



## CONSTITUTIONAL COURT OF SOUTH AFRICA

**South African Informal Traders Forum and Others v City of Johannesburg and Others;  
South African National Traders Retail Association v City of Johannesburg and Others**

**CCT 173/13 and CCT 174/13**

**Date of hearing: 5 December 2013**

**Date of order: 5 December 2013**

**Date of reasons for order: 4 April 2014**

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### MEDIA SUMMARY

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*The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.*

On 5 December 2013 the Constitutional Court heard two urgent applications together. Both sought leave to appeal a decision of the South Gauteng High Court, Johannesburg (High Court). This Court made an order granting leave to appeal, upholding the appeal and setting the order of the High Court aside. It also ordered that, pending the determination of a review of decisions of the City of Johannesburg (City), the upshot of which was to remove the applicants from their trading locations, the respondents are interdicted from interfering with the applicants' trading at the locations they occupied immediately before their removal between 30 September and 31 October 2013. A costs order was also made against the respondents.

Today the Court furnished reasons for this order.

The applicants represent informal traders who have been trading in the City of Johannesburg (City), for several years. Informal trading rights are regulated and approved in terms of the City's Informal Trading By-laws. During October 2013 the applicants, who were allegedly authorised to trade informally, were removed from their trading locations and had their goods impounded by City officials. They were told that they had been removed as part of "the Mayoral Clean Sweep initiative" aimed at ensuring that only traders legally entitled to trade in the inner city do so.

The City did not follow the procedures prescribed by the Business Act in designating an area for informal trading and making decisions prohibiting or restricting trading in certain areas. In

subsequent interaction with the applicants the City conceded this flaw and offered an interim arrangement while it corrected the defects in the process. This interim arrangement was, however, that the evictions must persist and that verified traders must settle for relocation to an unspecified area.

The applicants unsuccessfully instituted proceedings in the High Court seeking urgent interim relief permitting them to return to their trading locations pending a review of the lawfulness of the City's conduct.

The Constitutional Court granted the applicants leave to appeal on the basis that it was in the interests of justice to do so, holding that a refusal to grant leave to appeal would cause the traders to suffer irreparable harm. The undisputed evidence showed that the applicants and their families' livelihood depended on their trading in the inner city. At the time of the hearing, they had been rendered destitute and unable to provide for their families for over a month. Seeing that an application for leave to appeal to the High Court would have been heard in February 2014 at the very earliest, the traders would not have been able to provide for their families until that time. The City's conduct impaired the dignity of the traders and their children and had a direct and ongoing adverse effect on their rights to basic nutrition, shelter and basic healthcare services.

The Court reasoned that, if allowing the traders to continue trading while the verification process was underway were to cause any prejudice to the residents of the City, such prejudice would have been temporary. The immediate and irreversible harm that the traders were facing rendered their application manifestly urgent and justified the interim relief which this Court granted.