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**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG**

CASE NO: 342/2025

Reportable: YES / **NO**

Circulate to Judges: YES / **NO**

Circulate to Magistrates: YES / **NO**

Circulate to Regional Magistrates: YES / **NO**

In the matter between:

COUNCILLOR GODSEND MOKGOPE

APPLICANT

AND

**RATLOU LOCAL MUNICIPALITY
COUNCILLOR AND SPEAKER OF THE
MUNICIPAL COUNCIL, MS GLORIA LEEPO**

1ST RESPONDENT

**RATLOU LOCAL MUNICIPALITY MUNICIPAL
COUNCIL**

2ND RESPONDENT

RATLOU MUNICIPALITY

3RD RESPONDENT

Delivered: This judgment is handed down electronically by circulation to the parties through their legal representatives' email addresses. The date for the hand-down is deemed to be **6 MARCH 2025**.

REASONS FOR ORDER

DJAJE DJP

[1] This urgent application was heard on 29 January 2025 and after hearing arguments on behalf of the applicant and respondents, the following order was made:

“1. THAT: Application be and is hereby dismissed.

2. THAT: Applicant is ordered to pay costs on Scale C including costs of Counsel.”

[2] The applicant brought an urgent application and sought the relief as follows in the notice of motion:

“1. Dispensing with the forms, time limits and such further requirements as may be applicable and prescribed the Rules of this Honourable Court, condoning the Applicant’s non-compliance therewith and directing that this matter be heard as a matter of urgency as contemplated in terms of Rule 6(12) of the uniform Rules of Court.

2. That an order be made that:

2.1.1 The Ordinary Council Meeting scheduled to be held on Thursday the 30th of January 2024 at the Ratlou Municipality Council Chambers, Setlagole at 10H00 is interdicted for non-

compliance with Rule 10 of the Rules of Order of Ratlou Local Municipality;

2.1.2 That in terms of Rule 10 of the standing Rules of Order of Ratlou Local Municipality, the first Respondent is duty bound to serve the notice of the ordinary council meeting on councillors individually, at least five (5) days before any ordinary council meeting can take place, that failure to individually serve the Applicant in accordance with Rule 10 of the Rules of Order of Ratlou Local Municipality with the ordinary council meeting notice dated 22 January 2025 renders the council notice invalid and defective.

*2.1.3 That the omission or failure by the First Respondent to deliver, transmit or send the Applicants the Ordinary Council Meeting Notice dated 22 January 2025 to his chosen or determined email address **g[...]** or via his chosen or determined Whatsapp number at least five (5) days before the sitting of the Ordinary council meeting scheduled to take place on the 30th of January 2025 at 10H00 constitutes a breach of the Applicant's right to meaningfully and effectively prepare and participate at the scheduled Ordinary council meeting.*

2.1.4 The Ordinary Council Meeting scheduled to be held on Thursday the 30th of January 2024 at the Ratlou Municipality Council Chambers, Setlagole at 10H00 is interdicted for non-compliance with Rule 6 of the SALGA Standing Rules and Order for the meetings of Council and its committees.

2.1.5 That in terms of Rule 6 of the SALGA Standing Rules and Order for the meetings of council and its Committees, the First Respondent is duty bound to serve the notice of the ordinary council meeting on councillors individually, at least seven (7) days before any ordinary council meeting can take place, that

failure to individually serve the Applicant in accordance with Rule 6 of the SALGA Standing Rules and Order for the meetings of Council and its Committees with the ordinary council meeting notice dated 22 January 2025 renders the council notice invalid and defective.

2.1.6 That the ordinary council notice dated 22 January 2025 will only complete its seven (7) day circle on the 31st of January 2025 as per Rule 6 of the SALGA Standing Rules and Order for the meeting of council and its Committees, thus, any ordinary meetings held before the 31st of January 2025 will be rendered invalid for non-compliance with Rule 6 of the SALGA Standing Rules and Order for the meeting of Council and its Committees.

3. That the Respondents be ordered to pay the costs of this application on Scale C, jointly and severally, the one absolving the other”

[3] The applicant is a council member of the second respondent. On **24 January 2025** he opened a WhatsApp message from a WhatsApp group of which he was part of. The message was a notice of the ordinary council meeting intended to take place on **30 January 2025**. The message had been posted on **22 January 2025**. Having received the message, he caused an email to be sent to the first respondent complaining about the way the service of the notice calling a council meeting was done. According to the applicant, the manner of service was inconsistent with the Ratlou Municipality Standing Rules of Order and Rule 6 of the South African Local Government Association (“SALGA”) Standing Rules and Order for meeting of Council and its Committees.

[4] It was submitted on behalf of the applicant that the notice of the council meeting of **30 January 2025** was not in compliance with Rule 10 of the Rules of Order of the Municipality and Rule 6 of the SALGA Standing Rules and Orders. As a result of the non-compliance, the decision of the said meeting would be *null* and *void* and not capable of being implemented. It was further

submitted that the municipality stands to suffer prejudice as failure to invite councillors in terms of the rules and orders is detriment to constitutional democracy.

- [5] The applicant main issue was that a notice calling a council meeting should be delivered to the individual councillors and as this notice was sent to a WhatsApp group, that was not proper notice as envisaged by the provisions of Rule 10 of the Municipality Rules and Orders. The applicant argued that there was no council resolution for the creation of a WhatsApp group where all the councillors would accept service of notices.
- [6] In contention the respondents argued the Municipality adopted its own regulations for notices of meetings and that is what Rule 10 provides for. It was also added that where a Municipality has adopted its own regulations, the SALGA standing rules are not applicable. Therefore, Rule 6 of SALGA is not applicable as the Municipality herein adopted its own regulations in the form of Rule 10.
- [7] Rule 10 of the **Rules of Order of Ratlou Local Municipality** provides that:

“10 Notice of meeting to be served

At least five (5) days before any ordinary meeting of the council and at least forty eight (48) hours before any special meeting of the council, a notice to attend the meeting, specifying the business proposed and signed by the speaker and shall be left or delivered to an accessible distribution point within the municipality as determined by the councilor.

A notice[to] councillors will be individually delivered via email, text message, WhatsApp message or otherwise (as adopted by council) informing him/her of the intended distribution of a notice to ensure the notice is duly and timeously received [by] them.”

- [8] Section 160(6) of the Constitution of the Republic of South Africa Act 108 of 1996 empowers a Municipality to make by-laws which prescribe rules and orders. It provides that:

“(6) A Municipal Council may make by-laws which prescribe rules and orders for-

(a) its internal arrangements;

(b) its business and proceedings; and

(c) the establishment, composition, procedures, powers and functions of its committee.”

- [9] It is common cause between the parties that Rule 10 has been adopted and implemented by the Ratlou Municipality in relation to the notices for meetings.

- [10] Rule 6 of the SALGA Standing Rules and Orders for the Meetings of the Council and its Committees provides that:

“6 Service of notices

At least 7 days before any ordinary meeting of the council and at least 48 hours before any special meeting of the council, a notice to attend the meeting, specifying the business proposed to be transacted there at and signed by the speaker or the municipal manager contemplated in 5.2 above, shall be left or delivered to an accessible distribution point within the municipality as determined by the council from time to time/ sent by electronic mail to an address provided by the counselor at his or her official address or mail address.”

- [11] Rule 10 of the Ratlou Municipality is not in conflict with Rule 6 of SALGA, except that in Rule 6, the 7 days referred to means ordinary days excluding public holidays, Saturdays and Sundays. However, the applicable Rule in

relation to the meetings of the Ratlou Municipality is Rule 10 as the adopted rule for calling of meetings.

- [12] The applicant attached the notice calling the meeting of **30 January 2025** to the founding affidavit. The notice is dated **22 January 2025** which is eight days before the ordinary council meeting. Attached to the notice is the agenda and the minutes of the previous council meeting. In terms of Rule 10 of the Ratlou Municipality Rules of meetings there was compliance with the period within which to issue a notice for the meeting.
- [13] The respondents submitted that in **2021** a WhatsApp group was created to avoid a dispute by various councillors that notices were received at different times. The WhatsApp group has been in place and notices sent to all councillors at the same time eliminating any dispute to the receipt of notices. The applicant argued that the notice of the meeting was not delivered to him individually.
- [14] It was not disputed that the applicant did receive notice of the meeting within the stipulated period in Rule 10. He could familiarize himself with the agenda attached and prepare for the meeting. The applicant failed to show any prejudice he would suffer if he did not attend the meeting. Be that as it may, the applicant did provide any correspondence to the office of the Speaker that he would prefer notices of meetings to be served on him by email or any other manner of service except in the Whatsapp group. There was an issue during argument as to whether the message received by the applicant from the Whatsapp group was delivered to him individually or in a group. It is surprising that the applicant fails to appreciate that when the message was opened on his phone, it was read by him as an individual and not a group. The fact of the matter is that the message was read by the applicant, alone and as a group. The purpose of the notice sent out was served and in the absence of any prejudice suffered by the applicant, there can be no issue raised to the non-compliance with the Rule pertaining to notice of the meeting of **30 January 2025**.

[15] The applicant failed to make out a case on the merits of the matter and it was for that reason that the application was dismissed with costs.

J.T. DJAJE
DEPUTY JUDGE PRESIDENT OF THE HIGH COURT
NORTH WEST DIVISION, MAHIKENG

APPEARANCES

DATE OF HEARING	: 29 JANUARY 2025
DATE REQUEST FOR REASONS	: 03 FEBRUARY 2025
REASONS HANDED DOWN	: 06 MARCH 2025
COUNSEL FOR APPLICANT	: MR MORIBE
COUNSEL FOR RESPONDENTS	: ADV CHWARO