

IN THE HIGH COURT OF LESOTHO

In the Application of .

MIKHANE MAQETOANE

Applicant

v

- |                                  |   |             |
|----------------------------------|---|-------------|
| 1. MINISTER OF INTERIOR          | ) |             |
| 2. CHIEF DAVID GABASHANE MASUPHA | ) | Respondents |
| 3. CHIEF MOJEA MASUPHA           | ) |             |
| 4. CHIEF MATHEALIRA MASUPHA      | ) |             |

J U D G M E N T

Delivered by the Hon. Chief Justice, Mr. Justice  
T.S. Cotran on the 3rd day of February 1984

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In this application Mikhane Maqetoane seeks an order from this Court to declare him to be the official headman of Maqetoane in the district of Berea.

It is common cause that the applicant was gazetted as headman of the area in question by High Commissioner's Notice No. 170 of 1950.

It is also common cause that Government Notice No.25 in Gazette Extraordinary No. 3413 of the 11th February 1964 omitted the applicant's name and area. Whether this was deliberate or through a mistake no one knows for certain, but the applicant now seems to have the support of the Principal Chief and every intermediate chief that he should be gazetted for the area in question. He himself has been trying, since 1964, to remedy the situation by resort to the administration but he did not succeed. He now applies to this Court.

Mr. Tsotsi submits that the Court is empowered to grant such an order or make such a declaration. He relies on two cases before Benson J : Lerotholi v College of Chiefs and Griffith v College of Chiefs (Civil

/Reviews

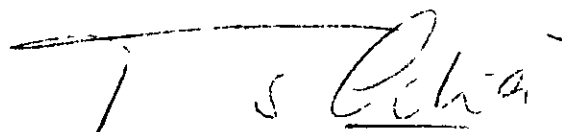
Reviews Nos. 7 and 8 of 1964 dated 12th October 1964 - unreported) in which the learned Judge did make orders in favour of the applicants therein but it is clear that the Judge was seized of the applications under s.79 (1) of the Basutoland (Constitution) Order in Council 1959. This piece of legislation was superseded by the Basutoland Order 1965 and then by the Lesotho Independence Order 1966 (the Independence Constitution) and then by the Chieftainship Act 1968 and the Lesotho Order 1970.

The matter of gazettment and recognition of chiefs has engaged the attention of the High Court on numerous occasions since 1964.

I refer in particular to Molapo v Teketsi (1971-1973 LLR 235), Jonathan v Mathealira (CIV/T/20/77 dated 22.9.77 - unreported), Lebona v Minister of Interior & an (CIV/APN/371/77 dated 3.4.78 - unreported) and Molapo v Minister of Interior (CIV/APN/44/78 dated 30.6.78 - unreported).

It is clear from all these cases that the Court's power to intervene in matters relating to the chieftainship are limited and do not include a declaration of the type that the applicant seeks.

The application must therefore be dismissed with costs but I must add that the advice tendered by a certain L.P. Lebona on behalf of the Permanent Secretary of the Interior to the applicant, that the High Court is empowered to gazette him, is not sound.



CHIEF JUSTICE

3rd February 1984

For Applicant : Mr. Tsotsi

For Respondents : Mrs. Ntsonyana