

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

**CASE NO:5299/12**

**DATE: 01 APRIL 2016**

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: YES/NO
- (2) OF INTEREST TO OTHERS JUDGES: YES/NO
- (3) REVISED

1/4/2016

DATE

SIGNATURE

In the matter between:

**BOSCHKOP TAXI ASSOCIATION**

1<sup>ST</sup> Applicant

And

**JAPHITA DLAMINI MAHLANGU & 23 OTHERS**

2<sup>nd</sup> Applicant

**GAUTENG TRANSPORT REGISTRAR**

1<sup>ST</sup> Respondent

**MENLYN TAXI ASSOCIATION**

2<sup>nd</sup> Respondent

**APPEAL BOARD**

3<sup>rd</sup> Respondent

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**RULING**

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**NKOSI AJ:**

1. This application came to this court on the 14th of January 2011 to be heard on urgent basis. A court order under case number 2/2011 by Judge Tuchten was issued on 14 January 2011 to the effect that:
2. It must be placed on record that a lot had transpired between the aforementioned date to the date of this hearing on 22 March 2016.

**Brief Background to the Dispute**

3. The Applicant Boschkop Taxi Association a duly registered entity by then read with the provisions of the Gauteng Public Passenger Road Transport Act 7 of 2001 were deregistered by the relevant authority the Registrar of Transport.
4. This matter has been in and out of court since the year 2011 without it being finalised for different reasons.
5. There has been a dispute which arose from a decision taken by the then Transport Registrar one Sam Sekhu who ordered the Applicant to adhere to his verdict dated 08 February 2002 following a hearing a complaint that Applicant allegedly failed to operate in accordance with the ARTA form. This led to the case which came before Judge Tuchten under case number 2/2011 quoted above.
6. Applicant exercised its right to appeal to the Gauteng Public Passenger Appeal Board against the Registrar of Transport to deregister the Applicant on the 20th of December 2010. The appeal board ordered the Registrar of Transport to furnish reasons for its decision on or before 1st March 2011 which was complied with.
7. The Registrar's conclusion was that the Applicant's violation of its original undertaking formed a major charge against it and that the violation was a source of conflict and threatened the safety of commuters.

8. This court was approached on the basis of reviewing and setting aside the Registrar of Transport's decision to deregister Boschkop Taxi Association, the Applicant herein. The Appeal Board dismissed the appeal on 23 June 2011.
9. Discussions and meetings between the parties could not yield acceptable results to the Applicant.
10. Applicant further took this matter to this court under case number 5299/2012 citing its prejudice perceived or to be suffered by it following the Appeal Board's decision.
11. The Appeal Board is no longer in existence following the rationalisation of transport legislation and replaced by the new dispensation in terms of the National Land Transport Act no.5 of 2009.
12. One of the points raised by the Respondents in their answering affidavit was the issue of non-joinder of the Member of the Executive Council for Transport in Gauteng, as the person responsible for the regulation of the public passenger transport in the whole of Gauteng:  
  
This point, on its own, rendered the Applicants application defective for non-joinder at that time.
13. A second point was that Boschkop Taxi Association lacked the necessary locus standi to launch this application in that in terms of the National Land Transport Act, the taxi association are not recognised and instead the Act gives recognition to the permit or licence holders. The right which the permit or the licence itself and not an association to the taxi grouping for which I agree that the Applicant lacked the required and necessary locus standi.
14. It is undeniable that pre-dating 8 December 2009, the Gauteng Transport Registrar, the 1st Respondent had the authority to register and deregister taxi associations. A registered taxi association had to choose and apply the routes they wanted to operate and the Applicant in 1999 applied and got registered

and chose Lynwood to Boschkop and Lynwood to Benoni as its routes on condition not to encroach to other routes of other taxi associations.


15. In terms of the Gauteng Public Passenger Transport Act by then, the Registrar had the authority to deregister an association of such that did not comply with the conditions of registration.
16. Between 2000 and 2001, the then Registrar Mr. Sam Sekhu found that the Applicant's membership were operating on the routes not allocated to them i.e Lynwood to Pretoria Central, Mooikloof and Silver Lakes whereof they were warned to refrain. After some due process some of the Applicants members joined the 2nd Respondent voluntarily following its deregistration. Applicant listed names of people who were no longer their members in their Application before court. This was not denied.
17. It was submitted on the 1st Respondent's behalf that the then Registrar of Transport acted within his authority and there was submission of whether he acted ultra vires by deregistration of the Applicant.
18. There was an issue about a merger of Applicant's members with the 2nd Respondent but it was not addressed in full and this court had to consider the relief sought, the Registrar's decision to de-register the 1st Applicant and to review and set it aside:
  - a) This could enable this court to look at the presented facts and submissions;
  - b) Based on the submission I had the Applicants did not make a case justifying the review of the then Registrar of Transport; and that
  - c) There was no suggestion that the Registrar or the Appeal Board did not properly apply his or its mind respectively before making the decision to

deregister the 1st Applicant or in confirmation of the deregistration of the 1st Applicant respectively.

19. Consequently upon the above the court rules as follows:

a) The Applicant's case is dismissed with costs

Signed and dated on this 1<sup>st</sup> April 2016.



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**V.R.S.N NKOSI**  
**ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA GAUTENG**  
**DIVISION, PRETORIA**