

Supreme Court of Appeal of South Africa

**MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME  
COURT OF APPEAL**

From: The Registrar, Supreme Court of Appeal

Date: 29 November 2007

Status: Immediate

**MILLENNIUM WASTE MANAGEMENT v CHAIRPERSON  
TENDER BOARD AND OTHERS**

*Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal*

Today, the Supreme Court of Appeal (the SCA) has set aside a judgment of the Pretoria High Court refusing to rescind a tender awarded to a consortium called Thermopower Technology/Buhle Waste/Afrimedicals JV by the head of the Department of Health and Social Development in Limpopo Province. 14 companies bid for the tender which was awarded to the consortium after other tenders were all disqualified for various reasons.

The tender of Millennium Waste Management (Pty) Ltd (the appellant) was disqualified because the person who completed the declaration of interest form had inadvertently failed to sign it. The form had been properly completed and the only thing lacking was a signature, even though the name of the person concerned was inserted on the form and he had initialled each page. The appellant's tender, as were all other tenders, was disqualified by a departmental tender committee which subsequently

inspected the business facilities of 11 companies, including the consortium's premises. A report compiled by a technical committee at the request of the tender committee, revealed that there were defects in all tenders including that of the consortium. Nevertheless the tender committee recommended that the tender be awarded to the consortium whose tender was the only remaining tender after disqualifications. The consortium was awarded the tender at a cost of R3 642 257 per month whereas the appellant had quoted R444 244 for such service.

The SCA found that the disqualification of the appellant's tender was unfair and contravened the provisions of the Promotion of Administrative Justice Act 3 of 2000. The SCA ordered that both the appellant's and the consortium's tenders be reconsidered by the tender board.