment by senior members of the DA, while rhetorically attractive, fails to establish a prima facie right. In this regard, Mr Corbett SC posed the rhetorical question of whether the DA's right hand knew what its left hand was doing. However, this metaphor cannot overcome the constitutional architecture of the party. The fact that individual leadership structures within the province or region requested the applicant's assistance does not alter the clear contractual obligations set out in the P&P Agreement. Neither a regional chairperson nor a provincial leader possesses the authority to unilaterally waive or vary a sanction imposed by the FLC and adopted by the Fedex.

[55] Consequently, these operational requests are legally distinct incidents that do not absolve the applicant from his compliance breach, nor do they yield any realistic prospects of success on review.

[56] Similarly, nothing turns on the fact that these appointments were formally announced at a regional meeting of the party. The public nature of the announcement does not cure the regional structure's underlying lack of constitutional capacity to vary

an FLC or the Fedex sanction. Publicity cannot transform a non-compliant act into a compliant one, nor does it displace the applicant's personal obligation to adhere to his suspension conditions. Consequently, the regional announcement is of no legal force or effect in relation to the operational status of the sanction.

[57] In relation to the formal sanction imposed upon the applicant, nothing can be read from these subsequent appointments to suggest a variation or waiver of his contractual obligations.

[58] I wish to emphasise that in making these observations regarding the regional structures, this Court is not granting a final, declaration on the question of waiver or authority. Rather, as stated above, sitting as a court that is seized with an application for an interim relief, I am bound by the principles in *OUTA* to assess the applicant's *prima facie* prospects of success. On the papers before me, the applicant's reliance on regional announcements is so legally remote from the central powers of the Fedex that it fails to demonstrate the requisite, arguable case necessary to trigger an interim interdict.

[59] Mr Corbett SC also submitted that it is palpably unfair for the very leadership structures that actively appointed the applicant to reverse their position more than a year later and terminate his membership based on those same appointments. However, on this point, the applicant conflates political fairness with contractual obligation. While the temporal delay and the conduct of individual officials may appear contradictory, they cannot create a prima facie right where the express language of the P&P Agreement remains absolute. In terms of the party's constitutional structures, individual recruiters acting outside the collective scope of the Fedex possess no authority to condone a breach or waive a binding disciplinary sanction. The ultimate obligation to ensure strict personal compliance with the suspension conditions rested solely on the applicant, and he cannot rely on these subsequent appointments to escape the contractually agreed consequences of his infraction.

[60] Moreover, the applicant's contention is not salvaged by the fact that the senior party officials who approached him are themselves members of the Fedex. It is common cause on the papers that these individuals extended the campaign invitations outside

the formal, collective scope of the Fedex operations. In our law, individual members of a corporate or political executive structure cannot unilaterally exercise powers that are structurally vested in the collective body.

[61] Without doubt, a formal disciplinary sanction adopted by the Fedex can only be varied or stayed by a lawful resolution of that collective body, sitting in a duly constituted meeting. As previously mentioned, when acting outside that scope, individual officials possess no actual or ostensible authority to waive contractual prohibitions. Consequently, the applicant could not derive a legitimate expectation or a prima facie right from actions that were, on his own version, contractually unauthorised.

[62] I wish to emphasise at the outset that the applicant's reliance on the first respondent's twelve-month delay and the internal letter from the FLC Regional Manager condoning his appointments cannot alter the contractual reality of his situation. It is well to bear in mind that this argument, though meticulously framed on behalf of the applicant in paragraph 28 above, fails to establish a *prima facie* right. At the cost of repetition, if I may venture to repeat what I said on this point, in our law, an internal opinion or recommendation expressed by a subordinate administrative official, such as a regional manager, does not bind the ultimate decision-making body, nor does it yield actual or ostensible authority to vary a formal disciplinary sanction. Furthermore, the mere fact that the first respondent delayed in enforcing its rights, allowing the applicant's appointments to continue undisturbed for a period, does not meet the high legal threshold required to establish a tacit waiver or condonation of a contractual breach.

[63] Furthermore, I am not persuaded by Mr Corbett SC's assertion that the subsequent interpretation of the P&P Agreement by individual party officials reflects the objective understanding or common intention of the contracting parties at the time of conclusion.

[64] As argued by the respondents' counsel, Mr Adiel Nacerdien to hold otherwise would run directly foul of the parol evidence rule (or the integration rule), which is deeply embedded in our law of contract. Under this well-established doctrine, where a contract has been reduced to writing and represents the complete integration of the parties' agreement, extrinsic evidence of prior or subsequent conduct, verbal assurances, or

individual administrative opinions is generally inadmissible to contradict, alter, or add to the clear, objective meaning of the written text.

[65] The modern, mandatory approach to legal interpretation in South African jurisprudence was definitively articulated by Wallis JA *Endumeni, supra* at paragraph 18 Wallis JA noted:

> "The present state of the law can be expressed as follows. Interpretation is the process of attributing meaning to the words used in a document, be it legislation, some other statutory instrument, or contract, having regard to the context provided by reading the particular provision or provisions in the light of the document as a whole and the circumstances attendant upon its coming into existence. Whatever the nature of the document, consideration must be given to the language used in the light of the ordinary rules of grammar and syntax; the context in which the provision appears; the apparent purpose to which it is directed and the material known to those responsible for its production. Where more than one meaning is possible each possibility must be weighed in the light of all these factors. The process is objective not subjective. A sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results or undermines the apparent purpose of the document. Judges must be alert to, and guard against, the temptation to substitute what they regard as reasonable, sensible or businesslike for the words actually used."

[66] Under the *Endumeni* principle, the objective meaning of clause 4.1.1.2 cannot be altered or watered down by the transient administrative interpretations of individual staff members. It bears reiterating that the final responsibility for personal compliance remained with the applicant, and the internal correspondence referred to in paragraph 28, fails to deliver any realistic prospects of success on review.

[67] I now turn to the applicant's contention that this matter raises constitutional issues, specifically asserting that he has been unlawfully denied his right to participate in political activities under section 19 of the Constitution. In this regard, Mr Corbett SC placed heavy reliance on the landmark decision in *Ramakatsa and Others v Magashule and Others* 2013 (1) BCLR 202 (CC), which underscores that internal political party processes must comply with the principle of legality.

[68] While the constitutional principles articulated in *Ramakatsa* are indisputable, they do not assist the applicant in establishing a *prima facie* right at this interlocutory stage. The applicant's argument cannot succeed. It ignores the fundamental premise that section 19 rights are not absolute and may be contractually regulated by a political party's internal disciplinary structures. Because the applicant's underlying case on the interpretation of clause 4.1.1.2 appears, on a *prima facie* basis, to be textually unsustainable, he lacks the requisite prospects of success to demonstrate that his section 19 rights were unlawfully infringed by the enforcement of the suspension. *Ramakatsa* demands adherence to lawful party structures, and the first respondent's execution of its internal disciplinary regulations is, on the papers before me, *prima facie* lawful. All these considerations underline the sharp distinction between *Ramakatsa* and the matter.

[69] Finally, I turn briefly to the applicant's implicit reliance on the principles underscored in *De Lille v Democratic Alliance and Others* 2018 (3) All SA 684 (WCC). While the full bench in *De Lille* correctly established that a political party must strictly and meticulously adhere to its own constitutional architecture when terminating a member's status, the facts of that matter are completely distinguishable from the present application. In *De Lille*, the first respondent flouted its own regulatory frameworks by invoking an automatic cessation clause without a hearing or an opportunity for mitigation.

[70] In this instance, it is uncontroverted on the papers that due process was meticulously observed, and that the applicant was afforded multiple hearings and extensive opportunities to make representations before the collective Fedex body acted. Crucially, the restriction enforced against the applicant stems not from an ambiguous constitutional clause, but from a specific, written disciplinary agreement that was willingly executed by the applicant himself. This Court fully agrees with the contention made by Mr Nacerodien that the strict administrative and procedural irregularities that proved fatal to the party's case in *De Lille* are entirely absent from the record before me, and the applicant's reliance on that precedent fails to demonstrate the requisite *prima facie* prospects of success on review.

[71] The applicant's assertion that the central issue in *De Lille* was also whether the termination was lawful is correct, but it misconstrues the underlying legal basis of that finding. I entirely agree with the Mr Nacerodien that in *De Lille*, the termination was declared unlawful specifically because the first respondent breached its own constitutional regulations, bypassed its disciplinary structures, and failed to afford the member an internal hearing.

[72] The legal grounds that rendered the termination unlawful in *De Lille* are entirely absent from the record before this Court. I emphasise this point because it does very seriously draw a tight distinction between the two.

[73] The applicant further asserted that the P&P Agreement is not an agreement in the ordinary commercial sense, but rather a specialised disciplinary instrument executed within the internal rules and constitutional framework of the DA.

[74] While this characterisation is conceptually correct, it does not advance the applicant's case for a *prima facie* right. That being said, it does not, of course, follow that the applicant is correct.

[75] On that basis, I am of the view that it is a well-established principle in our jurisprudence, reinforced in *De Lille*, that the internal regulations and disciplinary agreements of a voluntary association constitute a binding contractual pact between the organisation and its members. Whether viewed as an ordinary contract or an instrument under party rules, the P&P Agreement remains subject to the objective, text-and-context approach to interpretation mandated by *Endumeni*.

[76] In the consequences, I am unable to accept the submission advanced by counsel for the applicant that the issues in *De Lille* are 'almost identical' to the matter under consideration. This assertion is factually incorrect and misconstrues the true ratio decidendi of that particular case. Mr Corbett SC further submitted that, even if the facts differ, the underlying legal principles in *De Lille* remain identical to those in the present matter. While it is true that the foundational principles of administrative legality, procedural fairness, and adherence to internal party rules apply universally, the applicant's argument misapplies how these principles operate in practice. Legal

principles cannot be evaluated in a vacuum; they must be rooted strictly to the proven facts of the case.

[77] Moreover, the core principle governing this specific dispute is *pacta sunt servanda*, that written agreements must be honoured. The applicant freely executed a specific disciplinary contract, and because his transient interpretation of that agreement is textually unsustainable under *Endumeni*, has no prospects of success. Consequently, while the broader principles of legality are the same, their application to these distinct facts yields an entirely different result, and the applicant has failed to establish a prima facie right.

[78] Consequently, this characterisation fails to yield any realistic prospects of success on review, and the threshold requirement for an interim interdict remains unmet.

[79] As a final consideration, this Court notes that, because the applicant has failed to cross this initial threshold [insofar as the requirements for an interim interdict is concerned] to establish a *prima facie* right open to some doubt, the application under Part A cannot succeed.

[80] It follows from all these considerations that having found that the applicant has failed to establish even a prima facie right open to some doubt, it is unnecessary for this Court to enter into a detailed evaluation of the remaining prerequisites for an interim interdict, namely, irreparable harm, the balance of convenience, and the absence of an alternative remedy. The failure to cross this initial threshold is fatal to the relief sought under Part A. See *OUTA* case, supra, at para 50.

[81] In the result I make the following order:

Order

81.1 The applicant's non-compliance with the ordinary forms, timeframes, and rules of service is condoned, and this application is heard as a matter of urgency pursuant to Uniform Rule 6(12).

81.2 The application for an interim interdict to stay and suspend the first respondent's executive decision to terminate the applicant's party membership, pending the final determination of the main judicial review under Part B, is dismissed.

81.3 The applicant is ordered to pay the costs of the application on Scale B, including the costs of two counsel where so employed.



CN. Nziweni

Judge of the High Court

APPEARANCES

For the Applicant	:	Adv PA Corbett SC
Instructed by	:	Van Rensburg & Co – Mr LJ van Rensburg
For the 1st – 3rd Respondents	:	Adv A Nacerodien
		Adv. C Cohen
Instructed by	:	Mindes Schapiro & Smith In. – Mr V Reddy