

NOT REPORTABLE

IN THE HIGH COURT OF SOUTH AFRICA

(NORTH GAUTENG HIGH COURT, PRETORIA)

CASE NO: 53932/2008

DATE: 30/11/2010

IN THE MATTER BETWEEN:

BOSEKA BOEJA TAXI ASSOCIATION

APPLICANT

AND

THE REGISTRAR OF TRANSPORT (GAUTENG PROVINCE)

FIRST RESPONDENT

THE REGISTRAR OF TRANSPORT (LIMPOPO PROVINCE)

SECOND RESPONDENT

MASEMOLA TAXI ASSOCIATION

THIRD RESPONDENT

SEPHEU MV

FOURTH RESPONDENT

SEFOKA MAKUWE ADAM

FIFTH RESPONDENT

NCHABELENG DITEDI MAXWELL

SIXTH RESPONDENT

TLADI FRANS

SEVENTH RESPONDENT

JUDGMENT

KOLLAPEN, AJ

- (1) This is an application involving a dispute between the applicant and the third respondent. Both the applicant and the third respondent are taxi associations whose members operate the route between

Denneboom Taxi Rank and Ga-Masemola hereinafter referred to as the Masemola route.

- (2) There appears to be a long history with regard to the rights of the respective members of the applicant and the third respondent but it was not in dispute that following the issuing of operating licences by the first and the second respondents that members of both associations do indeed have certain rights in respect of the Ga-Masemola route but that there are areas of uncertainty with regard to quantifying and determining an accurate list of such holders of operating licences.
- (3) A further dispute identified by the parties related to the use of rank space, the employment of queue Rankmasters and the *modus operandi* to be utilised with regard to the loading of passengers. It appears that various systems of loading of passengers are used in the taxi industry. On the one hand there is the board system which operates on the basis of what may be commonly referred to as a first come first serve basis. Taxi's arriving at the rank have their names recorded on a board and are given preference in accordance with

their ranking on the board. On the other hand where more than one association has use of the same route and the same rank and where their numbers appear to be equal in strength resort is had to a one on one system of loading which in effect means that every alternate load is allocated to each taxi association resulting in some broad equity with regard to the loading process. In addition and in argument before the court it also appeared possible that where numbers of operating licences do not appear to be in equal strength to each other in respect of the respective associations a system could be adopted that is equivalent to ensuring a proportionate allocation of loads. Conveniently this could be termed a one-two basis or a one-three basis depending of course on the quantification and the numbers involved.

- (4) When this matter came before my brother Prinsloo J in February 2009 he directed that the first and second respondents respectfully prepare a joint report in respect of some of the disputes that emerged between the applicant and the third respondent. Pursuant to such an order a report was indeed submitted by the first and second respondent and while the applicant has raised certain concerns with such a report it is

evident that the report while helpful may not have addressed all of the issues which lie at the heart of the dispute between the parties.

- (5) During the course of argument applicants presented a draft order which in their view provided a basis on which certain of the issues in dispute could be resolved but also provided for the preparation of a further report by the first and second respondents to deal with some outstanding issues.
- (6) It appeared that the third respondent was in broad agreement with most of the provisions of the draft order and the court was requested to only rule on those aspects of the draft order which were not common cause between the parties.
- (7) As I understand it, it relates to paragraph 4 of the draft order which provides that the loading of passengers at both the Denneboom and Ga-Masemola rank will be on a one to one basis pending the issuing of a joint report of the first and second respondents. It was argued on behalf of the third respondent that given that there was not clarity in numbers with regard to the members of the respective associations

the loading should be on a one-three basis in favour of the third respondent. Having regard to in broad terms the fact that the members of the applicant constitute about one third of the members of the third respondent it may be just and appropriate to require the loading of passengers as provided for in paragraph 4 of the order to be on a one-two basis in favour of the third respondent.

- (8) The third respondent also took issue with that portion of the order in particular paragraphs 11.5 and 11.6 which directed them to take reasonable steps to ensure that their members will sue the Denneboom Taxi Rank do not contravene the terms of the operating licences. In addition paragraph 11.6 directs the third respondent to ensure that its members do not use any unauthorised or unlawful ranks or taxi ranks in the Masemola village.

Given the nature of the relief sought in these paragraphs, of the draft order it seeks no more than to ensure that the legality under which the operating licences are issued is adhered to. There can hardly be any principled objection to the inclusion of such relief and that if given effect to it may go a long way towards ensuring greater compliance by

all those who are in possession of operating licences. I am inclined to retain those aspects of the relief sought.

- (9) That being the case the only other outstanding issue is the issue of costs. It appears from the papers that the third respondent took the stance that members of the applicant who were in possession of valid operating licences were not entitled to use the Ga-Masemola route. In this regard letters from the third respondent to the applicant dated 19 March 2008 and 21 July 2008 make it abundantly clear that the stance adopted by the third respondent was that even those in possession of valid operating licences who crossed the floor from the third respondent to the applicant would not be allowed to load passengers on the Masemola Route.

This stance and the interference by members of the third respondent in the activities of the applicant prompted the launch of this applicant and under those circumstances I believe that the applicant would be entitled to its costs in respect of the application. I accordingly would make the draft order as amended in the following respects an order of court.

- (a) Paragraph 4 of the draft order is to read: “The loading of passengers at the Denneboom Taxi Rank as well as the Ga-Masemola Taxi Rank will be on a one-two basis in favour of the third respondent pending the issuing of the joint report of the first and second respondents referred to hereunder.”
- (b) The date of “22 Oct 2010” in paragraph 6 of the draft is replaced by “21 January 2011”.
- (c) The date of “5 Nov 2010” in paragraph 7 is replaced by “25 February 2011”.
- (d) The 3rd Respondent is ordered to pay the Applicant’s costs.
- (e) In order to avoid any misunderstanding or misinterpretation, the draft order duly amended is appended hereto.

KOLLAPEN
ACTING JUDGE OF THE HIGH COURT

FOR THE APPLICANT:
INSTRUCTED BY:
FOR THE RESPONDENTS:
INSTRUCTED BY: