



IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES/NO

(2) OF INTEREST TO OTHER JUDGES: YES/NO

(3) REVISED NO

DATE: **3 February 2023**

SIGNATURE: [REDACTED]

CASE NO: 32944/2022

In the application between:

**CHRISTELIKE MAATSKAPLIKE RAAD NOORD
("CMR NORTH")**

Applicant

and

DEPARTMENT OF SOCIAL DEVELOPMENT

First Respondent

**MEC FOR THE GAUTENG DEPARTMENT OF
SOCIAL DEVELOPMENT**

Second Respondent

**DIRECTOR-GENERAL, DEPARTMENT OF SOCIAL
DEVELOPMENT**

Third Respondent

**MINISTER OF THE DEPARTMENT OF SOCIAL
DEVELOPMENT**

Fourth Respondent

VARIOUS INTERVENING PARTIES

Amici Curiae

Coram: Millar J

Heard on: 3 February 2023

Delivered: 3 February 2023 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 12h45 on 3 February 2023.

JUDGMENT

MILLAR J

1. This is an application for leave to appeal brought by the first respondent against a judgment and orders granted by me on 20 October 2022. The application for leave to appeal was served out of time on 14 December 2022 and thereafter the next day an application for condonation was served. The application for condonation was not opposed. It is in the interests of justice that this application be heard and so I indicated that I intend to grant condonation.¹
2. The test for granting leave to appeal The test for the granting of leave to appeal pertinent to the present matter is set out in section 17(1) of the Superior Courts Act² as follows:

“(1) Leave to appeal may only be given where the judge or judges concerned are of the opinion that

¹ Ferris v First Rand Bank 2014 (3) SA 39 (CC) at 43G-44A

² 10 of 2013

(a) (i) *the appeal would have a reasonable prospect of success or*

(ii) *there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration"*

3. I have considered the grounds upon which the application has been brought and the reasons given by me for the judgment. I have also considered the submissions made by counsel for the granting of leave to appeal on the part of the first respondent and those opposing the granting of leave to appeal on behalf of the applicant.
4. I am not persuaded that another court would come to a different conclusion or that there is some other compelling reason why leave to appeal should be granted.
5. Since the application for condonation was not opposed, I do not intend to make any order for costs in regard thereto. The costs order that I make relates solely to the application for leave to appeal. There is no reason to depart from the normal rule that the scale of costs be paid as between party and party.
6. In the circumstances, I make the following order:
 - 6.1 Condonation is granted for the late filing of the application for leave to appeal.
 - 6.2 The application for leave to appeal is refused.

- 6.3 The first respondent is ordered to pay the costs of the applicant on the scale as between party and party which costs are to include the costs consequent upon the employment of two counsel.


A MILLAR
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

HEARD ON: 3 FEBRUARY 2023

JUDGMENT DELIVERED ON: 3 FEBRUARY 2023

COUNSEL FOR THE APPLICANTS: ADV. L HAUPT SC
ADV. L VAN DER WESTHUIZEN

INSTRUCTED BY: F VAN WYK INCORPORATED

REFERENCE: MS. A JACOBS

COUNSEL FOR THE 1ST RESPONDENT: ADV. M BOTMA

INSTRUCTED BY: THE STATE ATTORNEY, PRETORIA

REFERENCE: MR. S MODUKANELE

