

THE ELECTORAL COURT OF SOUTH AFRICA

BLOEMFONTEIN

Not Reportable

Case No: 0025/26EC

In the matter between:

DUMOLWETHU DAZEL VOKWANA Applicant

and

ELECTORAL COMMISSION OF SOUTH AFRICA Respondent

Neutral Citation:	*Dumolwethu Dazel Vokwana v Electoral Commission of South Africa* (0025/26EC) ZAEC 17 (04 November 2026)
Coram:	Shongwe and Yacoob AJJ and Professor Phooko (additional member)
Heard:	Decided in chambers on the papers.
Delivered:	This judgment was handed down electronically by circulation to the parties' representatives *via* email, by publication on the website of the Supreme Court of Appeal and by release to SAFLII. The date and time for hand-down is deemed to be 12h00 on 04 November 2026.
Summary:	Electoral law – Local government elections – Non-compliance with s 17 of Local Government: Municipal Electoral Act – Non-compliance with Municipal Electoral Regulations of 2000 – Non-compliance with election timetable – no power to condone.

Electoral law – Local government elections – duty of Commission to assist – duty of prospective candidate in need of assistance and reasonable accommodation to seek assistance timeously.
Procedure – affidavits – case to be made out in founding affidavit – attempt to put previously existing evidence before court after heads of argument filed not in the interests of justice.

ORDER

1. The application is dismissed with no order as to costs.
2. Reasons will follow.

JUDGMENT

Yacoob AJ (Shongwe AJ and Professor Phooko concurring):

Introduction

[1] This court handed down an order in this matter on Saturday 31 October 2026, in the terms set out above. These are the reasons for the order.

[2] The applicant, Mr Vokwana, wishes to stand as an independent candidate for Ward 7 of the Buffalo City Metropolitan Municipality in the local government elections to be held on 4 November 2026. He seeks to review what he contends is a decision on 29 August 2026 by the respondent ("the Commission") not to accept his nomination as an independent candidate. He also seeks an order directing the Commission to accept his nomination documents and to include his name on the ballot for the elections.

[3] An order was made without giving reasons, as it was necessary to determine the matter before voting began on 02 November 2026. Mr Vokwana, who represented himself, made certain requests and queries both before and after the order was issued. These, and the manner in which the court dealt with this matter, will be dealt with in detail in this judgment for reasons that will become obvious.

Factual background

[4] I set out the background as they emerge from each set of affidavits. Mr Vokwana's founding affidavit is dated 5 October 2026. In it he states that he is a person living with a disability, and a recipient of a SASSA grant. He intended to contest this election, and that he was told on 29 August 2026 that candidate nominations had closed at 17h00 on 28 August 2026. He contends that this notification is the decision that he seeks to review. He admits in his founding affidavit that he did not submit his nomination before the deadline.

[5] Mr Vokwana states that his failure to submit was not wilful, as he had to overcome a number of barriers, including that the R1800 deposit was unaffordable as he relies on a disability grant, he found it difficult to collect identity numbers because people were reluctant to disclose them, and he struggled to access and read the documents provided by the Commission. He alleges that the documents did not allow copying or access by read-aloud applications. From this it can be inferred that Mr Vokwana's disability is a visual one. He complains about the manner in which the training provided by the Commission for potential candidates was carried out, and states that he sent a number of emails querying process and asking for bank details, which were not responded to. Mr Vokwana does not annex any of these emails to his affidavit.

[6] Mr Vokwana claims that these barriers put into question the fairness of the election for people living with disabilities. He also contends that the date by which payment was due does not consider the dates when SASSA grant recipients receive their grants.

[7] The Commission points out in its answering affidavit that the election timetable, which was gazetted on 7 August 2026, makes it clear that all nominations had to be submitted on or before 28 August 2026 at 17h00. The Commission does not have the power to condone non-compliance with the election timetable, or with statutory requirements.

[8] According to the Commission, a training session was held on 07 July 2026, which Mr Vokwana attended, and for which he signed the attendance register. The

training included information about both online and physical submission of nominations, what needed to be submitted, and by when. The training material is annexed to the answering affidavit. The Commission asserts that candidates who attended at the Commission's office were assisted to complete their nomination forms, and that its staff provide assistance required by people living with disabilities where that has been requested.

[9] The Commission confirms that Mr Vokwana is a registered voter in the ward he wishes to contest. He did not register to use the online system, and did not submit anything by hand, nor did he pay the deposit. The Commission asserts that Mr Vokwana did not ask for any assistance or accommodation before the deadline. It contends that there was no decision to be reviewed, as the email of 29 August 2026 simply informs Mr Vokwana that the deadline had passed.

[10] The Commission confirms also that the list of candidates was certified in accordance with the timetable and the Local Government: Municipal Electoral Act 27 of 2000 ("the Act") on 16 September 2026, and that it issued candidate certificates by 25 September 2026. The ballot paper for Ward 7 was finalised on 4 October 2026, before Mr Vokwana deposed to his founding affidavit.

[11] The Commission contends that it acted in accordance with the Act, the Municipal Electoral Regulations of 2000 ("the Regulations"), and the timetable, and that Mr Vokwana's barriers arise not from the conduct of the Commission but with the requirements of those instruments.

[12] The Commission denies that any of the documents it provided electronically were not in accessible format, and asserts that it was never asked to assist Mr Vokwana with accessibility. It puts Mr Vokwana to the proof of these requests.

[13] Mr Vokwana in his replying affidavit admits that he attended the training on 7 July, that he signed the attendance register, and that the date was announced. He denies that he was reasonably accommodated, and claims that the PDF pack that was shared was not accessible. He denies also that the option for manual submission was made clear. He does not allege, despite the invitation from the Commission, any requests he made to the Commission for assistance with accessibility, nor does he

annex the emails to which he refers in the founding affidavit, again despite request by the Commission.

[14] Mr Vokwana states for the first time in reply that he went to the Commission's local office on 28 August 2026 at approximately 13h00 with a list of supporters, although not on the prescribed forms. This list was not accepted. The list included signatures but not ID numbers. Mr Vokwana does not annex the list. He states that people refuse to give him ID numbers since he canvasses alone and has no party regalia or official identification. He contends that the verification of the people supporting the nomination can be carried out in other ways.

[15] Mr Vokwana seeks further relief in reply: that the election in Ward 7 be postponed for three weeks and that the Commission be directed to send a text message to every voter in the ward to inform them that he will be on the ballot.

Procedural issues

[16] This court issued directives on 08 October 2026, setting dates for filing papers and argument. The directives alerted parties to the possibility that the matter may be disposed of without an oral hearing.

[17] On 27 October 2026, Mr Vokwana directed an email to the court, requesting that the matter be disposed of on the papers without an oral hearing. He also requested the opportunity to file additional submissions regarding the signature requirement and his candidacy status. He stated that this was in response to the Commission's submissions filed on 15 October 2026.

[18] This email was brought to the attention of this court, and it was decided that the request should not be granted. However, due to the administrative load this court shoulders when elections are imminent, unfortunately Mr Vokwana was not informed that his request was refused. The court regrets that the omission.

[19] On 30 October 2026, the parties were informed that an order would be issued on 31 October 2026, by 13h00. On 31 October, at 14h29, Mr Vokwana directed another email to the court, asking for leave to file supplementary heads and

annexures. This was before the order had been sent but after the time it was supposed to have been sent. The order was sent to the parties shortly thereafter. Mr Vokwana was then informed that his request had been considered and refused, although he had unfortunately not been informed of this.

[20] The email from Mr Vokwana on 31 October contained far more factual material than did either of his affidavits filed so far. That evidence ought to have been included in his founding affidavit. It included a recital of Mr Vokwana's alleged attempts to resolve the issue before approaching this court, and for the first time confirmed the nature of the disability with which Mr Vokwana is living. Having had regard to the contents of Mr Vokwana's emails, it is evident that, even if that information had been included in the founding affidavit, it is unlikely to have changed the outcome of the application, for reasons set out later in this judgment.

[21] Mr Vokwana sent another email on 1 November stating that he was concerned about procedural fairness and that he should have been told earlier that his request had been declined so that he could consider his options. I agree that it is unfortunate that Mr Vokwana was not informed earlier that his request was declined. However, he would have had no recourse against the decision. Had it been conveyed to him earlier, he would have still had to wait for the final outcome before seeking to challenge the decision of this court.

[22] These proceedings are motion proceedings, on affidavit. An affidavit constitutes both pleadings and evidence. It is well established that an applicant must make out his case in his founding affidavit. The respondent must know from the founding affidavit what case it is to meet. The replying affidavit may only respond to new matter raised in an answering affidavit, and not introduce new evidence. This is because the respondent does not ordinarily have an opportunity to respond to the replying affidavit.[1]

[23] Certainly, it is not open to an applicant to seek to introduce new evidence after all the affidavits have been filed, as Mr Vokwana sought to do. This would then open

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[1] Regarding the nature of motion proceedings and the role of affidavits see, *inter alia*, the following authorities: *Naidoo and Another v Sunker and Others* [2011] ZASCA 216 para 19; *Venmop 275 (Pty) Ltd and Another v Cleverlad Projects (Pty) Ltd and Another* 2016 (1) SA 78 (GJ) paras 7-14; *Molusi and Others v Voges NO and Others* 2016 (3) SA 370 (CC) para 27; *Betlane v Shelly Court CC* 2011 (1) SA 388 (CC) paras 29 and 30.

the door to even further affidavits, because the Commission would have to respond to the new case Mr Vokwana seeks to make out after he has already replied. The result would be long drawn out, unwieldy and ineffective procedures. Not only is this inconsistent with the intended finite and expeditious nature of application proceedings, it is particularly inappropriate where the request is made mere days before an election takes place, and the additional material is evidence that already existed before the application was instituted.

Legal Framework: Merits

[24] The Act provides in s 17(1) that a person may stand as a ward candidate if they are nominated on a prescribed form that is submitted by the date and time stipulated in the election timetable. In terms of s 17(2) of the Act, the nomination must have the prescribed form attached to it with the signatures of at least 50 voters registered in the ward sought to be contested, and by the required deposit. The candidate must also be a registered voter on the relevant segment of the voters' roll and be ordinarily resident in the relevant municipality. The prescribed form requires the ID numbers of the supporters of the nomination to be furnished; this is to permit the Commission to verify that the supporters are properly registered voters who appear on the correct segment of the voter's roll.

[25] The Constitutional Court has confirmed that the provisions set out in election legislation and regulations ensure that all candidates and parties are treated equally with regard to what is required, and that the Commission had no power to condone non-compliance either with the statutory and regulated requirements, or with the election timetable.[2] This means that the Commission made no decision not to accept Mr Vokwana's nomination. Instead, his nomination is no longer possible by operation of law.

[26] Obviously, this does not mean that the level of assistance that candidates are entitled to is strictly identical. That would be inconsistent with the well-established principles of substantive equality in our law. But substantive equality does not require

[2] *Electoral Commission v Inkatha Freedom Party* [201] ZACC 16; 2011 (9) BCLR 943 (CC) para 55; *African Congress for Transformation v Electoral Commission of South Africa; Labour Party of South Africa v Electoral* Commission *of South Africa* [2024] ZACC 7; 2024 (8) BCLR 987 (CC) para 82.

that legislated and regulated requirements can, without more, be deviated from by the Commission. What it requires is that the Commission must provide sufficient assistance to the relevant person to enable them to comply with the requirements, before the deadline has passed. This is consistent with what is already established regarding the Commission's obligations to assist, see for example *Johnson and Others v Electoral Commission and Others*.[3]

[27] However, this places a reciprocal obligation on the person who needs assistance, to seek that assistance well before the deadline has passed, so that the Commission can provide it.[4]

[28] Application proceedings must be decided on the respondent's version, unless it is so far-fetched that the court may reject them.[5] Although a court may be more lenient where an applicant represents himself, a court must be cautious not to allow unfairness to the respondent.

[29] Where an applicant does not challenge the constitutional validity of statutes and regulations, and seek a declaration of their invalidity, the applicant is bound by the provisions of those statutes and regulations. Nor can those issues be dealt with without proper ventilation and participation from the relevant Minister and any *amici curiae*.[6]

Analysis

[30] Mr Vokwana's affidavits fall far short of establishing any entitlement to relief. His own version is that he knew at least as far back as 7 July 2026 that he intended to stand as an independent candidate, and that the closing date for nominations was 28 August 2026. Since he attended the training provided by the Commission on 7 July 2026, it can be inferred that his decision was made before that date. He makes a bare allegation of some emails having been sent to the Commission, but does not annex them, and it is not clear that in the emails he specifically requested assistance relevant to him living with a disability.

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[3] J*ohnson and Others v Electoral Commission and Others* ZAEC 2; 2014 (1) SA 71 (EC) paras 35-40.
[4] *Phoshoko v Electoral Commission of South Africa* [2026] ZAEC 10 para 33.
[5] *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) at 634E to 635C.
[6] *New Nation Movement NPC and Others v President of the Republic of South Africa and Others* [2020] ZACC 11; 2019 (9) BCLR 1104 (CC); 2020 (6) SA 257 (CC) paras 9-13.

[31] In addition, Mr Vokwana does not appear to have attended at the Commission or telephoned its offices to ask for assistance, at any time before 28 August 2026, shortly before the deadline. What Mr Vokwana's affidavit establishes is that he did not submit a nomination, that the signatures he wished to provide in support of the nomination did not all have ID numbers, and that he did not pay the prescribed fee. He does not disclose whether he obtained the required number of 50 signatures in support of his nomination.

[32] As far as the fee requirement is concerned, Mr Vokwana's complaint that it was due before his payment from SASSA was available does not explain why he had not started saving up and seeking loans at an earlier stage. The court has sympathy with Mr Vokwana's predicament. But it seems that not only did he approach the Commission at the last minute and institute this application late, he began preparing for standing as an independent candidate without giving himself sufficient time to comply with the requirements.

[33] The Commission denies having received any requests for assistance from Mr Vokwana. It also denies that any documents it provided were not in accessible format. Mr Vokwana in reply does not disclose any requests or approaches he made to the Commission to seek assistance. It seems that, in his email of 31 October 2026 at 14h29, Mr Vokwana included reference to steps he took in July and August. Unfortunately, that came too late to be considered and ought to have been in his founding affidavit.

[34] In these circumstances, Mr Vokwana simply has not established that his failure to submit the nomination is directly attributable to the Commission failing to make reasonable accommodation for the disability with which he lives.

[35] In any event, neither the Commission nor this Court is able to grant condonation permitting Mr Vokwana's nomination to be accepted after the deadline.

[36] As far as the contentions that the requirements are exclusionary and inconsistent with the Constitution are concerned, Mr Vokwana has not sought to set aside those provisions and therefore is bound by them. There is nothing to prevent

him, in future, from challenging them. But any challenge to them is not at the moment properly pleaded or sought.

[37] Finally, this application was only brought on 5 October 2026, after the ballot paper for the ward was submitted to the printer. Knowing that the election was only two months away, Mr Vokwana only approached this court more than a month after he realised that his nomination was not going to be possible because the deadline had passed. In those circumstances, it cannot be just and equitable to make an order that would disrupt the conduct of elections. Mr Vokwana's rights to stand as an independent candidate and to reasonable accommodation must be balanced with his obligations to make use of the opportunities available to him (such as asking for help in good time) and with the overall public interest in ensuring that the election goes ahead as gazetted.

Conclusion

[38] In these circumstances the court was constrained to dismiss Mr Vokwana's application, and to grant the order set out above.

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S YACOOB

Acting Judge of the Electoral Court

Appearances

Counsel for the applicant:	Applicant in person
Instructed by:	
Counsel for the respondent:	D Sive
Instructed by:	Goldberg & De Villiers Inc