
Gabriel Ntleli Swartbooï and 17 others versus Brink and Niewoudt

CCT 27/02

Media Summary

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

This morning the Constitutional Court handed down judgment granting leave to appeal in this matter. The case arises from certain proceedings of the Nala local municipal council, of which the applicants and the respondents are members. In a successful review application brought by the respondents against the council, the Free State High Court ordered the applicants to pay the costs on a punitive scale and from their own pockets. Both the High Court and the Supreme Court of Appeal refused the applicants leave to appeal and they then applied to the Constitutional Court to challenge this costs order on constitutional grounds. When the matter was argued last week the Court pointed out that [although](#) the Nala council had a material interest [it was not a party in this Court](#) and should be given an opportunity to be heard in the proposed appeal.

The case also raises important issues concerning the separation of powers (between courts and legislatures) and the scope of the privileges and immunities of municipal councillors under the Local Government: Municipal Structures Act. These are matters of importance to all local authorities. The Court accordingly directed that the judgment be brought to the attention of the South African Local Government Association, each provincial executive committee member responsible for local government as well as the national minister responsible for local government. They are given an opportunity to lodge written argument on these issues.