REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION

PRETORIA

(1) REPORTABLE: ~~YES~~ / NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) REVISED.

11 AUGUST 2022 .....

DATE SIGNATURE

CASE NO: 47591/17

In the matter between:

LA DU PREEZ	**APPLICANT**
AND	
CITY OF TSHWANE METROPOLITAN MUNICIPALITY, PRETORIA	**RESPONDENT**

JUDGMENT

CEYLON , AJ

A. INTRODUCTION:

[1] This is an opposed application in which an order is sought in the following terms by the Applicant against the Respondent:

"*(a) that the amount of R74 309-78 be removed from the Applicant's electricity account along with the interest charged thereon;*

(b) that the respondent be interdicted from adding the amount of R74 309-78 or any other amount to the applicant's electricity account without having followed the by-laws;

(c) that the respondent be interdicted from disconnecting the electricity of the applicant while this motion is pending;

(d) that the respondent give account of the settlement agreed to between the parties for what the respondent claimed to be outstanding meter readings during November and December 2015;

(e) that the respondent be ordered to pay the costs of this application; and

(f) granting such further and/or alternative relief as this honourable Court may deem fit"

[2] The Respondent brought an application that the late filing of its Heads of Argument ("HOA") (dated 15 October 2021) be condomed and tendered the costs occasioned by the late filing of said HOA.

[3] The Respondent also brought an application for condonation for the late filing of its answering papers, indicating that it has good cause in seeking the Court's indulgence [refer to para 7, Respondent's HOA, pg 003-85 on Caselines].

[4] The Respondent further seek condonation to file a further affidavit in the form of a supplementary affidavit to its answering affidavit [refer to paragraph 6 of the Applicant's supplementary HOA, pg 003-90 on Caselines].

[5] The Respondent raised a point *in limine* that the Applicant did not exhaust all internal remedies available to him prior to bringing this application, in terms of the Promotion of Administrative Justice Act ("PAJA") 3 of 2000 as well as the Municipal Systems Act 32 of 2000.

B. BACKGROUND:

[6] The dispute between the parties ensued as a result of the broken meter on the Applicant's property which stopped metering but kept on supplying electricity. The problem of the broken meter was reported to the Respondent, but it remained unfixed for a few months until the Applicant received an account from the Respondent around November/December 2015 and from which it appeared that the meter was since repaired and the usage for the period in which the meter was unfixed has been included into the said account. The Applicant apparently accepted the amount and paid it and assumed that the dispute was now settled between the parties. However, the Applicant received an account around January 2016 and it seems from this account that the amount in respect of the period in which the meter was broken was included into this latter account. The Applicant disputed the correctness of this account.

[7] The nature and extent of the dispute between the parties will be apparent from the contentions of each of the parties outlined herein-below.

C. THE APPLICANT'S CONTENTIONS:

[8] The following is a broad summary of the Applicant's case:

[9] During July 2013 the electricity meter at the Applicant's premises stopped metering the electricity usage but kept supplying electricity, which the Applicant reported to the Respondent telephonically and by visiting the Respondent's offices. According to the Applicant, the Respondent never responded to him regarding this matter.

[10] The Applicant then affixed a note to the meter, advising that the meter was broken, but the note remained on the meter for several months. This indicated that the Respondent did not attend to the meter or fix it.

[11] Around November/December 2015, the Applicant received an account from the Respondent which claimed that the meter was fixed and that the Applicant owed the Respondent that amount in respect of the reconciliation for the period that the meter was broken. The Applicant accepted the said amount in settlement and paid the amount. The settlement according to the Applicant did not proceed into a dispute (the so-called first incident as the Applicant refers to it).

[12] On or about January 2016, the Applicant received another account from the Respondent, again for the same period that the meter was broken. After attending the Respondent's offices and under the impression that the amount in respect of the period the meter was broken has been settled and paid, the Applicant was told that he had to declare a dispute with the Responding in respect of this amount, which he did. The dispute was lodged with the Respondent, but the Applicant did not keep a copy thereof

as he submitted the original. This was the dispute to which the Applicant refer to as the second incident.

[13] Subsequent to the dispute, the Respondent informed the Applicant that the money in terms of the January 2016 account was definitely owed to the Respondent and upon asking the Respondent what his options are, the Respondent advised the Applicant to lodge an appeal against the decision regarding the dispute (second incident). The Applicant enquired from the Respondent as to how the appeal procedure work, he was advised by the Respondent to first discuss the matter with them (Respondent). The Respondent never reverted to the Applicant regarding the appeal procedure as at date of the current application.

[14] The Applicant then approached his attorneys of record who forwarded several emails to the Respondent between 25 October 2016 and 05 May 2017 requesting clarity on dates, usage tariffs and the reconciliation of the amount already paid in relation to the period the meter was broken, as well as to obtain information from the Respondent and to avoid Court processes.

[15] The Respondent, despite the pending disputes between the parties, proceeded to disconnect the electricity supply of the Applicant. The electricity supply was only restored when the Respondent showed that there was still a dispute between the parties and after paying an amount of R8 096-28 to the Respondent.

[16] The Applicant's electricity supply was disconnected again around April 2017 and restored again after payment of an amount of R4 327-66 was effected by the Applicant.

[17] Around 06 June 2017 the Respondent again threatened to disconnect the Applicant's power supply. The Applicant then launched this Court application.

[18] The Respondent filed its notice to oppose this application more than two months after service of this application and only after being compelled to do so in terms of a Court Order. A further Court Order was granted on 17 January 2018 and only thereafter, the Respondent filed its answering papers.

D. THE RESPONDENT'S CONTENTIONS:

[19] The following is a brief outline of the main contentions of the Respondent:

(a) The Applicant's cause of complaint emanates from the accounts issued by the Respondent around November/December 2015 and January 2016, the proceeding interactions between the parties became moot. The December 2015 account was paid by the Applicant.

(b) When the Respondent, during January 2016, realised that the December 2015 account did not reflect the correct totals, it caused a revised, consolidated account, reflecting the current and true estimation of the amount due to it to be forwarded to the Applicant.

(c) From the Court papers it appears that the Applicant, when he received the updated, reconciled account in January 2016, became dissatisfied and approached the Respondent for clarity and was advised by the officials of the Respondent that if he feels aggrieved by such action, that he should proceed to lodge a dispute in terms of section 95 (f) read with section 102 (2) of the Municipal Systems Act 32 of 2000. The Applicant accordingly lodge the dispute on 20 September 2016. The Applicant, after lodging the said dispute, apparently also appointed his attorneys regarding this matter.

(d) On 13 October 2016 the Respondent made a decision regarding the dispute and advised the Applicant of the reasons and outcome by email, which the Applicant seems to have acknowledged receipt of, and also requested information regarding the Respondent's internal appeal procedures.

(e) Around 18 November 2016 the Respondent disconnected the Applicant's electricity supply in terms of its mandate and section 28 (1) of the Municipal Property Rates Act 6 of 2004, exercising its credit control policy. The electricity supply was reconnected on the same date upon engagement with the Applicant on the dispute declared.

(f) On 30 March 2017 the Respondent, through its attorneys, requested a meeting with the Applicant and his attorney prior to him instituting an appeal, which meeting the Applicant and his attorneys did not attend.

(g) The Respondent then notified the Applicant, in terms of section 28 (1) of the said Property Rates Act, on the measures it would take to recover the arrear amount and that failure to settle said arrears would lead to disconnection of the electricity supply, whereafter the Applicant launched the present application.

(h) The application was heard on 10 September 2017 on the unopposed roll and was postponed *sine die* with an Order that the Respondent file its opposing papers withing 15 days of date of said Order. On 21 September 2017 the Respondent filed its Notice to Oppose on the Applicant's attorneys.

(i) The application was before Court on 17 January 2018 postponed *sine die* again with an Order that the Applicant's electricity supply not be disconnected again pending the finalisation of this application.

(j) The Respondent filed its Answering affidavit on 16 March 2018 with a condonation application for the late filing of the latter (the facts pertinent to same set out in the Replying

papers). The application was subsequently set down for hearing for 25 January 2021 but removed by notice by the Applicant's attorneys.

(k) The Respondent mentions that, form the Applicant's prayers and the subsequent Court Orders in particular, order number 2 (by the Honourable Rabie J), dated 17 January 2021, the Applicant in his application that is set down for the hearing of 18 October 2021 sought a final interdict, with particular reference to prayer 1. The Respondent further contends that although the Applicant is not clear in his papers with regards to the notice of motion if he approach the Court for a review of the decisions taken by the Respondent for the issue of account of January 2017, as it appears from paragraphs 5.18, 5.19 and 7 thereof that it is the case.

(l) The Respondent then went on to cite the provisions of sections 1 and 7 of PAJA and highlighted that any administrative action in terms of said Act can only be reviewed once all external remedies under any other law has been exhausted. The Respondent submitted that the cause of action in this application arose during December 2015 and January 2016 and the application was launched during September 2017, that is approximately 20 months beyond the 180 day period required by PAJA.

(m) The Respondent further contends that even if this Court were to find that the Respondent failed in its duty to inform the Applicant of its decision (regarding the dispute) and the application in its current form satisfies the requirements for bringing a review application, the Applicant's failure to comply with the 180 day requirement of PAJA should be regarded by Court to have been a contravention of said PAJA and as such stands to be dismissed.

(n) The Respondent further contends that in terms of the provisions of section 7 (2) of PAJA and section 62 (1) of the Municipal Systems Act the Applicant was obliged to first exhaust all internal remedies available to him before instituting legal proceedings, which was not done by the Applicant in this matter, even despite being advised so by the officials of the Respondent.

(o) The Respondent submitted that the Applicant, by way of this application, calls for this Court to act as advisor on how to prosecute his case in that he should have brought the application in terms of requirements pertinent to a review application in instances where he failed to comply with PAJA and the Municipal Systems Act and that the application should be dismissed on that ground because if it was granted, it would set a bad precedent.

(p) With regards to the requirements of an interdict, the Respondent outlined these by way of the citation of Ansafon (Pty) Ltd v The Master, Northern Cape Division (513/2013) [2014] ZASCA 170 (14 November 2014) and cites MEC, Local Government, Environmental Affairs and Development v Hans Ulrich Plotz NO and Another (495/2017)

[2017] ZASCA 175 (01 December 2017) in relation to the issue of exhausting of internal remedies and contended that the Applicant did not meet any of the said requirements.

(q) The Respondent submitted further that the Applicant, in this application relied on the incorrect bylaws in that he based his application on section 56 (9) of City's Electricity bylaws instead of the correct one, being section 59 of said bylaws.

(r) With regards to the condonation application (answering affidavit), the Respondent rely on Madinda v Minister of Safety and Security [2008] 3 All SA 143 (SCA); 2008 (4) SA 312 (SCA) to indicate that it had good cause for the condonation for the late filing of the affidavit mentioned above, and it would be in the interest of justice if their application for the late filing of the HOA would be condoned.

E. ISSUES TO BE DETERMINED:

[20] The following issues are required to be determined by this Court:

(a) the condonation application by the Respondent in respect of the late filing of their Answering papers and Heads of Argument respectively;

(b) the Respondent's points *in limine* (including the Applicant not having exhausted all the internal remedies before launching this application);

(c) whether the Applicant has met the requirements for the interdicts sought.

F. TECHNICAL POINTS:

[21] It will apposite to first deal with the technical points raised before we enter into the merits because it may well be that one or more of these may dispose of the application and there will be, in that case, no need to entertain the application any further.

(a) The Respondent submitted that the Applicant did not comply with the pre-requisites/requirements of sections 1 and 7 of PAJA and section 62 (1) of the Municipal Systems Act, *supra*, in that he did not exhaust all the internal remedies available to him prior to launching this application. Accordingly, so the Respondent argues, this application should be dismissed with costs.

[23] The Respondent relies on the definition of "administrative action" in PAJA, which provides that:

"*"administrative action" means any decision taken, or any failure to take a decision, by – (a) an organ of state, when*

(i) exercising a power in terms of the Constitution or a provincial constitution; or

(ii) exercising a public power or performing a public function in terms of any legislation; or

(b) a natural or juristic person, other than an organ of state, when exercising a public power or performing a public function in terms of an empowering provision, which adversely affects the rights of any person and which has a direct, external legal effect..."

[24] Section 7 of PAJA provides for the procedure of judicial review. It reads as follows:

"(1) Any proceedings for judicial review in terms of section 6 (1) must be instituted without reasonable delay and not later than 180 days after the date –

(a) subject to subsection (2) (c), on which any proceedings instituted in terms of internal remedies as contemplated in subsection (2) (a) have been concluded; or

(b) where no such remedies exist, on which the person concerned was informed of the administrative action, became aware of the action and the reasons for it or might reasonably have been expected to have become aware of the action and the reasons.

(2)(a) Subject to paragraph (c), no court or tribunal shall review an administrative action in terms of this Act unless any internal remedy provided for in any other law has first been exhausted..."

[25] The Municipal Systems Act in this regard provides as follows in section 62 (1):

"*62 (1) A person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office bearer, councillor or staff member, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of notification of the decision ...*"

[26] With regards to the formal dispute, the Respondent contended that the Applicant lodged the dispute and receipt thereof was acknowledged by email dated 21 September 2016. The dispute was considered by the Respondent and the outcome and reasons for same was furnished to the Applicant by email dated 13 October 2016. The Respondent argues that due process was followed and reasons given for the updated, revised account, which was in line with the provisions of the relevant bylaws.

[27] The applicant was not satisfied with the outcome of the dispute. He was then invited to discuss the issues of the outcome and to see if a settlement between the parties could not be found before he proceeded with the appeal of the said decision (outcome). The Applicant did not accept the invitation. The Applicant was advised of and was fully aware

of the appeal procedure and should not have approached the Courts before exhausting this procedures, by way of the Respondent's emails of 19 and 25 October 2016.

[28] According to the Respondent, there is no mention made for a review or setting aside order in the Applicant's papers. The Respondent submitted further that the Applicant, by this application, seeks an incompetent order to be granted in that it seeks to request this Court to restrict the Respondent's mandate to issue accounts and its constitutional mandate to provide services. This, the Respondent submitted, will open the flood gates so that anyone who has a dispute considered and finalised and does not approve of the decision, can approach the Courts for relief. This, the Respondent contends, is tantamount to providing free electricity, which is a right that no person has, including the Applicant.

[29] The Respondent therefore contends that the Applicant did not follow the provisions of PAJA mentioned herein-above and therefore the application should be dismissed.

[30] With regards to the prejudice or harm that the Applicant might suffer, the Respondent submitted that there is no harm or prejudice for the Applicant. The Applicant still has his right to appeal the outcome (decision) and if he failed in that appeal, he may still proceed to review that appeal decision. The Respondent argue that if this application is granted in favour of the Applicant, the Respondent will be severely prejudiced as this case may be used as a wrong precedent and that cannot be allowed to happen.

[31] The Applicant contended that the first issue (1st incident) was settled. There is no dispute about that. The Respondent now, however, brings this first issue into the new dispute. There is therefore no need for him to utilise any internal remedy as he regarded the dispute as having been settled and finalised.

[32] The Respondent, however, argues that it is only after it properly reviewed the Applicant's account that they were able to provide a correct, reconciled and updated account to the Applicant in January 2016, which they were in their rights to do, that the Applicant filed the formal, written dispute regarding the figures contained therein.

[33] There can be no doubt that there was a dispute between the parties with regards to the account of January 2016 which was provided by the Respondent to the Applicant. This dispute could not be resolved amicably or informally by dialogue or otherwise between them. The Applicant then lodged a formal dispute with the Respondent in terms of sections 95 (f) and 102 (2) of the Municipal Systems Act *supra* on 20 September 2016.

[34] It appears from the evidence before this Court that the formal dispute was considered by the Respondent and that the outcome thereof was communicated to the Applicant on 13 October 2016 by email.

[35] It further appears that the Applicant received the said email and the outcome of the formal dispute and the reasons thereof but was not satisfied with same. The Applicant enquired with the Respondent regarding the procedure to appeal the decision (outcome) and a meeting was requested by the Respondent with the Applicant (through their respective attorneys) to discuss the issues prior to instituting the appeal, which meeting did not materialise.

[36] The Applicant did not follow through with the appeal procedure and following the Respondent's disconnections and reconnections of the electricity supply to his property, the Applicant instituted the current proceedings in this Court.

[37] It is against the backdrop of the above-mentioned that the Respondent raised the technical point that the Applicant did not comply with the provisions of section 1 and 7 PAJA and section 62 (1) of the Municipal Systems Act *supra*. The Respondent contends that this application should be dismissed on the grounds that the Applicant did not first followed and finalise the appeal procedure referred to above.

[38] It is clear that the Respondent received and considered the dispute of the Applicant and provided the outcome thereof around 13 October 2016. It is common cause that the Applicant was dissatisfied with this outcome (decision) and indicated his intention to take it on appeal in terms of the Respondent's internal procedures as envisaged in section 62 (1) of the Municipal Systems Act. It is further also common cause that the appeal procedure was never instituted and finalised as at date of launching of the present application.

[39] The fact that there are, according to the Applicant, two disputes or incidents and that he was under the impression that the first one was settled and that the Respondent brought the already settled (first) dispute into the second one, does not negate the fact that the Applicant placed the second incident in dispute by taking issue with the account of January 2016 and that he instituted formal dispute proceedings with regards to the said account against the Respondent in terms of the said sections 95 (f) and 102 (2) of the Municipal Systems Act. These facts clearly brings that dispute within the reach of said sections 62 (1). The Applicant, in the view of this Court, cannot escape the application of this legislation to his dispute with the Respondent, a municipality, so specified, in terms of said section 62 (1).

[40] Further, the provisions of section 7 (2) (a) of PAJA states that no court or tribunal shall review any administrative action in terms of the Act unless any internal remedy provided for in any other law from first been exhausted. It is clear that the Respondent's decision (administrative action) in relation to the formal dispute is now brought into the purview of section 62 (1) of the Municipal Systems Act, it being "any other law" in terms of section 7 (2) (a) of PAJA. As a consequence, the aforementioned provisions of both

PAJA and the Systems Act is applicable to the Respondent's decision (outcome), and therefore on this Application.

[41] In Lombardy Development (Pty) Ltd and Others v City of Tshwane Metropolitan Municipality it was held that section 62 provides a remedy in terms of an appeal process against a decision taken by the Respondent which the Applicant is not happy about and this section is applicable to disputes in relation to municipal accounts [(794621/18) [2021] ZAGPPHC 521 (05 August 2021) at para 62].

[42] The Applicant's contention that he was not advised of the Respondent's existing internal appeal procedure cannot be sustained. These procedures are apparent from the provisions of said section 62 (1) of the Systems Act and the Lombardy Development decision *supra*. This Court further agree with the submissions in this regard of the Respondent that ignorance of the law is no excuse and that the attorneys of the Respondent ought to know of the existence of section 62 (1) and section 7 (2), *supra*, and should have advised their client of his rights to appeal under section 62 of the Systems Act. The Applicant cannot blame his lack of knowledge in this regard on the Respondent.

[43] The submission by the Applicant that he was not aware, or did not receive the decision of the formal dispute (of 20 September 2016) from the Respondent can also not be sustained. On the Applicant's own version he enquired about the outcome and was advised of same. He was unhappy with it and went to engage the Respondent on his options following the outcome. He was then advised to attend a meeting to discuss the issues before he should institute appeal proceedings, which he preferred not to do. The Applicant, in view of this Court, was fully aware of the outcome as he was informed of it by way of email dated 13 October 2016.

[45] In terms of the Plotz decision *supra*, it was held that there is a duty to exhaust all internal remedies before instituting legal proceedings in terms of section 7 (2) of PAJA [also see Koyabe v Minister of Home Affairs and Others 2010 (4) SA 327 CC at para 34; Dengetenge Holdings (Pty) Ltd v Southern Sphere Mining and Development Co Ltd and Others 2014 (5) SA 138 CC at 172I-173A]. This requirement is compulsory unless exceptional circumstances are present and so found by a Court of law and that it would be in the interest of justice that such exemption is given. In said decision of Koyabe it was held as follows at para 34:

"*[34] Under common law, the existence of an internal remedy was not in itself sufficient to defer access to judicial review until it has been exhausted. However, PAJA significantly transformed the relationship between internal administrative remedies and the judicial review of administrative decisions. Thus, unless exceptional circumstances are found to exist by a court on application by the effected person, PAJA, which has a broad scope*

and applies to a wide range of administrative actions, requires that available internal remedies be exhausted prior to judicial review of an administrative action".

[46] From the papers before this Court, no application for an exemption in terms of PAJA or as envisaged in the said Koyabe decision *supra*, could be located. Accordingly, the remedy referred to in section 7 (2) (c) of PAJA cannot be availed to the Applicant.

[47] In the opinion of this Court, the Respondent exercised public power or performed a public function when it considered the Applicant's formal application in terms of sections 95 (f) and 102 (2) off the Systems Act *supra*. This conduct of the Respondent is in accordance with sections 1 (a) and 1 (a) (ii) of PAJA in that it performed a public function or exercise public power in terms of the Systems Act (legislation).

[48] The Respondent's conduct (its decision), being an administrative action as contemplated in section 1 (a) of PAJA, may be challenged by the Applicant in terms of section 6 of PAJA, which states that:

"*(1) Any person, may institute proceedings in a court or a tribunal for the judicial review of an administrative action.*

(2) A court or tribunal has the power to judicially review an administrative action if – "

[48] The provisions of section 6 are subject to those of section 7, which was already discussed above. Section 7 (2) of PAJA clearly qualifies section 6 to the effect that the review of an administrative action cannot be done by a court or tribunal unless any internal remedy provided for in any other law has first been exhausted. This was confirmed in, for example, the Plotz, Koyabe and Dengetenge decisions, *supra*.

[49] The Systems Act, which was the legislation utilised by the Applicant when he lodged his dispute in terms of section 95 (f) thereof, clearly falls within the ambit of "any other law" as mentioned in section 7 (2) (a) of PAJA. Accordingly, these latter pieces of legislation are definitely applicable to the dispute between the parties.

[50] This Court is of the view that the Applicant should first have exhausted the Respondent's internal appeals procedure in terms of section 62 of the Systems Act and if he remains dissatisfied with the outcome thereof, to institute review proceedings in accordance with the provisions of PAJA as set out above and then follow the prescripts of Rule 53 of the Uniform Rules of this Court.

[51] The Applicant did not exhaust the internal appeal procedure of the Respondent. He proceeded to Court prematurely without having satisfied the provisions of PAJA, the Systems Act and, *inter alia*, the principles set out in the Koyabe, Lombardy Development, Dengetenge or Plotz decisions, *supra*.

[52] The requirements for an interdict are trite and has been set out in the well known decision of Setlogelo v Setlogelo 1914 AD 22 and also the Ansofon and Plotz decisions, *supra*.

[53] It needs to be mentioned that the above finding in relation to the point *in limine* raised by the Respondent regarding the requirements, that there must not be any other or alternative remedy available to the Applicant, will have an impact on the interdict the Applicant is seeking in this application.

[54] This Court already found that the Applicant did not exhaust the internal appeals procedure of the Respondent and launched this application prematurely. This Court is therefore of the view that the Applicant will equally not be able to satisfy the requirement that there must not be any other remedy available to the Applicant, as it is clear that the internal appeal procedure has not been exhausted and is available to him. Accordingly, this Court, without considering the requirements for the interdict itself, is of the view that the interdict cannot succeed in view of the internal appeal procedure, not having been exhausted at the time that this application was launched, constitute such an alternative or other remedy available to the Applicant. It is the opinion of this Court that the application for the interdict would stand to fail in the circumstances.

[55] In light of the above, the Respondent's point *in limine* stands to succeed. It is therefor not necessary to entertain the merits of this application.

H. COSTS:

[56] The general rule is that costs follow the result and this rule may only be departed from on good grounds shown [Myers v Abramson 1951 (3) SA 348 (C) at 455].

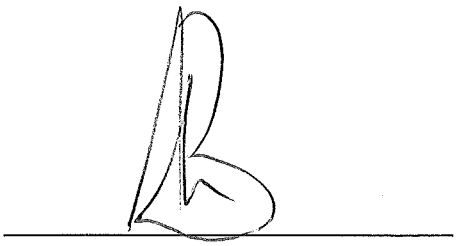
[57] This Court finds no reason to deviate from this rule or to award any punitive costs as no factors (for instance of malice or abuse of the Court process) could be found on the part of the unsuccessful party to justify such an award.

I. ORDER:

[58] In the result, the following order is made:

(a) the Applicant's application is dismissed.

(b) the Applicant shall pay the Respondent's costs, including costs of counsel.



B CEYLON

Acting Judge of the High Court of South Africa

Gauteng Division

Pretoria

Hearing date:	15 March 2022
Judgment date:	11 August 2022
Appearances:	
For the Applicant:	Adv H Scholz
Instructed by:	Taute, Bouwer & Cilliers Inc
	Pretoria
For the Respondents:	Adv AM Masombuka
Instructed by:	Diale Magoshoa Attorneys
	Pretoria