

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
LIMPOPO LOCAL DIVISION, THOHOYANDOU

REPORTABLE:	NO
OF INTEREST TO OTHER JUDGES:	NO
REVISED:	YES
DATE	03/04/2025
	TE MATUMBA, AJ

CASE NO: 1640/2024

In the matter between:

GREATER GIYANI LOCAL MUNICIPALITY

1ST APPLICANT

**MAYOR OF GREATER GIYANI MUNICIPALITY
CLLR. ZITHA THANDI**

2ND APPLICANT

and

HASANI JOHN MALULEKE

1ST RESPONDENT

CHURCH FOOTBALL CLUB

2ND RESPONDENT

In re:

HASANI JOHN MALULEKE

1ST APPLICANT

CHURCH FOOTBALL CLUB

2ND APPLICANT

and

MAYOR OF GREATER GIYANI MUNICIPALITY CLLR. ZITHA THANDI	1ST RESPONDENT
GREATER GIYANI LOCAL MUNICIPALITY	2ND RESPONDENT
MESENYANI ADOLPH KHOSA	3RD RESPONDENT
PATRICK HLUNGWANI	4TH RESPONDENT
MALULEKE SIMON "MASHOBYE"	5TH RESPONDENT
SOUTH AFRICAN FOOTBALL ASSOCIATION GREATER GIYANI LOCAL FOOTBALL ASSOCIATION	6TH RESPONDENT
MEC FOR SPORTS, ARTS AND CULTURE LIMPOPO PROVINCE	7TH RESPONDENT
MEC FOR THE DEPARTMENT OF SOCIAL DEVELOPMENT LIMPOPO PROVINCE	8TH RESPONDENT
COUNCILLOR FOR WARD 1 CLLR. NGOBENI XIHLAMARISO LAIZA	9TH RESPONDENT
COUNCILLOR FOR WARD 2 CLLR. MONYIPOTE NEO STEVEN	10TH RESPONDENT
COUNCILLOR FOR WARD 3 CLLR. MAKAMU VONGANI SUDWELL	11TH RESPONDENT
COUNCILLOR FOR WARD 4 CLLR. MACHIPI MOLATA CEDRICK	12TH RESPONDENT
COUNCILLOR FOR WARD 5 CLLR. CHABALALA MIKATEKO CLASON	13TH RESPONDENT

**COUNCILLOR FOR WARD 6
CLLR. HLONGWANI SIZEKA MACKSON**

14TH RESPONDENT

**COUNCILLOR FOR WARD 7
CLLR. NGUNYULE RIVALANI GIVEN**

15TH RESPONDENT

**COUNCILLOR FOR WARD 8
CLLR. MOKGOBI PHILLIP THOMANE**

16TH RESPONDENT

**COUNCILLOR FOR WARD 10
CLLR. RIKHOTSO THABO EPHRAIM**

17TH RESPONDENT

**COUNCILLOR FOR WARD 11
MALULEKE MSISINYANI RESPECT**

18TH RESPONDENT

**COUNCILLOR FOR WARD 12
CLLR. NKUNA TIYANI ETTIEN**

19TH RESPONDENT

**COUNCILOR FOR WARD 13
CLLR. SAMBO SHARON**

20TH RESPONDENT

**COUNCILLOR FOR WARD 14
CLLR. MHLAWULE SOYAPHI MACKSON**

21ST RESPONDENT

**COUNCILLOR FOR WARD 15
CLLR. MAHLAWULE SOYAPHI CALVIN**

22ND RESPONDENT

**COUNCILLOR FOR WARD 16
CLLR. SHIRINDA TIRHANI NORIA**

23RD RESPONDENT

**COUNCILLOR FOR WARD 17
CLLR. MAKHUELE NHLENGANI PIET**

24TH RESPONDENT

**COUNCILLOR FOR WARD 18
CLLR. MATHONSI TIVEKA AGNES**

25TH RESPONDENT

**COUNCILLOR FOR WARD 19
CLLR. SHILOWA NZAMA RECKSON**

26TH RESPONDENT

**COUNCILLOR FOR WARD 20
CLLR. NGOBENI RISIMATI EDWARD**

27TH RESPONDENT

**COUNCILLOR FOR WARD 21
CLLR. MASWANGANYI KHAZAMULA ODAS**

28TH RESPONDENT

**COUNCILLOR FOR WARD 22
CLLR. ROKHOTSO PEMLY**

29TH RESPONDENT

**COUNCILLOR FOR WARD 23
CLLR. SHIBAMBU JOHANNES PHANUEL**

30TH RESPONDENT

**COUNCILLOR FOR WARD 24
CLLR. NKUNA LENNY**

31ST RESPONDENT

**COUNCILLOR FOR WARD 25
CLLR. NDABA HARMONY PRETTY**

32ND RESPONDENT

**COUNCILLOR FOR WARD 26
CLLR. MABUNDA TIMHAKA ROBERT**

33RD RESPONDENT

COUNCILLOR FOR WARD 27

34TH RESPONDENT

**COUNCILLOR FOR WARD 28
CLLR. RABOTHATA TIYANI AUDREY**

35TH RESPONDENT

**COUNCILLOR FOR WARD 29
CLLR. SHIVITI MORRIS**

36TH RESPONDENT

**COUNCILLOR FOR WARD 30
CLLR. MAKONDO RISIMATI ERIC**

37TH RESPONDENT

**COUNCILLOR FOR WARD 31
CLLR. RIKHOTSO CEDRIC SOYAPHI**

38TH RESPONDENT

MARIOMBE FLYING BOYS FC

40TH RESPONDENT

JAMAICA FOOTBALL CLUB

41ST RESPONDENT

MOONLIGHT BROTHERS FC

42ND RESPONDENT

VENDA SUN FOOTBALL CLUB

43RD RESPONDENT

MANCHESTER UNITED

44TH RESPONDENT

HOMU THE ROCK FOOTBALL CLUB

45TH RESPONDENT

BRAVE HUNTERS FOOTBALL CLUB

46TH RESPONDENT

KHUMBULE YOUNG DESTROYERS FC

47TH RESPONDENT

HOMU SHOOTING STARS FC

48TH RESPONDENT

JULUKA FOOTBALL CLUB

49TH RESPONDENT

HOMU FOOTBALL CLUB.

50TH RESPONDENT

YOUNG FOOTBALL CLUB

51ST RESPONDENT

**STATION COMMANDER / SAPS HEAD
GIYANI POLICE STATION**

52ND RESPONDENT

Heard on: 20 September 2024

Delivered on: This judgment was handed down electronically by circulation to the parties' legal representatives by electronic mail. The date for hand down is deemed to be 03 April 2025 at 16h00.

JUDGMENT

Matumba, AJ

[1] This matter came before the court on an application for a rule *nisi*. The applicants, Hasan John Maluleke and Church Football Club, sought the confirmation of the rule *nisi* that was previously granted by this court. The application was presented on an unopposed basis, allowing the court to consider the merits of the case without contest from any opposing party.

[2] The applicants initiated these proceedings with the objective of obtaining an order to suspend a soccer tournament titled the “*Greater Giyani Mayor’s Cup 2024*”, which was scheduled to take place in July and August 2024. They sought this suspension to ensure a proper determination of a dispute that they lodged with the Mayor and the Municipal Manager of the Greater Giyani Local Municipality, as well as the Giyani regional office of the South African Football Association (“SAFA Giyani”), is made before the tournament commenced.

[3] The Mayor is the first respondent; the Greater Giyani Local Municipality is the second respondent and SAFA Giyani is identified as the sixth respondent in this matter. Reference to the respondents in this judgment specifically pertain to these respondents.

[4] In the lodged dispute, the applicants' contended that there had been an unjust exclusion of the Church Football Club, which had met the necessary criteria to qualify for the tournament. However, this qualification was allegedly undermined by the mischievous replacement of the club by another club did not meet the required criteria.

[5] Despite being aware of the application, the respondents did not file any answering papers. Instead, on the scheduled hearing date, counsel for the first and second respondents appeared in court, indicating that the first and second respondents intended to file an explanatory affidavit, purportedly to address the issue of liability for costs.

[6] In light of the dispute lodged by the applicants with the respondents, the court granted the rule *nisi* on 27 July 2024, requiring the respondents to show cause why the orders sought by the applicants should not be made final. The issue of costs was scheduled for determination on the return date.

[7] On 20 September 2024, the court was tasked with determining whether to uphold the rule *nisi* based on the applicants' papers and submissions, as well as whether it should exercise its discretion to award costs to the applicants, given that the respondents had not actively opposed the application.

[8] The court did not merely accept the applicants' assertions at face value. Instead, it carefully considered whether the applicants had established a valid case for the confirmation of the rule *nisi*. The court acknowledged that the exclusion of the Church Football Club from participating in the tournament was unjust. Furthermore, the court recognized the importance of the Church Football Club's right to participate in the tournament and noted that its exclusion would result in harm that could not be adequately remedied through other means, particularly given that there would be no similar tournament in that year.

[9] The Church Football Club successfully won the qualifying matches, securing the right to represent Ward 9 in the tournament. However, shortly thereafter, the club was informed that this right had been reassigned to another club, known as the "Squad", which was hastily formed on the eve of the tournament.

[10] The Squad had not participated in any qualifying matches, rendering it ineligible to compete in the tournament. Its emergence led to significant disruptions, adversely affecting the Church Football Club. Their actions escalated to the point where they forced Church Football Club players off the soccer grounds at Giyani Stadium during their match against Ward 25. The incident not only undermined the integrity of the match but also resulted in the Church Football Club losing crucial match points, jeopardising their chances of advancing further in the competition. The situation raised serious concerns about fair play and the proper administration of the tournament.

[11] In addressing the issue of costs, the court recognized that it has a broad discretion to award costs as it sees fit. The prevailing principle is that costs follow the event, meaning that the losing party usually bears the costs of the proceedings. This principle serves to promote fairness and accountability within the judicial process.

[12] Although the respondents did not actively oppose the application, the court found that their actions, as the organisers and governing bodies of the tournament, led to the unjust exclusion of the Church Football Club from the tournament. This exclusion was calculated to deny the club its rightful opportunity to compete.

[13] In the interest of fairness and justice, it is essential that parties who are entrusted with managing the affairs affecting others do so with a high degree of responsibility and diligence. This includes acting transparently and justifying decisions that significantly impact the rights and interests of others. When parties fail to engage in such practices, they impose undue burdens on others, which can lead to unnecessary legal disputes and costs. That is what happened in this case, the respondents failed to act responsibly and diligently.

[14] The court found that the respondents' failure to address the dispute lodged by the applicants was detrimental to the Church Football Club, the tournament, and all competing clubs. This warranted an order for costs against the respondents. By imposing these costs, the court aimed to hold the respondents accountable for their actions, reinforcing the importance of equitable treatment for all participating clubs in the competition.

[15] The applicants should not be burdened with the costs incurred in seeking judicial intervention due to the respondents' unjustified actions. The exclusion of the Church Football Club from the tournament, executed without justification, created unnecessary complications and legal burdens for the applicants, compelling them to bring the matter before the court to rectify the situation. Consequently, the applicants' were left with

no choice but to seek judicial intervention to address the unjust exclusion of the Church Football Club from the tournament, a situation that could have been avoided had the respondents acted fairly and responsibly.

Order

[16] In light of the above, I made the following order:

16.1 The rule nisi granted on 27 July 2024 is hereby confirmed.

16.2 The respondents are ordered jointly and severally, the one paying the other to be absolved, to pay the Applicants' costs on a party and party High Court scale B, which costs shall include costs of Counsel.


T. MATUMBA
ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA,
LIMPOPO LOCAL DIVISION,
THOHOYANDOU

Appearances:

For the Applicants:

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THOHoyANDOU HIGH COURT