



# **SUPREME COURT OF APPEAL OF SOUTH AFRICA**

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

**FROM** The Registrar, Supreme Court of Appeal  
**DATE** 27 September 2013  
**STATUS** Immediate

***Please note that the media summary is for the benefit of the media and does not form part of the judgment.***

***Ethekwini Municipality v SAMWU & others  
(442/11) [2013] ZASCA 135 (27 September 2013)***

### **Media Statement**

The Supreme Court of Appeal handed down judgment today in an appeal from the Labour Appeal Court. At the outset of the hearing in this matter, counsel were requested to address argument on the preliminary question of whether the appeal and any order made thereon would, within the meaning of Section 21A of the Supreme Court Act 59 of 1959 (the Act), have any practical effect or result. After hearing argument on this issue the appeal was dismissed on 17 September 2013 in terms of that section and each party was ordered to pay its own costs of the appeal. The SCA intimated then that reasons for that order would be furnished in due course.

In a judgment handed down today, the Court outlined its reasons for that dismissal. In particular, the Court affirmed the principle that courts should and ought not to decide issues of academic interest only.

The facts, briefly stated, are as follows. The appellant, the Ethekwini Municipality, had concluded a collective agreement, styled a divisional conditions of service agreement, with the first and second respondents, SAMWU and IMATU respectively, in May 2007 within the South African Local Bargaining Council. However in September 2007, upon separate

applications by both respondents, which subsequently came to be consolidated, the Labour Court declared that agreement to be void *ab initio* on the basis that the agreement included matters of national competence, as such, the parties lacked the competence to conclude such an agreement at a regional level. In the meanwhile, the Municipality had already begun to implement the agreement. The Municipality appealed the judgment of the Labour Court, which appeal was dismissed by the Labour Appeal Court.

By the time that the further appeal to this Court was heard, the agreement, which was to endure for five years, had run its course. In the light thereof, the court held that the appeal fails to present any live issues, and that any judgment in this matter would accordingly be academic as no practical effect or result could be achieved thereby. The appeal is therefore not sanctioned by the Act. In any event, this Court will only interfere with a decision of the Labour Appeal Court where the matter presents special circumstances that take the case out of the ordinary, which circumstances did not arise in this matter.

The appeal was therefore dismissed.

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