THE ELECTORAL COURT OF SOUTH AFRICA

BLOEMFONTEIN

Not reportable

Case no: 0021/26EC

In the matter between:

FREEDOM NKULULEKO JOJIYASI	First Applicant
MASANDE MAMBULU	Second Applicant

and

EASTERN CAPE PROVINCIAL EXECUTIVE COMMITTEE OF THE AFRICAN NATIONAL CONGRESS	First Respondent
AFRICAN NATIONAL CONGRESS ('ANC')	Second Respondent
FIKILE APRIL MBALULA N O	Third Respondent
KGALEMA PETRUS MOTLANTE N O	Fourth Respondent
LULAMA NGCUKAYITHOBI N O	Fifth Respondent
ELECTORAL COMMISSION OF SOUTH AFRICA	Sixth Respondent
ANC COUNCILLORS ON THE ANC EASTERN CAPE PARTY LIST	Seventh Respondent

Neutral citation: *Freedom Nkululeko Jojiyasi and Another v Eastern Cape PEC of the ANC and Others* (0021/26EC) [2026] ZAEC 14 (02 November 2026)

Coram: ADAMS J, SHONGWE AJ and PROFESSOR PHOOKO (Additional Member)

Heard: 21 October 2026

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email, publication on the Supreme Court of Appeal website

and by release to SAFLII. The date and time for hand-down is deemed to be 11h00 on 02 November 2026.

Summary: Section 11 of the Local Government: Municipal Electoral Act 27 of 2000 (Municipal Electoral Act) – 2026 Local Government Election Timetable (timetable) – political party intending to contest elections required, in terms of item 5(2) of the timetable, to submit its party lists and candidate nominations by 28 August 2026 in the manner prescribed by s 17(1A)(*a)* of the Municipal Electoral Act – the applicants are members of the ANC – challenging the ANC's Eastern Cape party list and the ward candidate nominations for the 2026 Local Government Elections (2026 LGE) scheduled for 4 November 2026 – whether the ANC had disregarded its own constitution, internal policies and procedures, rules, guidelines and directives – whether the lists are to be declared unlawful and should be reviewed, nullified and set aside – application to compel the ANC to have a revised list compiled and to interdict the Electoral Commission from issuing registration certificates, which were due on 25 September 2026 – relief sought held to be incompetent – s 11(2)(*a)* of the Municipal Electoral Act – the Electoral Commission's powers to amend the timetable generally, by notice in the Government Gazette, where such amendment is necessary to ensure a free and fair election – provision does not empower the Electoral Commission to exempt an individual political party from a deadline that remains applicable to all other political parties and candidates – refusal of a request which the Electoral Commission had no power to grant cannot be unlawful, irrational or unreasonable – the decision, was in any event, lawful, rational and reasonable on its merits – the Electoral Commission's considered position is that no amendment is necessary for a free and fair election – the Electoral Commission must not be placed in a situation where it has to make ad hoc decisions about political parties and candidates who have not complied with the Municipal Electoral Act or the timetable – strict adherence to electoral deadlines necessary to give effect to the political rights entrenched in s 19 of the Constitution and promote the founding values of democracy and universal suffrage – Application against the ANC decided in favour of the ANC on the facts – *Plascon Evans* applied –

Application dismissed with no order as to costs.

ORDER

1. The application is dismissed.
2. There is no order as to costs.

JUDGMENT

Adams J (Shongwe AJ and Professor Phooko (Additional Member) concurring):

[1] The first and second applicants are members of the second respondent (ANC) in the Eastern Cape. They bring this application in the exercise of their right to participate in a political party, including the right to be governed by properly elected members of the ANC at the local government in the Eastern Cape Province. They also assert and seek to protect their constitutional right, as confirmed by the Constitutional Court in *Ramakatsa v Magashule*[1], to exact compliance with the ANC's Constitution by its leadership.

[2] The applicants are challenging the ANC's Eastern Cape party list and the ward candidate nominations for the 2026 Local Government Elections (2026 LGE) scheduled for 4 November 2026, as ratified by the National Executive Committee of the ANC (ANC NEC). The applicants allege that, in producing the said list, the ANC had disregarded its own constitution, internal policies and procedures, rules, guidelines and directives, which means that the lists are to be declared unlawful and should be reviewed, nullified and set aside. The applicants also apply to compel the ANC to have a revised list compiled and to interdict the sixth respondent (Electoral Commission) from issuing registration certificates, which were due on 25 September 2026.

[3] The ANC is a political party registered as such with the Electoral Commission in terms of s 15 of the Electoral Commission Act 51 of 1996 (Electoral Commission Act). The Electoral Commission is the election management body in South Africa. The first

[1] *Ramakatsa v Magashule* [2012] ZACC 31; 2012 JDR 2203 (CC); 2013 (2) BCLR (CC).

respondent is the Provincial Executive Committee of the ANC in the Eastern Cape Province ('PEC'), which is the highest organ of the ANC in the Eastern Cape Province between provincial conferences. The third respondent (Mr Mbalula) is the Secretary General of the ANC and the fourth respondent (Mr Motlanthe) is the Chairperson of the Electoral Committee of the ANC, which oversees the candidate nomination and the selection of candidates process. The fifth respondent (Mr Ngcukayithobi) is the Provincial Secretary of the ANC in the Eastern Cape. The further respondents are candidates for the ANC Eastern Cape Party List so nominated for the 2026 LGE by the ANC as listed in the ANC Eastern Cape Candidate Nomination and Selection List.

[4] To place in context the issues in dispute between the parties, it may be apposite to cite in full the widespread relief sought by the applicants in their notice of motion, which indicates that they are applying for an order in the following terms: -

'(1) It is declared that the first respondent, insofar as its ward candidate nomination and selection process, has failed to comply with its constitutional obligation to facilitate the publishing of the list of ward candidates as approved by its extended Provincial Executive Committee on the second respondent's website, as required by rule 9.5.3 of the African National Congress ('ANC') 2026 Local Government Elections Candidate Selection Rules, Guidelines and Procedures ('the Guidelines'), prior to approval and ratification of the Eastern Cape Candidate Nomination and Selection List ('Eastern Cape Party List') by the African National Congress National Executive Committee ('ANC NEC') at its meeting on 27 August 2026 and prior to submission thereof to the Sixth Respondent.

(2) It is declared that the process of nomination and selection of proportional representation councillors, ward councillors and mayoral candidates for the ANC in the Eastern Cape Province was undermined in a manner that materially affected the outcome of the candidate selection process.

(3) It is declared that the decision of the ANC NEC, to ratify the Eastern Cape Party List on 27 August 2026, is –

(3.1) unconstitutional for breach of section 19 of the Constitution of the Republic of South Africa Act, 108 of 1996; and

(3.2) unlawful for breach of the Applicant's constitutional and contractual rights as governed by the ANC's Constitution and Guidelines for Branch General Meetings and Community Meetings and non-compliance with the rules, guidelines and procedures for nominating

and selecting proportional representation councillors, ward councillors and mayoral candidates.

(4) The decision of the ANC NEC to ratify the Eastern Cape Party List on 27 August 2026 is reviewed and set aside.

(5) The respondents or anyone acting under their authority and/or direction, are restrained and interdicted from taking any administrative steps intended or designed to confirm the registration of the candidates in the ANC Eastern Cape Party List.

(6) The decision of the sixth respondent to register the candidates on the ANC Eastern Cape Party List is declared invalid, unlawful and unconstitutional.

(7) The decision of the sixth respondent to register the candidates on the ANC Eastern Cape Party List is reviewed and set aside.

(8) The sixth respondent be and is hereby interdicted and/or restrained from issuing the prescribed candidate registration certificates to the candidates on the ANC Eastern Cape Party List pending the review, amendment and verification of the said list by the fourth respondent and fifth respondents.

(9) The fourth respondent be and is hereby directed to resolve all outstanding disputes and appeals arising out of the ANC Eastern Cape Candidate Nomination and Selection Process for the 2026 Local Government Elections within 5 (five) calendar days from the granting of this order.

(10) The fourth and fifth respondents be and are hereby directed to review and verify the ANC Eastern Cape Party List against compliance with the Guidelines and thereafter compile a Revised ANC Eastern Cape Candidate Nomination and Selection List and submit it to the ANC NEC for ratification by the majority of the ANC NEC members within 7 (seven) calendar days from the granting of this order.

(11) The first respondent be and is hereby directed to furnish a copy of the Revised ANC Eastern Cape Candidate Nomination and Selection List, as compiled in terms of paragraph 8 of this order, to the first and second applicants' attorneys of record and publish the said list in the second respondent's website within 5 (five) calendar days from the granting of this order.

(12) The second respondent be and is hereby granted an extension to submit the Revised ANC Eastern Cape Candidate Nomination and Selection List, as reviewed, amended and verified by the fourth and fifth respondents and ratified by the ANC NEC, to the sixth respondent no later than Friday, 30 September 2026, or such date as may be ordered by this Honourable Court.

(13) The first respondent be and is hereby directed to issue the prescribed certificates of registration to the candidates on the Revised ANC Eastern Cape Candidate Nomination

and Selection List as reviewed, verified and compiled by the Fourth and Fifth Respondents no later than Friday, 09 October 2026, or such date as may be ordered by this Honourable Court.

(14) In the alternative to the primary orders in the paragraphs sought above, the respondents or anyone acting under their authority and/or direction, are restrained and interdicted from taking any administrative steps intended or designed to confirm the registration of the candidates on the ANC Eastern Cape Party List with the sixth respondent pending the outcome of review proceedings in respect of the impugned decisions.

(15) Any respondent who opposes this application shall pay the applicants' costs, including the costs of two counsels, where so employed.

(16) Granting the Applicant further and/or alternative relief.'

[5] The main gripe of the applicants relates to the fact that, according to them, the rights of ANC members in the Eastern Cape have been severely violated by the ANC in that it failed to resolve all disputes and appeals submitted through various structures of the ANC. In that regard, heavy reliance is placed by the applicants on a key document developed and adopted by the ANC in anticipation of the 2026 LGE, that being 'the ANC Candidate Selection Rules, Guidelines and Procedures' ('the Guidelines').

[6] The applicants aver that the ANC failed to resolve the outstanding disputes and appeals relating to the ANC Eastern Cape Party List prior to the submission of the list to the Electoral Commission on or before Friday, 28 August 2026. As a result, so the contention goes, the candidate nomination and selection process followed by the ANC, insofar as the Eastern Cape Province is concerned, was undermined in a manner that materially affected the candidate nomination process as a whole.

[7] Moreover, so the case on behalf of the applicants is pleaded, the ANC, in contravention of the Guidelines failed to publish on the ANC website the party list and the list of all candidates nominated for wards, as required in terms of clause 9.5.3 of the Guidelines so as to enable members of the ANC to file their disputes timeously.

[8] The issue to be decided is therefore simply whether the applicants have made out a case – factually and legally – for the relief sought by them.

[9] A convenient starting point for a discussion of the issues involved in the matter is the application for relief against the Electoral Commission or for relief which directly impacts on the Commission – that being as per paras 5, 6, 7, 8, 12 and 14 of the notice of motion. On first principles, this relief as sought by the applicants rather belatedly, is wholly incompetent and I say so for the reasons mentioned in the paragraphs which follow.

[10] The application for the relief sought in terms of the aforegoing paragraphs of the notice of motion, is in effect an application for an amendment of the 2026 Local Government Election Timetable (timetable), published by the Electoral Commission on 7 August 2026 under the Government Notice 4086 of 2026 in GG 55163. The timetable was published in terms of s 11 of the Local Government: Municipal Electoral Act 27 of 2000 (Municipal Electoral Act). References in the timetable to sections are, unless otherwise indicated, references to sections of the Municipal Electoral Act.

[11] The relief sought by the applicants, if granted, would effectively be granting the applicants and the ANC leave to submit its party lists of nominated candidates and ward candidate nominations for the 2026 LGE after the deadline of 17h00 on 28 August 2026 fixed by the election timetable. What the timetable required of political parties before that deadline was for them to submit party lists of nominated candidates and to nominate ward candidates to stand as representatives of the party in those wards which it intended contesting. By the time we heard this application on Wednesday, 21 October 2026, the deadline prescribed by the timetable had long come and gone.

[12] The implicated provision of the timetable is item 5, which reads as follows: -

‘5 Cut-off date for submissions to contest the elections, list of candidates and nomination of ward candidates

(1) Registered parties that intend to contest this election in terms of section 14 must submit a party list of their candidates and the prescribed deposit with the supporting documents for the election in the manner provided for in section 14(1A) (a) or (b) in the prescribed form by 28 August 2026.

(2) Registered parties and independent candidates that intend to contest a ward in this election in terms of section 17 must submit their nominations and the prescribed deposits with the

supporting documentation for the said ward election in a manner provided for in section 17(1A) (a) or (b) in the prescribed form by 28 August 2026.

(3) Payment of the prescribed deposits in terms of sections 14(1)(b), 17(2)(d) and 14A must be made by 28 August 2026.'

[13] Furthermore, s 14 of the Municipal Electoral Act, prescribes the requirements for the submission of the party lists of nominated candidates and provides *inter alia* that a party may contest a municipal election in terms of s 13 (1)(*a)* or (*c*) 'only if the party by not later than a date stated in the timetable for the election has submitted to the Commission' a party list. Section 17 prescribes the requirements for ward candidates to contest a particular ward election and provides *inter alia*, that a person may contest an election as a ward candidate 'only if that person is nominated on a prescribed form and that form is submitted to the Commission by not later than a date stated in the timetable for the election'. Subsection (1A) provides that the prescribed nomination form must be submitted 'by hand to the office of the Commission's local representatives; or electronically to the chief electoral officer in the prescribed manner'.

[14] The case on behalf of the applicants is that, due to internal disputes within the ANC and non-compliance by it of its own internal guidelines, the ANC was unable to comply with item 5(1) and (2) of the timetable in that it was not able to submit its correct and constitutionally valid party lists of nominated candidates and ward candidate nominations by the deadline. In their notice of motion dated 23 September 2026, the applicants accordingly seek an order declaring invalid, unlawful and unconstitutional the decision of the Electoral Commission to register the candidates on the ANC Eastern Cape Party List, as well as an order granting the ANC an extension to submit the Revised ANC Eastern Cape Candidate Nomination and Selection List, as reviewed, amended and verified after the date prescribed by the timetable.

[15] The aforegoing relief sought by the applicants is incompetent. Section 11(2)*(a)* of the Municipal Electoral Act permits only a general amendment of the timetable, by notice in the Government Gazette, where that amendment is necessary for a free and fair election. The Municipal Electoral Act confers no power to exempt one party from a deadline that continues to bind all others. Therefore, the refusal of a request to extend

the time period, which the Electoral Commission had no power to grant cannot be unlawful, irrational or unreasonable. The decision was, in any event, lawful, rational and reasonable on its merits – no amendment is necessary for a free and fair election.

[16] The simple point is that s 11(2) of the Municipal Electoral Act permits the Commission, by notice in the Gazette, to amend the timetable if it considers the amendment necessary for a free and fair election or if the voting day is postponed. Section 11(3) provides that '[a]ny act required to be performed in terms of the Act must be performed by no later than the date and time stated in the timetable'.

[17] The scheme of the Municipal Electoral Act makes a narrow provision for flexibility after the deadline. Sections 14(4A) and 17(2B) of the Act, read with item 6A of Schedule 3, permit substitution where a candidate appears on more than one list or has been nominated by more than one party or person, again by dates stated in the timetable. That substitution operates only upon nominations submitted in time. The Act contains no mechanism by which a nomination may first be submitted after the deadline. The simple point is this. Beyond these provisions, the Electoral Commission has no power to condone non-compliance with a statutory deadline. A functionary may condone non-compliance with legislation only where the legislation confers that power upon it.

[18] This conclusion is consistent with the approach adopted in *African Christian Democratic Party v Electoral Commission and Others*,[2] where the Constitutional Court held, in the context of municipal elections, that the Commission's responsibility to a particular party cannot be heightened because of that party's failure to comply with procedural requirement in the Municipal Electoral Act. The Constitutional Court endorsed the principle that, if an election timetable is not adhered to equally by all parties, the legitimacy and fairness of the elections may be compromised.

[19] The same principle was affirmed in *Liberal Party v The Electoral Commission and Others (Liberal Party)*[3]. There the Constitutional Court rejected an amendment to the

[2] *African Christian Democratic Party v Electoral Commission and Others* [2006] ZACC 1; 2006 (3) SA 305 (CC); 2006 (5) BCLR 579 (CC).
[3] *Liberal Party v The Electoral Commission and Others* [2004] ZACC 1; 2004 (8) BCLR 810 (CC).

election timetable sought to accommodate a party that had failed to comply with the prescribed deadline, holding that such an amendment was not necessary for a free and fair election and could prejudice other parties' election preparations and fairness of the elections.

[20] More recently, this Court applied these principles, in the context of 2024 National and Provincial Elections, in *Labour Party of South Africa and Others v Electoral Commission of South Africa and Others*.[4] The Court held that there was nothing unlawful about the Commission's insistence on compliance with the deadlines in the election timetable and that the Commission must not be placed in a situation where it has to make ad hoc decisions about political parties and candidates who have not complied with the Act. On appeal, that approach was subsequently endorsed by the Constitutional Court in *African Congress for Transformation v Electoral Commission of South Africa*[5], where the Constitutional Court held that the Commission and political parties are required to ensure fairness and the proper administration of free and fair elections. It further held that the Commission does not have the power in law to condone non-compliance with the Electoral Act and the Election Timetable, although it may amend the timetable where the statutory requirements for doing so are met.

[21] For the aforegoing reasons, the applicants' application for orders as per prayers 5, 6, 7, 8, 12 and 14 of the notice of motion falls to be dismissed. The Electoral Commission has no power – statutory or otherwise – to condone non-compliance with a statutory deadline. Conversely, this Court cannot and should not compel it to do so.

[22] Closely related to the aforegoing is a further reason why the applicants' said application should fail and that relates to the settled legal principles that there should be strict adherence to election timetables.

---

[4] *Labour Party of South Africa and Others v Electoral Commission of South Africa and Others* 2024 JDR 1554 (EC).

[5] *African Congress for Transformation v Electoral Commission of South Africa; Labour Party of South Africa v Electoral Commission of South Africa and Others; Afrikan Alliance of Social Democrats v Electoral Commission of South Africa* [2024] ZACC 7; 2024 (8) BCLR 987 (CC).

[23] As has been held by this Court on numerous occasions,[6] an election timetable and the deadlines set therein are essential for the facilitation of free and fair elections. Electoral authorities, like the Electoral Commission, would not be able to run a free and fair election without clear rules regulating the submission and verification of party and candidate information. For an election to be free and fair, and to be perceived as free and fair, all parties must be held to these rules. There can be no *ad hoc* condonations or indulgences – otherwise some of the parties will be perceived as being favoured by electoral authorities, who must remain neutral.

[24] Parties and candidates want to participate in free and fair elections. Voters must vote in free and fair elections. If the elections are not free and fair, political participation is not promoted but stifled. This, however, requires the Electoral Commission, political parties and independent candidates to all adhere to the deadlines set in the electoral timetable precisely to give effect to all the s 19 political rights. It is also necessary to promote the founding values of democracy and universal suffrage.

[25] In *Inkatha Freedom Party*,[7] Ngcobo CJ held that 'the foundational values of universal suffrage and multi-party democracy … [as foundational values] are best advanced through the Commission's rigorous adherence to the provisions of the Act'. Rigorous adherence to deadlines 'is crucial to the integrity of the electoral process'. It may be apposite to cite in full the paragraph 55 of the judgment, which reads as follows:

'It is necessary that the integrity of the electoral process be maintained. Indeed, the acceptance of the election as being free and fair depends upon that integrity. Elections must not only be free and fair, but they must be perceived as being free and fair. Even-handedness in dealing with all political parties and candidates is crucial to that integrity and its perception by voters. *The Commission must not be placed in a situation where it has to make ad hoc decisions about political parties and candidates who have not complied with the Act.* The requirement that documents must be submitted to the local offices of the Commission does not undermine the right

[6] Ibid fn 5 above.
[7] *Electoral Commission v Inkatha Freedom Party* [2011] ZACC 16; 2011 (9) BCLR 943 (CC); 2011 JDR 0421 (CC).

to vote and to stand for election. It simply gives effect to that right and underscores the decentralised and local nature of municipal elections.' (Emphasis added).

[26] The electoral timetable is the central mechanism which regulates and thus gives effect to the rights to vote, stand for public office and to free and fair elections. Fairness cannot be assessed subjectively by considering only the circumstances of one non-compliant party or candidate. It is inherently unfair to parties and candidates that complied with a deadline to permit the alteration of that deadline, especially to where the alteration is for purposes of suiting the convenience of a party that failed to comply with the deadline purely in consequence of subjective factors. It would come at a cost to political parties and independent candidates who have planned their campaigning based on the proclaimed date and who have not been cited in these proceedings.

[27] As was held by the Constitutional Court in *Liberal Party,*[8] the idea that an election timetable can be altered because one party had failed to comply with it, should be rejected. An amendment to the timetable, the Court held, 'is not necessary for a free and fair election'. In fact, in the Court's opinion, it would have had the opposite effect – it 'could prejudice other parties' election build-ups and indeed free and fair elections'.

[28] On the basis of these authorities and the principles enunciated therein, the applicants' application should fail. These principles were applied as recently as 2024 in the *Labour Party* matter, referred to *supra*. Four registered political parties and one independent candidate had missed the national candidate submission deadline of 8 March 2024 and approached this Court for a reopening of the process. This Court refused, and the Constitutional Court declined to come to their assistance. The Constitutional Court[9] held as follows: -

'Like all organs of state, in accordance with the doctrine of legality, the Commission has only those powers granted to it by the law, that is, the Constitution and legislation, be it principal (Acts) or subsidiary legislation (Regulations, etc). Rigid adherence to these instruments by both the Commission and all parties is required so that there is fairness to all parties and to ensure that

[8] *Liberal Party v The Electoral Commission and Others* [2004] ZACC 1; 2004 (8) BCLR 810 (CC) para 27.
[9] *African Congress for Transformation v Electoral Commission of South Africa; Labour Party of South Africa v Electoral Commission of South Africa; Afrikan Alliance of Social Democrats v Electoral Commission of South Africa* [2024] ZACC 7; 2024 (8) BCLR 987 (CC) para 82.

the Commission can properly arrange a free and fair and smooth-running election. Absent rigid adherence the efficiency and fairness requirements will be undermined. That requires deadlines, like those contained in the Election Timetable to be strictly adhered to. Fairness to compliant parties would be subverted if parties who fail to comply with a regulation are nonetheless permitted to contest an election. The Commission does not have the power in law to condone non-compliance with the Electoral Act, the Regulations and the Election Timetable. This rigidity is tempered by the provisions of section 20(2) of the Electoral Act, which grant the Commission the power to amend the Election Timetable. That power is to be exercised only if it considers the amendment necessary for a free and fair election or if the voting day is postponed in terms of section 21.'

[29] The simple point is this. The applicants in effect apply for the submission of new party lists and ward candidate nominations after the deadline. Sections 14(1) and 17(1) of the Municipal Electoral Act preclude exactly that. The only substitution mechanisms after the deadline are those in s 14(4A) and s 17(2B), which are narrow and are themselves subject to dates in the timetable. The applicants' requested replacement of the ANC's party lists and ward candidate nominations are and remain impermissible late submissions of party lists and ward candidate nominations.

[30] For all of these reasons, I conclude that the applicants have not made out a case for the relief sought in paragraphs 5, 6, 7, 8, 12 and 14 of their notice of motion. In sum, the Electoral Commission does not have the power to grant the relief sought by the applicants. Section 11(2)*(a)* of the Municipal Electoral Act permits only a general amendment of the timetable, by notice in the Government Gazette, where that amendment is necessary for a free and fair election. The Act confers no power to exempt one party from a deadline that continues to bind all others. The refusal of a request which the Electoral Commission had no power to grant cannot be unlawful, irrational or unreasonable. The decision was in any event lawful, rational and reasonable on its merits in that the Electoral Commission's was correct in its considered position is that no amendment is necessary for a free and fair election.

[31] Importantly, the Electoral Commission, political parties and independent candidates are all required to adhere to the deadlines set in the electoral timetable

precisely to give effect to all the s 19 political rights. It is also necessary to promote the founding values of democracy and universal suffrage.

[32] In my view, the aforegoing principles and the requirement of strict adherence to an election timetable remain extant and of full force and effect despite the recent court order granted by the Constitutional Court in *African National Congress v Electoral Commission of South Africa and Another*.[10] The Reasons for that order are presently still outstanding. However, I understand that matter to have been decided on the basis that there was in fact compliance with the timetable. That matter accordingly did not deviate from the aforegoing generally settled principles in terms of which political parties and independent candidates who did not comply with the deadlines prescribed by election timetables are disqualified from standing for election in local government elections. The ANC in that matter was at pains to point out that it was not asking for leave to submit party lists and ward candidate nominations after the expiration of the closing date provided for in the timetable. Instead, their case was based on an interpretation of the relevant legislative provisions and regulations which had the effect of accepting that there has been submission timeously of the requisite documentation.

[33] That brings me to the balance of the relief sought by the applicants directed mainly against the ANC and its various structures.

[34] In a nutshell, the applicants' case is that the party lists and ward candidate nominations submitted by the ANC to the Electoral Commission (and accepted by the Commission) in respect of a number of regions and wards in the Eastern Cape, were irregular and unlawful. Those lists and nominations, so the applicants contend, fell afoul of the ANC's Guidelines in that members were not afforded an opportunity to exercise their rights to have disputes in relation to the lists and the nominations resolved in accordance with the internal dispute resolution mechanism provided for in the ANC's Guidelines. The Guidelines required a resolution of any such disputes prior to submission of the ANC party lists and ward candidate nominations to the Electoral Commission. This

[10] *African National Congress v Electoral Commission of South Africa and Another* Case number: CCT282/26 (15 October 2026).

the ANC failed to do, so the applicants submit, which makes the submission of the lists and the nomination of the candidates unlawful, reviewable and liable to be set aside.

[35] Ditto, so the applicants allege, as regards the Eastern Cape PEC's failure to publish on the ANC website the party list and the list of all candidates nominated for wards, as required in terms of clause 9.5.3 of the Guidelines so as to enable members of the ANC to file their disputes timeously. Clause 9.5.3 of the Guidelines is, according to the applicants, specifically instructive and provides as follows:

'9.5.3 All list of candidates approved by the extended PEC must be published on the ANC website and any disputes arising out of this should be lodged with the relevant structure within 48 hours.'

[36] The applicants accordingly aver that they have not been afforded a reasonable opportunity to deal with their disputes to the extent that they have not had cite of the lists of all candidates approved by the extended Eastern Cape PEC prior to ratification by the extended NEC of the ANC and the Special Meeting of the ANC. In that regard, the applicants contend that the ANC had failed to resolve the disputes in a number of wards (24 in total) listed in their founding affidavit.

[37] Moreover, so it is alleged by the applicants, the ANC appears to have acknowledged the error of its ways in a letter from Mr Mbalula dated Wednesday, 09 September 2026, in which he advised all and sundry in the ANC that the organisation had taken a decision to appoint a Forensic Auditor to investigate the changes made to the Eastern Cape Candidate Nomination and Selection List that were effected between 27 and 28 August 2026. Importantly, the letter indicated that: -

'The ANC NEC at its meeting on the 27th of August 2026, at Birchwood, approved the Candidate Lists from various Provinces, including the ANC EC List. However, the list of the ANC EC was altered.

A detailed report is expected from the Forensic Auditor within the next 76 hours for the attention of the ANC Officials. Therefore, please ensure full support and cooperation.'

[38] The Eastern Cape PEC, as well as the ANC, the third and the fourth respondents, who I shall collectively refer to as the ANC, oppose the applicants' application and deny that they have not complied with their Guidelines.

[39] Mr Mbalula alleges that, for starters, there has indeed been publication on the ANC's official website during the last week of August 2026 of the full national list of ANC candidates who had completed its applicable internal candidate selection processes. The ANC's internal webmaster had created the dedicated 'ANC List 2026' webpage, through which the candidate information could be accessed.

[40] The underlying candidate database contained candidates' personal information, including identity numbers and other identifying particulars. For that reason, so Mr Mbalula alleges, the information was not configured as an unrestricted public database available for indiscriminate downloading. A landing page and verification mechanism were created so that any persons seeking access could identify themselves and the relevant Province, Region and Ward before access to the candidate information was facilitated. The controlled access feature therefore did not amount to a refusal to publish the candidate information in terms of clause 9.5.3 of the Candidate Selection Rules. It was the mechanism selected for making the information available through the ANC's official website while safeguarding the personal information contained in the underlying database, as required by law.

[41] The ANC also deny that they failed to resolve any disputes in relation to the party lists and ward candidate nominations. So, for example, it is pointed out by Mr Mbalula that the consolidated Matthew Goniwe Sub-Region PR nomination schedule from the ANC records that the first applicant received one PR nomination, from Ward 1. The same schedule records that Thembakazi Portia Mbotya received in total seven nominations from seven of the wards in that sub-region. Insofar as a dispute arose in relation to the party list in respect of that sub-region, same was adjudicated and resolved in terms of the Guidelines.

[42] A number of other examples are also provided, which indicates that, contrary to what is alleged by the applicants, any and all of the disputes raised by members were in fact attended to and resolved in accordance with the provisions of the Guidelines. In that regard, reference is made by Mr Mbalula to a complaint lodged by the second applicant, Mr Masande Mambula, regarding the candidate nomination in Ward 8, Matatiele, in the

Alfred Nzo region. In that matter, the Provincial Lists Committee (PLC) convened on 20 July 2026 and, 'having carefully considered the submissions made and the procedural aspects of the matter', found material irregularities that 'rendered the process non-compliant with the adopted NEC Guidelines for Candidate Nomination Processes'. The nomination process was accordingly set aside and the Branch was directed to reconvene the community meeting and the final Branch General Meeting (BGM) within forty-eight hours. In a subsequent appeal to the Electoral Committee of the ANC, the ruling of the PLC was upheld on 17 August 2026.

[43] A number of other examples are provided of complaints by members, which were dealt with expeditiously by the PLC.

[44] In the same vein, the Eastern Cape PEC, in its answering and supporting affidavits, reiterates that there are no outstanding disputes in all the wards quoted by the applicants in their founding papers. As regards alleged disputes in Ward / Branch 19 in the Intsika Yethu region, it is pointed out that no dispute was ever lodged with the PLC. Insofar as the rest of the branches in the Chris Hani region goes, the PEC unequivocally avers that verdicts have been issued as per the attachments to the ANC's answering affidavit.

[45] As for the Wards in the Alfred Nzo region – which formed the bulk of the Branches which, according to the applicants, have unresolved disputes – the Regional Secretary for the said region, in a supporting affidavit, deals meticulously with each branch complained of by the applicants. This means, so the PEC concludes, that there are indeed no outstanding disputes as alleged by the applicants.

[46] The difficulty faced by the applicants is that it cannot be said with any conviction that the version of the ANC is so far-fetched and untenable that it can be rejected on the papers out of hand. Therefore, applying *Plascon Evans* the version of the ANC is to be accepted over that of the applicant. This means that the application falls to be dismissed.

[47] Moreover, as contended by the PEC and the ANC, the applicants claim widespread and far-reaching relief in relation to the party lists and ward candidate nominations of the ANC for the whole of the Eastern Cape Province, whilst failing to prove

the sweeping allegations of outstanding disputes and appeals relating to the ANC Eastern Cape Party List prior to the submission of the list to the Electoral Commission on or before Friday, 28 August 2026. In my view, the applicants have failed to prove that the candidate nominations and selection processes followed by the ANC in the Eastern Cape Province were undermined in a manner that materially affected the candidate nomination process as a whole.

[48] As was pointed out by the PEC in its answering affidavit, the ANC has eight regions in the Eastern Cape, and of those, six are not alleged by the applicants to be affected by or implicated in any of the disputes complained of. Those six regions are Sarah Baartman; Dr Rubusana; Chris Hani; Joe Gqabi region; OR Tambo and the Nelson Mandela regions; As for the other two – Amathole and the Alfred Nzo regions – only a few Wards in those regions are implicated in the alleged unresolved disputes relating to the Party Lists and the Ward Candidate nominations.

[49] This means that the applicants have not made out a case for the setting aside of the lists and the nominations in those unaffected regions. No cause of action has been disclosed by the applicants that the submission to the Electoral Commission of those lists and nominations for those regions were unlawful and unconstitutional. This is another reason why the application should fail.

[50] I therefore conclude that the applicants' application for the balance of the relief sought should likewise be dismissed.

[51] In light of my foregoing findings, it is not necessary for me to deal with the other grounds of opposition to the application raised by the respondents, in particular the legal points in limine relating to lack of urgency of the matter, the applicants' lack of *locus standi in iudicio*, impermissible reliance on hearsay evidence, res judicata and non-joinder. Suffice to state that there may very well be merit in some of the legal points raised, notably the issue relating to urgency.

[52] It is also not necessary for me to consider the belated application by the applicants for leave to amend their notice of motion, the simple point being that the application for

the relief sought by the applicants, be it in their original notice of motion or the intended amended notice of motion, falls to be dismissed.

Costs

[53] The award of costs is a matter which is within the discretion of the Court considering the issue of costs. This discretion must be exercised judicially, having regard to all the relevant considerations. One such consideration is the principle, in line with *Biowatch Trust v Registrar, Genetic Resources, and Others,*[11] that in general in this Court, an unsuccessful party ought not to be ordered to pay costs. But this is not an inflexible rule, and it can be departed from where there are strong reasons justifying such departure, such as in instances where the litigation is frivolous or vexatious.

[54] I can think of no reason why the aforegoing general rule should be departed from. Each party should therefore bear its own costs.

Order

[55] In the result and for these reasons, the following order is granted:

1 The application is dismissed.

2 There is no order as to costs.

L R ADAMS
JUDGE OF THE ELECTORAL COURT

[11] in *Biowatch Trust v Registrar Genetic Resources and Others* [2009] ZACC 14; 2009 (6) SA 232 (CC); 2009 (10) BCLR 1014 (CC).

Appearances

For the Applicants:	M Ka-Siboto, with M Zikalala
Instructed by:	Taleni Godi Kupiso Incorporated, East London
For First Respondent:	S Sethene, with D Canham
Instructed by:	Makhanya Attorneys, East London.
For Second to Fourth Respondents:	B Winks
Instructed by:	S M Patel Attorneys, Polokwane
For Sixth Respondent:	D Sive
Instructed by:	Bowman Gilfillan Incorporated, Sandton
For Fifth and Seventh Respondents:	No appearance
Instructed by:	No appearance