



CONSTITUTIONAL COURT OF SOUTH AFRICA

Minister of Agriculture, Forestry and Fisheries v National Society for the Prevention of Cruelty to Animals

CCT 122/15

Date of judgment: 28 August 2015

MEDIA SUMMARY

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.

Today the Constitutional Court handed down a judgment concerning the extension of a suspension of an order of invalidity that was originally made by this Court on 11 July 2013 in *National Society for the Prevention of Cruelty to Animals v Minister of Agriculture, Forestry and Fisheries and Others* [2013] ZACC 26.

On 11 July 2013 this Court confirmed an order made by the North Gauteng High Court declaring certain provisions of the Performing Animals Protection Act (Act) as constitutionally invalid. The operation of the order of invalidity was suspended for a period of 18 months, from the date that the Constitutional Court handed down its judgment, in order to enable Parliament to cure the constitutional defect. The period of 18 months was to expire on 10 January 2015. When it became clear that the constitutional defect would not be cured before the deadline, the applicant, the Minister of Agriculture, Forestry and Fisheries (Minister), brought an application requesting an order that the period of suspension be extended by six months. On 27 November 2014 this Court made an order extending the period of the suspension by six months until 12 July 2015.

A few days before the expiry of the second deadline, the Minister applied for yet another extension of the period of suspension. This time he explained that between 10 December 2014 and 3 March 2015 the Cabinet approved a Bill that had been prepared for the purpose of curing the constitutional defect. The Bill was submitted to the State Law Advisor and later introduced to the National Assembly. In its original form, the Bill sought to amend only the provisions affected by the declaration of constitutional invalidity. The relevant Portfolio Committee in the National Assembly decided that more

extensive amendments were necessary. There was insufficient time to effect all these amendments before the deadline. The Minister also averred that allowance had to be made for the fact that the Bill would also have to be approved by the National Council of Provinces. Finally, the Minister argued that if the period of suspension of the declaration of invalidity were not extended, the Act would be impracticable.

The respondent, the National Society for the Prevention of Cruelty to Animals, did not oppose the application.

In a unanimous judgment by Justice Zondo, the Court expressed its displeasure at the Minister's delay in bringing the application. This, because the application was brought one week before the expiry of the suspension period. The Court decided to extend the period of suspension, not because of the Minister's explanation of the delay, but because, without an amendment of the affected provisions of the Act, the Act would indeed be impracticable: there would be no mechanism for the licences that the Act provides. The Court accordingly ruled to extend the period of suspension by 12 months until 27 August 2016.