

SUMMARY OF JUDGEMENT

SOUTH AFRICAN BROADCASTING, THE CHAIRPERSON: THE BOARD OF THE SOUTH AFRICAN BROADCASTING CORPORATION

and

DALI MPOFU

Coram; Horn J JajbhayJ VictorJ

The appeal by the SABC against the judgment of Tsoka J was dismissed with costs. The full bench of the South Gauteng High Court found that the suspension of Mr Dali Mpofu as Group Chief Executive Officer of the SABC at a meeting of 6 May 2008 was not in accordance with the Articles of Association or good corporate governance. The court found that the Board was not properly constituted as three of the directors of the Board were excluded from a Board meeting at a time a decision to suspend Mr Mpofu was taken. The court also found there was insufficient notice for the three directors to attend the Board meeting, that their failure to object when they were sent from the meeting did not amount to acquiescence in that decision. The court also found that Mpofu did have the necessary locus standi to seek reinstatement since he was acting in his own personal capacity and not on behalf of the company. JajbhayJ stated found Ubuntu-botho is deeply rooted in our society. These values should assist in informing corporate decisions made by directors in state owned enterprises. Proper and constructive dialogue would enable better outcomes in the decision making process. This form of governance is underpinned by the philosophy of ubuntu-botho. The time is right to incorporate the views of umuntu ngumuntu ngabantu in the King code of good governance