



THE ELECTORAL COURT OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE ELECTORAL COURT OF SOUTH AFRICA

From: The Registrar, Electoral Court

Date: 04 June 2024

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Electoral Court of South Africa

Independent South African National Civic Organisation v Ramosie and Another (0019/24EC) [2024] ZAEC 18 (04 June 2024)

Today the Electoral Court dismissed the application with each party paying its own costs.

The applicant, Independent South African National Civic Organization (ISANCO) since its establishment on 28 November 2020 has been bedevilled by leadership dispute resulting in the formation of two main factions one led by the first respondent, Mr Bakoena Stephanie Ramosie (Mr Ramosie) and another by Dr Zukile Luyenge (Dr Luyenge). The dispute about a leadership has created an administrative headache for the second respondent, the Electoral Commission (the Commission) making it difficult for it to determine who at any given time is the leader of ISANCO.

On 27 July 2023 Mr Ramosie sought and obtained from the Free State High Court an order (Reinders J) directing the Commission to update its records so as to reflect him as ISANCO leader and the contact person. ISANCO, in an application in which Dr Luyenge was a deponent and purporting to be its rightful leader, applied for rescission of Reinders J's order. The high court (Van Zyl J) issued a provisional order in the form of *rule nisi* calling upon Mr Ramosie to show cause on a return date why Reinders J's order should not be rescinded.

On 8 February 2024 ISANCO filed an application for leave to appeal against Molitsoane J's order but he never prosecuted the appeal. On 26 February 2024 the Commission purporting to implement the order of Molitsoane J replaced Dr Luyenge as a leader and contact person of ISANCO and in his stead, appointed Mr Ramosie as ISANCO leader and as its contact person.

Aggrieved by the Commission's decision, ISANCO, on 7 March 2024 brought an urgent application in the Eastern Cape Division of the High Court, Mthatha for the review and setting aside of the Commission's decision. On the same day Mr Ramosie appealed against Rusi J's order. Acting on the strength of Rusi J's order on 8 March 2024, ISANCO submitted to the Commission a list of candidates it had nominated in terms of s 27 of the Electoral Act to contest the election. That list included Dr Luyenge's name. At the same time a faction of ISANCO members led by Mr Ramosie submitted its own list of candidates which contained Mr Ramosie's name to contest the election and asked the Commission to appoint Mr Ramosie as a leader and the contact person of ISANCO. The Commission rejected the list submitted by the faction led by Dr Luyenge and accepted that which was submitted by Mr Ramosie's faction.

As a result of the Commission's refusal to record Dr Luyenge as a leader and contact person of ISANCO, Mr Ndabambi purporting to act on behalf of ISANCO as its secretary general brought an application on 3 April 2024 in which, among others, the following relief was sought:(a) Declaring that the decision of the Electoral Commission in removing the name of Dr Luyenge as the leader and contact person of ISANCO and replacing it with that of Mr Ramosie be reviewed and set aside as being null and void ab initio; (b) directing the Electoral Commission to amend its record by reinstating Dr Luyenge as the leader and contact person of ISANCO;(c) interdicting Dr Ramosie from interfering in the affairs of ISANCO pending finalization of the application; directing the Electoral Commission to remove Dr Ramosie' pictures and in any manner act as the president of ISANCO.

The application was based on the principle of legality. It was contended on behalf ISANCO that the Commission acted unlawfully in refusing to implement Rusi J's order. Mr Ramosie opposed the review application on the grounds that Dr Luyenge and Mr Ndabambi lacked authority to bring this application on behalf of ISANCO. He alleged that Dr Luyenge is not a member of ISANCO as he was expelled from ISANCO on 29 December 2021. Mr Ramosie further contended that Mr Ndabambi was not authorised by ISANCO National Working Committee (NWC) to bring the application on behalf of ISANCO. Finally, he contended that the application for the review was late and there is no application to condone the lateness.

The Electoral Court held that in terms of s 20(1) of the Electoral Commission Act it may review any decision of the Commission relating to an electoral matter and that it is required by Act to conduct any such review on an urgent basis and to dispose it as expeditiously as possible. The section does not stipulate the period within which the review must be brought. This is dealt with in rule 6 (1) of the Rules of this Court. It provides that any party who is entitled to and wants to take a decision of the Commission on review must lodge a comprehensive written submission with the secretary within three days after the decision has been made. In terms of rule 10 failure to comply with the prescribed time limits or directives of the Court will, by the mere fact thereof, result in a party being barred, unless the court, on good cause shown, directs otherwise.

The Electoral Court held that applications relating to leadership disputes should be brought timeously and without delay. This requirement was important for two reasons. First, the Commission must know who the rightful leader of the party is to enable it to prepare for the election and secondly, the voters should know who the leader of the party is they want to vote for. The application was late and there was no application to explain the delay and why the delay should be overlooked.

For all these reasons the applicant's application is dismissed

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