



THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA

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

From: The Registrar, Supreme Court of Appeal

Date: 1 December 2008

Status: Immediate

*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*

**M Shunmugam and 18 Others**

*versus*

**National Democratic Convention**

Before the opening of the floor crossing window in September 2007, the appellants were municipal councillors and members of the National Democratic Convention, the respondent, a registered political party. The respondent purported to expel them from membership of the party before the floor crossing window opened which resulted in the appellants seeking an order declaring their expulsions to have been unlawful. Immediately before the floor crossing window opened, the application was postponed to a date in the floor crossing period with the parties agreeing that, pending the final determination of the application, the appellants would 'remain suspended as members' of the respondent.

Before the matter was called on the date to which he had been postponed, the appellants purported to cross the floor. The Electoral Commission subsequently recognised their move to other political parties and the respondent instituted proceedings seeking an order that the appellants' crossing of the floor to other political parties had been unlawful. The respondent was successful in the Pietermaritzburg High Court.

On appeal, the Supreme Court of Appeal held that the appellants had been lawfully entitled to cross the floor when they did. The appeal therefore succeeded and the order in the court a quo set aside.