IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 2022-036448

1. Reportable: No
2. Of interest to other judges: No
3. Revised

[redacted]

Wright J
18 August 2023

In the matter between:

HITJEVI OBAFEMI TJIROZE **Applicant**

and

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL **First Respondent**
THE JOHANNESBURG SOCIETY OF ADVOCATES **Second Respondent**

JUDGMENT

WRIGHT J

1. During 2020, the applicant Mr Tjiroze launched an application seeking his admission as an advocate. The Legal Practice Council opposed and Mr Tjiroze withdrew his application. Now, before my learned brother Wepener and I are two applications. In the main application, launched in October 2022 Mr Tjiroze seeks admission as a legal practitioner in the form of an advocate.

2. The Legal Practice Council queried Mr Tjiroze's qualifications. Inappropriately, Mr Tjiroze launched the second application now before us. It is dated 17 November 2022. It is an application related to the main application and in it the following relief is sought -

"2. Declaring that the Applicant's application for admission in terms of section 3(2)(a)(ii) of the Admission of Advocates Act 74 of 1964, invoked in accordance section 115 of the Legal Practice Act 28 of 2014, and serving before this above Honourable Court, paragraph 10.2 of the Practice Manual and Rule 3A of the Uniform Rules of Court are applicable, and the Bar Councils in Johannesburg and Pretoria and/or PABASA are the appropriate bodies to process the admission application, in such manner as they deem meet.

3. *Declaring that, unless it is disputed that the Applicant was such a person entitled to be admitted prior to 1 November 2022 under the Admission of Advocates Act, 1964, the Legal Practice Council is not entitled to adopt and conduct a dual process in terms of the requirements of section 24 of the Legal Practice Act, 2014 of the Applicant's admissions application, similar to the one the Bar Councils or PABASA would be entitled to consider, as doing so would unduly subject the Applicant unjustly, unfairly and*

unreasonably to processes and requirements governed by two distinct and separate statutes on the same subject-matter.

4. *Declaring that the Applicant is entitled to invoke section 115 of the Legal Practice Act, 1964, being a person deemed to be duly qualified for admission as advocate prior to 1 November 2018;*
5. *Declaring that a B.Juris or B.Proc is not excluded from the meaning of 'degree of degrees' in the proper interpretation of section 3(2)(a)(ii) of the Admission of Advocates Act 74 of 1964;*
6. *Declaring that syllabus, on the proper interpretation of section 3(2)(a)(ii) of the Admission of Advocates Act 74 of 1964, means subjects or topics of study in the course of particular study;*
7. *Declaring that confirmation by a university of a certain matter, on the proper interpretation of section 3(2)(a)(ii) of the Admission of Advocates Act 74 of 1964, will be deemed as a university having so certified, as the aforesaid Act does not prescribe the specific method or format how a university should indicate that it has so certified.*"

3. The quoted prayers are not easy to follow. It was inappropriate for Mr Tjiroze to seek such findings as a preview to an issue in the main application. To compound matters, the application dated 17 November 2022 was brought on

an urgent basis and set down for 29 November 2022. On that day, the matter had not been properly enrolled and the question of costs was reserved.

4. It is a feature of Mr Tjiroze's applications that they are not presented in reasonably crisp, polite terms like they should be. Instead, some of the papers of Mr Tjiroze are long, argumentative, impolite and difficult to follow.
5. I shall attempt below to separate the wheat from the chaff.
6. The Legal Practice Council opposes Mr Tjiroze's admission. Ms Keetse, the Chairperson of the Gauteng Provincial Council of the LPC has deposed to an affidavit in which she sets out the LPC's grounds of objection to Mr Tjiroze's admission. The LPC seeks punitive costs in the main application and in the related application of 17 November 2022.
7. The Johannesburg Society of Advocates, through an affidavit filed by its Chairperson, Adv Seleka SC has set out facts relevant to the application. The JSA opposes the relief sought in the application of 17 November 2022 but abides the decision of the court in the main admission application.
8. In essence, the admission of Mr Tjiroze as a legal practitioner is opposed on two bases, namely unfitness and lack of qualification. The latter ground raises the question of Mr Tjiroze's academic qualifications from certain institutions.

9. On 21 July 2020, the Constitutional Court handed down judgment in a case involving Mr Tjiroze. Mr Tjiroze had brought legal proceedings against the Appeal Board of the Financial Services Board. The case is cited as Tjiroze v Appeal Board of the Financial Services Board (CCT 271/19) [2020] ZACC 18.

10. Speaking for a unanimous court, Madlanga J made the following findings of Mr Tjiroze –

10.1 In paragraph 1 – "*It seems impolite and harsh to start a judgment by telling a litigant that her or his cause must fail. But, if there ever was a candidate for that kind of opener, this is it. As will soon become clear, the application for leave to appeal directly to this Court is so woeful as to cry out for dismissal. And that is an issue we could have dealt with by summarily issuing an order without writing a judgment. This judgment has been necessitated by the question whether the applicant, Mr Hitjevi Obafemi Tjiroze, must pay the costs of the second respondent, the Financial Sector Conduct Authority, on an attorney and client scale.*"

10.2 In paragraph 24 – "*The applicant has been litigating frivolously and vexatiously at great expense to the second respondent. In so doing, he has defamed a member of the Judiciary and gratuitously accused some individuals of lying under oath without an iota of evidence in substantiation.*"

10.3 In paragraph 25 – "*Ultimately, the finality of the main application has been delayed. In the process, the second respondent has been required to expend considerable time and funds defending frivolous, prima facie defamatory applications. And at the centre of all of this is the applicant's refusal to accept Senyatsi AJ's order, which did no more than to allow an amendment to a notice to oppose the applicant's review application, so that the notice could reflect the correct name of one of the respondents.*

Crucially, that name had been reflected incorrectly through undeniable inadvertence."

10.4 In paragraph 26 – *"Despite an assertion to the contrary by the applicant, the correction of the name did not cause him any prejudice. This litigation, which is plainly vexatious, is but an attempt by the applicant to hold onto what he misguidedly perceives to be an advantage. The subtext is that an amendment will result in him losing that advantage; and that is what will cause him "prejudice". That, of course, has never been our law on what constitutes prejudice of the nature that may result in an amendment being denied. Prejudice that may lead to the refusal of an amendment is not about the mere loss of a procedural advantage or even the possibility of losing the case itself as a result of the grant of the amendment. The norm is always to grant an amendment if it will not cause the other side an injustice that is incapable of being compensated by appropriate award of costs. Despite woefully falling short of meeting that test, the applicant has lamentably litigated all the way to this Court. That calls for a showing of this Court's displeasure."*

10.5 In paragraph 27 – "*Additionally, in all three applications (including the one before this Court), the applicant has attempted to attack the second respondent's opposition on the basis of minor technicalities. This, purely to have the applications proceed unopposed notwithstanding the second respondent's clear intention to oppose all three applications. In doing so, the applicant is abusing the court process."*

10.6 In paragraph 28 – *"The applicant, though self-represented, is a legal professional. As such, he should understand the import of his allegations*

and the impact of his numerous nonsensical applications. In fact, he states that he does understand the potentially defamatory nature and weight of his allegations against Senyatsi AJ."

11. The Constitutional Court granted a punitive costs order against Mr Tjiroze.

12. In the founding affidavit in the present main application Mr Tjiroze regrets and apologizes, at least for some of his conduct in the case before the Constitutional Court. Mere regret and apology are not sufficient in the present case. They ring hollow when Mr Tjiroze makes the following statements, among others in his replying affidavit in the present main application -

12.1 Paragraph 6 – Speaking of the answering affidavit of Ms Keetse – "*The respondent's entire answering affidavit stands to be struck out, as being vexatious, frivolous, scandalous and containing narrative reconstructions that do not assist the court in fairly and justly adjudicating the admission application, rather than an attempt to show the applicant in a bad light to this Honourable Court on subjective and carefully selected and para-phrased statements and conclusions.*"

12.2 Paragraph 12 – "*I must lastly hasten, in passing, to relate my observations of the Respondent's answering affidavit. It is apparent that the Respondent's answering affidavit seeks to highlight selective events upon which to launch ad hominem attacks. The respondent steers away from the origin of its cherry-picked events…*"

12.3 In paragraph 13 – "*The motive of such cherry-picking, it would seem, is to have this court look upon the applicant as reckless, idiotic, unintelligent in matters of the law, disrespectful and out of control. Of course, these false depictions of the applicant are far from the truth. The respondent loses*

complete perspective that, but for had applicant never stood by his personal and professional ethics required of a corporate legal advisor and compliance officer, the aftermath events cherry-picked by respondent would invariably never have featured in the applicant's life. This excluded and ignored genesis of events may not mean much to the respondent, but the hope is that they mean something to this Court."

12.4 In paragraph 35 – "*It is unclear why the respondent has elected to pull selected affidavits, as if the applicant had failed to disclose the cases from which the respondent has gone to collect the carefully selected affidavits. I respectfully submit, this is indicative of a substantive bias on the part of the LPC. The only purpose would be to accuse me of various forms of misbehavior and mislead the court about my moral and ethical character holistically. The selected affidavits do not represent the integrity and honest character of the applicant, rather than represent a party's case before court. It is not for the LPC to dictate how individuals appearing in person are to put their case before court.* "

12.5 In paragraph 36 – " *The respondent, blinded by its selectivity, omits to place before this court extracts from affidavits in which applicant has triumphed, such as the recent Supreme Court of Appeal judgment dated 23 January in which applicant was of the view that Majavu AJ misapplied the law, despite obvious and apparent case law having decided the aspects submitted by applicant and that Majavu AJ may have been influenced by the fact that the applicant appeared in person before him against famed senior counsels and arbitrarily disregarded valid evidence and submissions made by the applicant appearing in person. The Supreme*

Court of Appeal on 23 January 2023 agreed with applicant's views and contentions and has set aside the judgments and orders of Majavu AJ, and ordered that the appeal succeeds is granted to the Full Bench of this above Honourable Court. I attach the SCA ruling hereto marked annexure "RA5"."

13. Under section 24(2)(c) of the Legal Practice Act, 28 of 2014 it is a requirement for admission as a legal practitioner, as it was under the old Admission of Advocates Act, 74 of 1964 that the applicant is fit and proper to be so admitted. The conduct of Mr Tjiroze as set out above leaves him well short of fulfilling this requirement. The application for admission fails on this ground.

14. Regarding the qualifications of Mr Tjiroze, he alleges that he qualifies for admission under section 115 of the Legal Practice Act read with section 3(1) of the old Admission of Advocates Act. Section 115 preserves the admissibility of an applicant who qualified to be admitted under the old Act before 1 November 2018. Under section 3(1) of the old Act an applicant needs to show, among other things that he or she is "*duly qualified.*"

15. Under section 3(2)(a)(ii) of the old Act, which is applicable here it is a requirement for admission that the applicant " *has satisfied all the requirements for a degree or degrees of a university in a country which has been designated by the Minister, after consultation with the General Council of the Bar of South Africa, by notice in the Gazette, and in respect of which a university in the Republic with a faculty of law has certified that the syllabus and standard of instruction are equal or superior to those required for the degree of baccalaureus legum of a university in the Republic.*"

16. It is common cause that Mr Tjiroze has a three year B Juris degree from the University of Namibia. Mr Tjiroze needs to show that Monash South Africa,

being a South African university with a law faculty, and on which institution he relies, has certified that the syllabus and standard of instruction is equal to or superior to that of the South African LLB.

17. The LPC and the JSA accept that Mr Tjiroze has a degree from a country designated by the Minister. The LPC argues that there is no certification by a university in the Republic with a faculty of law "*that the syllabus and standard of instruction is equal to or superior to those required for the degree of baccalaureus legum of a university in the Republic.*"

18. Attached to Mr Tjiroze's founding affidavit is a document, apparently dated 20 August 2020 and issued by the South African Qualifications Authority, certifying that the B Juris degree of the University of Namibia has, as its closest comparable South African degree, the "*Bachelor of Procurationis* " degree. This latter degree is commonly known as a B Proc.

19. Annexed to Mr Tjiroze's founding affidavit is one by Dr Mongalo. Dr Mongalo is an associate professor of law at Wits University. He used to be the head of the law school at Monash. He left Monash at the end of October 2019. In effect, Dr Mongalo says that both he and Monash have concluded that Mr Tjiroze qualifies. But this is not a certification by Monash. Dr Mongalo does not purport to speak for Monash. He does not say that he has its authority to provide the required certification.

20. Annexed to Dr Mongalo's affidavit is a letter, dated 22 July 2022 by Ms S Ferndale, the Registrar of the Independent Institute of Education, the successor in title to Monash. Ms Ferndale says that Mr Tjiroze received certain credits and was exempted from some modules relating to Monash's "*2- year LLB.*"

The high-water mark for Mr Tjiroze in this letter is the statement that "*Mr Tjiroze was deemed qualified on 06 December 2019 for conferment of the 2 year LLB from Monash South Africa.*" The letter does not state that "*the syllabus and standard of instruction are equal or superior to those required for the degree of baccalaureus legum of a university in the Republic.*"

21. The letter implies the opposite of what is required. It implies that Mr Tjiroze needed further tuition from Monash, over and above that which he received for his B Juris to be "*deemed qualified*" by Monash for its 2 year LLB.

22. Mr Tjiroze is thus left with a three year B Juris and a deeming qualification for a Monash 2 year LLB but he is left without a certification from Monash that his B Juris is of the required standard.

23. Mr Tjiroze's application fails on the issue of qualification.

24. Mr Tjiroze's conduct in the present matter, as set out above on the question of fitness calls for punitive costs.

25. At the outset of the present hearing, Ms I Strydom for Mr Tjiroze did not proceed with prayers 2 and 3 of the related application of 17 November 2022. Mr Tjiroze also did not proceed with a Rule 30 application. It was expressly agreed by Ms Strydom for Mr Tjiroze, Mr Groome for the LPC and Mr Gilbert

leading Mr Deeplal for the JSA that the JSA be joined as a party. Accordingly, the JSA's intervention application fell away apart from the question of its costs.

26. The LPC seeks costs only in the main application and in the urgent application of 17 November 2022, both on the attorney and client scale.

27. The JSA seeks costs in the urgent application of 17 November 2022, its intervention application and in the Rule 30 application on the party and party scale.

28. I acknowledge the helpful input made by Ms Keetse and Mr Seleka and the learned and professional argument presented by Ms Strydom, Mr Groome and Mr Gilbert with Mr Deeplal.

ORDER

1. The Johannesburg Society of Advocates is joined as a party.
2. The application by Mr Tjiroze for admission as a legal practitioner, advocate is dismissed.
3. The application dated 17 November 2022 is dismissed.
4. Mr Tjiroze is to pay the costs of the LPC in both the main application and the 17 November 2022 application on the attorney and client scale.
5. Mr Tjiroze is to pay the costs of the JSA in the application of 17 November 2022, the JSA's application to intervene and in the Rule 30 application on the party and party scale.

[redacted]

GC Wright

Judge of the High Court

Gauteng Division, Johannesburg

I agree

[redacted]

L Wepener

[redacted] Judge of the High Court

Gauteng Division, Johannesburg

HEARD : 10 August 2023

DELIVERED : 18 August 2023

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