



## SUPREME COURT OF APPEAL OF SOUTH AFRICA

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

From: The Registrar, Supreme Court of Appeal

Date: 30 November 2018

Status: Immediate

***Minister of Home Affairs & another v Ali & others (1289/17) [2018] ZASCA 169 (30 November 2018)***

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

Today the Supreme Court of Appeal (SCA), dismissed an appeal brought against a judgment of the Western Cape Division of the High Court, Cape Town.

The appeal concerns Ms Miriam Ali & 5 others' (the respondents) right to obtain citizenship by naturalisation; as children who were born in the Republic of South Africa, whose parents are not South Africans and have not been admitted to the Republic of South Africa for a permanent residence.

The Minister of Home Affairs (the appellants), refused to receive and grant the respondents' application for citizenship. This is despite the appellants satisfying requirements of s 4(3) of the Citizenship Amendment Act 17 of 2010 (the Act). The appellants interpreted that this section does not have retrospective effect and applied only to children born after the Act was enacted on 1 January 2013. In view of this interpretation; the appellants failed to promulgate regulations for the necessary application forms to apply for citizenship.

The high court found that the Minister should accept applications on affidavits and within one year promulgate regulation thereof. The appellants argued that this order encroaches on the doctrine of separation of powers and is overboard.

On appeal, the SCA held that the decision of the high court does not encroach upon the doctrine of separation of powers. The order was necessary, given the Minister's inordinate delay. The SCA concluded that the interpretation advanced by the appellant does not promote the spirit, purport and objects of the Bill of Rights.

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