



IN THE NORTH GAUTENG HIGH COURT PRETORIA
(REPUBLIC OF SOUTH AFRICA)

CASE NO. 38293/2012

11/8/2014

Reportable NO

Of interest to other judges NO.

Reviewed on 10/4/2014

JUDGE P.Z. EBERSOHN

In the matter between:

JEANNE VAN DER MERWE

MEDIA 24 LIMITED

and

THE NATIONAL LOTTERIES BOARD

1st Applicant

2nd Applicant

Respondent

CORAM EBERSOHN AJ

HEARD ON 1 AUGUST 2014

JUDGMENT HANDED DOWN ON 11 AUGUST 2014

JUDGMENT

EBERSOHN AJ.

- [1] The application having been dismissed the applicants applied for leave to appeal. The application is opposed.
- [2] There are two key issues arising from the application for leave to appeal, with the others being secondary. The two key issues are how records may validly be redacted under PAIA and the requirements that a party redacting portions of a record should meet.
- [3] The applicants contended that the Court failed to assess the above issues on the basis of the facts set out in the NLB's answering affidavit. This contention has no merit.
- [4] The Court assessed the above two issues and arrived at a just conclusion. The conclusion that the Court arrived at is underpinned by facts set out in the NLB's answering affidavit that the applicants failed to contradict or place in dispute, other than to resort to legal argument in their replying affidavit.
- [5] The NLB provided sufficient grounds, founded on the provisions of PAIA, to justify the redactions without at the same time disclosing the contents of the redacted parts of the records. When properly and fairly construed, as the applicants plainly did in their replying affidavit (and repeated in their supplementary replying affidavit), and the NLB confirmed in its supplementary answering affidavit, it is

clear which specific subsections of section 36(1) of PAIA the NLB relied upon. It set out the facts that made this clear.

- [6] In the light of the uncontested facts, there is no reasonable prospect that any appeal in the matter would have a reasonable prospect of success. Section 17 of The Superior Courts Act, No. 10 of 2013, reads as follows:

“17 Leave to appeal.—

(1) *Leave to appeal may only be given where the judge or judges concerned are of the opinion that—*

(a) (i) the appeal would have a reasonable prospect of success”.

In the circumstances, leave to appeal should be refused with costs.

- [7] The following order is made:

“The application for leave to appeal of the two applicants is refused with costs and the two applicants are to pay the costs of the application jointly and severally, payment by the one absolving the other one, which costs are to include the fees of two counsel.”



P.Z. EBERSOHN AJ

ACTING JUDGE OF THE HIGH COURT

The applicant's counsel

The applicant's attorney

Adv.N. Rajab-Budlender

WILLEM DE KLERK ATTORNEYS

C/O SANET DE LANGE ATTORNEYS

Ref. I 24/N/0111

Tel 012 362 3970

The respondent's counsel

Adv. N.H.Maenetjie SC

Adv. P. G. SELEKA

The respondent's attorneys

GILDENHUYS MALATJI INC

TEL. 012 428 8600

REF. T. Malatji/T. Vilakazi/01676105