



THE ELECTORAL COURT OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE ELECTORAL COURT OF SOUTH AFRICA

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Liebenberg v The Electoral Commission of South Africa (0023/2024EC) [2024] ZAEC 16(20 May 2024)

Today the Electoral Court of South Africa, Bloemfontein, granted an order dismissing the application by Mr Louis Liebenberg, an independent candidate in the National Elections, to have reviewed and set aside his disqualification from contesting the elections for the regional seats in the National Assembly in respect of the Limpopo and the Mpumalanga regions.

Mr Liebenberg sought an order in effect to compel the Electoral Commission of South Africa (Commission) to place him back on the list of independent candidates who would be contesting these two regional elections for the National Assembly scheduled for 29 May 2024. The Commission opposed the application by Mr Liebenberg on the basis that he was disqualified from contesting the elections for seats in the National Assembly for those two regions as he had failed to submit the lists and the details and identity numbers of the requisite 1000 voter supporters from each of these regions.

The issue which was required to be decided was simply whether factually Mr Liebenberg had submitted lists with sufficient numbers of supporters which would have entitled him to contest the said elections for the Limpopo and the Mpumalanga regions of the National Assembly. The Electoral Court's order of today answered this question in the negative and found, in effect, that Mr Liebenberg had been disqualified by operation of law from contesting the elections in question.

The Court confirmed that, according to section 31B(3)(a)(i) of the Electoral Act, an independent candidate's nomination to contest an election in one or more regions for the National Assembly must be accompanied by a prescribed form bearing the details and signatures of at least 1000 voter supporters from each of the regions contested.

The Court accepted the case of the Commission that Mr Liebenberg failed to submit the required number of voter details and signatures to contest the elections for the Limpopo and the Mpumalanga regions. How it arrived at this conclusion, the Commission had set out extensively in pre-litigation correspondence and in their answering affidavit. On the version of the Commission, Mr Liebenberg merely failed to upload sufficient signatures to meet the requirement. Therefore, so the Court held, Mr Liebenberg is ineligible to contest the elections for these regions of the National Assembly due to his failure to submit the requisite voter supporter details and signatures.

The factual dispute between Mr Liebenberg and the Commission was therefore decided by the Court in favour of the Commission. The Court accepted the Commission's very plausible explanation that its figures were produced after an extensive audit and a detailed analysis of all of the supporting documents submitted by Mr Liebenberg to the chief electoral officer. The court also accepted the Commission's contention that the prescribed quotas are to be met not by numbers submitted, but by the number of 'verified' voter supporters and their signatures, which means that the lists of names and signatures must be those of registered voters in a particular region, for example.

The Online Candidate Nomination system (OCNS) processed the lists of supporters and did, in real time, verify the identity number of a supporter and whether he or she is a registered voter and whether

he or she is eligible to be a voter supporter. If so, such a voter supporter would be counted towards the requisite quota. If not, the details of such a person would be disregarded. Thereafter, the Commission compared the signatures with the lists of verified voter supporters and that process resulted in the figures subscribed to by the Commission, which demonstrated conclusively, so the Court found, that Mr Liebenberg did not meet the 1000 quota prescribed in terms of s 31B(3)(a)(i) for the Limpopo and the Mpumalanga regions.

In sum, the Court found that the version of the Commission is more probable than the bald and unsubstantiated averment by Mr Liebenberg that the right number of voter supporters were submitted to the Commission. The Commission's version, in addition to being supported by the details and particulars relating to exact figures, the Court also found to have a ring of truth to it.

In the result, the Court refused the relief sought by Mr Liebenberg and dismissed his application.

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