



REPUBLIC OF SOUTH AFRICA

THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

JUDGMENT

Not reportable

Case no: J 435/17

In the matter between:

IMVULA QUALITY PROTECTION

First Applicant

PERSONS LISTED IN ANNEX A

Second to further Applicants

RED ALERT TSS (PTY) LTD

First Intervening Applicant

PERSONS LISTED IN ANNEX B

Second to further Intervening Applicants

And

UNIVERSITY OF SOUTH AFRICA

Respondent

Delivered: 26 September 2017

RULING: APPLICATION FOR LEAVE TO APPEAL

VAN NIEKERK J

- [1] The applicants apply for leave to appeal against the whole of the judgment delivered by this court on 7 September 2017.
- [2] An application for leave to appeal falls to be considered in terms of s 17 of the Superior Courts Act, 10 of 2013. Section 17 (1) (a)(ii) provides that leave to appeal may be given if there is some compelling reason, other than that the appeal would have a reasonable prospect of success, why the appeal should be heard.
- [3] I do not intend to make any findings in relation to the grounds for appeal on which the applicant relies. The present matter concerns the application of s 197 of the LRA to an insourcing of services in circumstances where the only subject of any transfer is, in effect, the contracts of employment of some but not all of the employees engaged by the outgoing service provider. The application of s 197 in these circumstances has not, as far as I am aware, been the subject of consideration by a higher court. Further, the application or otherwise of s 197 in these circumstances is a matter which requires certainty, not only for tertiary institutions such as the respondent many of whom have undertaken or will undertake similar exercises, but for employers and employees more generally.
- [4] For these reasons, I have decided to grant the application for leave to appeal.

I make the following order:

1. Leave to appeal is granted, costs to be costs in the appeal.

André van Niekerk
Judge