IN THE COURT OF APPEAL OF LESOTHO

HELD AT MASERU **C of A (CIV NO.07) 2020**

CIV/APN/448/19

In the Matter Between

SCHOOL BOARD OF MAPOTENG HIGH SCHOOL APPELLANT

AND

TEACHING SERVICE COMMISSION 1ST RESPONDENT

SCHOOLS SECRETERIAT (LECSA) 2ND RESPONDENT

PRINCIPAL SECRETARY MINISTERY OF EDUCATION AND TRAINING 3RD RESPONDENT

MINISTERY OF EDUCATION AND TRAINING 4TH RESPONDENT

ATTORNEY GENERAL 5TH RESPONDENT

DAVID LEPOGO MOLAPO 6TH RESPONDENT

CORAM: DR. K.E. MOSITO P

DR. P MUSONDA AJA

T N MTSHIYA AJA

SUMMARY

Administrative law - Teaching Service Commission – review of the decision – Appointment of Deputy Principal in terms of s 42 of the Education Act of 2010 read with Regulation 18 of Teaching Service Regulations,2002 whether 'administrative action' under Education Act of 2010 read with Regulation 18 of Teaching Service Regulations,2002– whether consistent with doctrine rationality-regularity–reasonableness – Proper exercise of discretion.

Review Proceedings –To review the decision by the Teaching Service Commission alleged to have been irregular, unreasonable and irrational as the Teaching Service Commission did not follow the recommendation of the School Board by failing to follow the order of preference –Review proceedings not fully used to the advantage of the Appellants to request for the record of the decision making procedures –although entitled to waive such benefit, consequences are attached that the absence of record has a bearing on whether there is sufficient basis to justify review –Legislative framework not establishing basis for review –Appeal dismissed with costs.

DR. K.E. MOSITO P

BACKGROUND

[1] The appellant, who was the applicant in the court *a quo,* appeals against a decision of the High Court (Monapathi J) dismissing appellant's application for review. The applicant sought an order that: (a), the decision of the first respondent to promote and appoint the sixth respondent onto the position of Deputy Principal of Mapoteng High School be stayed and rendered ineffective pending final determination of this matter; (b), the first respondent be ordered to dispatch within fourteen (14) days of the order of court herein the record of proceedings where a decision to appoint and promote the sixth respondent was made; (c), the decision of the first respondent to promote and appoint the sixth respondent onto the position of Deputy Principal of Mapoteng High

School be reviewed and set aside and declared unlawful and of no force and effect and; lastly, that the respondents be ordered to pay costs of the application in the event of opposition hereof.

[2] The application was opposed by the respondents. Answering and replying affidavits were duly filed, and the matter argued before the learned judge on 6 February 2020 and judgment was handed down on 11 February 2020. Dissatisfied with the said judgment, the appellant appealed to this Court.

PLEADINGS

(a) Parties

[3] The Appellant is the school board of Mapoteng High School. In terms of s23 of the Education Act[1], a school is governed by a school board. The responsibilities[2] of a school board are: to manage and administer the school for which it has been constituted; oversee the management and the proper and efficient running of the school; in a public school, recommend to the appointing authority the appointment, promotion, demotion or transfer of a teacher; in an independent school, appoint, promote demote or transfer a teacher; recommend to the appointing authority or proprietor, as the case may be, disciplinary action against a principal or head of department; on the advice of the inspector of schools or a district education officer, recommend to the appointing authority the promotion or demotion of a teacher; liaise with the relevant local

[1] Education Act, 2010.
[2] Section 23 (a)-(h) of the Education Act, 2010.

authority on matters related to the development of the school; and to submit an audited statement of accounts of the school to the proprietor and the Principal Secretary.

[4] Although the Appellant's school is owned by the Lesotho Evangelical Church of Southern Africa (LECSA), it is nevertheless a public school. A "public school" means a state-funded school wholly managed in terms of government regulations and manned by teachers who are in the Teaching Service.[3]

[5] The first respondent is the Teaching Service Commission. The Teaching Service Commission was established in terms of section 144(2) of the Constitution, 1993.[4] The composition, powers, duties and procedure of the Commission are to be prescribed by an Act of Parliament. Parliament has accordingly prescribed for the composition, powers, duties and procedure of the Commission under the Education Act.[5] The Commission's functions are, *inter alia,* to appoint, promote, demote, transfer and remove from office, teachers whose salaries are paid by government.[6]

[6] The second respondent is particularised as the 'Schools Secretariat for the Lesotho Evangelical Church of Southern Africa (LECSA).' It is not clear from the papers what body this is and whether it is provided for under any piece of legislation. Other than

[3] Section 144 (1) of the Constitution, 1993 provides that, there shall be a Teaching Service, the functions of which shall be as prescribed by an Act of Parliament.
[4] Section 144(2) of the Constitution, 1993.
[5] Education Act, 2010.
[6] Section 42. (1) of the Education Act,2010.

having reported to the appellant on the appointment of the sixth respondent, the role that was played by the 'Schools Secretariat for the Lesotho Evangelical Church of Southern Africa (LECSA)' in this case is also not indicated. It is also not clear why the third and fourth respondents were cited in these proceedings.

I must observe *en passant* that, a practice has become embedded in our civil practice whereby ministries and departments of government are joined as parties to proceedings in the courts without clear legal bases. Government ministries and departments are nowadays being made parties to proceedings without a clear legal bases. Section 98(2)(c) of the Constitution provides that one of the functions of the Attorney-General is to take necessary legal measures for the protection and upholding of the Constitution and other laws of Lesotho. Section 3 of the *Government Proceedings and Contract Act*[7] stipulates that:

> "In any action or other proceedings which are instituted by virtue of the provisions of section 2 of Act, the Plaintiff, the Applicant or the Petitioner (as the case may be) may make the Principal Legal Adviser the nominal defendant or respondent."

[7] It is clear therefore that, legally speaking, it cannot be doubted that in proceedings against the Government of Lesotho, it is peremptory to cite the Attorney-General as a nominal defendant. The use of the word *"may"* in the section, is not intended to give a litigant a choice of whether to cite Government ministries and

[7] Government Proceedings and Contract Act No.4 of 1965.

departments or not. It is therefore, undesirable to cite Government ministries and departments as well as officials without showing the legal bases for their joinder and whether they have a direct and substantial interest in the outcome of the proceedings. With this prelude, I now turn to the pleadings.

(b) Factual matrix

[8] The facts that are at the centre of these proceedings are not contentious. They are that, on the 29th day of April 2019, the fourth respondent issued a Circular No.13 of 2019 in terms of which, among others, the post of Deputy Principal for Mapoteng High School was advertised. The suitably qualified candidate was to possess Sesotho and Geography as the candidate's subject areas. Applications were duly received and preferred candidates were shortlisted by the Appellant. Interviews were thereafter conducted and thereafter, the Appellant recommended a list of such suitably qualified candidates to the first respondent. The recommendation started with the highest ranking candidate in terms of scores at the interviews to the lowest. It is common cause that, the recommendations were duly made by the Appellant to the first respondent in terms of the applicable regulations.

[9] On 23 December 2019, the second respondent held a meeting with the Appellant and informed the later of the outcome of the appointment made by the first respondent. The appointed candidate was the sixth respondent. The Appellant was not satisfied with the first respondent's decision to appoint the sixth

respondent. The Appellant then applied to the court a quo, complaining that the decision of the first respondent was "irrational and irregular." It further complained that "the conduct of the first respondent flies [in] the face of the law; lacks reasonableness and defies logic, and as such, it is liable to be impeached and set aside on that basis."

[10] As indicated above, the court a quo dismissed the application with no order as to costs. It is against that judgment of the court a quo that the present appeal lies.

(c) Failure by appellants to enforce the Rule 50 route

[11] In the notice of motion, the appellants appear to have prayed for the dispatch of the record of proceedings by the first respondent. However, the record was not dispatched. The unfortunate aspect seems to be that the appellant did not pursue this prayer to finality. The appellant proceeded to seek judicial review without taking full advantage of the procedural safeguards afforded to an applicant under rule 50 of the Rules of the High Court of Lesotho.

[12] Had the appellant followed rule 50, it would have been entitled to the record of the decision-making process[8];to compel further discovery if the circumstances justified[9] and to vary and supplement its papers[10] before the respondents answered and

[8] Rule 50(1).
[9] Rule 50(7), read with rule 34 governing discovery.
[10] Rule 50(4).

still challenge in reply any averments the respondents would have made in answering affidavits. Indeed, such election comes with consequences as will soon become apparent. As this Court pointed out in ***William Mafoso t/a Mafoso Butchery Benjamin Radiopelo Mapahthe and Others v Principal Secretary Ministry of Small Business and Others***:

> [24]It is trite that in review proceedings the production of the record of proceedings and the accompanying reasons sought to be reviewed and set aside, is for the benefit of an applicant seeking review. The applicant can elect to waive the right to obtain the record and to proceed to the hearing without first obtaining the record.[11]
>
> [25] But if the absence of the record has a bearing on whether there is sufficient basis made out to justify judicial review, the applicant, having made the election to waive it, must bear the risk of non-persuasion. The facts of the present case lay bare that reality.

[13] In the present case, there was no record of proceedings of the first respondent obtained. It follows that, factually, there was no evidence of what actually happened before the Teaching Service Commission. I revert to the effect of this unfortunate situation later on in this judgment.

ISSUES FOR DETERMINATION

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[11] Jockey Club of South Africa v Forbes1993 (1) SA 649 at 662F-663D and Motaung v Makubela and Another, NNO, Motaung v Mothiba 1975 (1) SA 618 (O) at 625C-626A; The Director on Corruption and 3 others v Tseliso Dlamini (C of A (CIV) 21/2009), para 16-17 (Delivered on 23 October 2009).

[14] The issues for determination are whether the Teaching Service Commission's decision to appoint the sixth respondent was irrational; irregular and unreasonable. Each of these grounds of review will be addressed seriatim. In advance of doing so however, at is now apposite to have a glance at the law applicable to the resolution of this appeal. I proceed to do so herein below.

LEGISLATIVE CONTEXT

[15] Education in Lesotho is regulated by the State. The Constitution established a Teaching Service, the functions of which are to be prescribed by an Act of Parliament.[12] It goes further to establish a Teaching Service Commission, the composition, powers, duties and procedure of which are also to be prescribed by an Act of Parliament.[13]

[16] The Teaching Service Commission is charged with the responsibility to appoint, promote, transfer and remove from office teachers whose salaries are paid by Government. In this connexion, section 42 (1) of the Act provides that, the functions of the Commission are to appoint, promote, demote, transfer and remove from office teachers whose salaries are paid by government. Section 2 of the Act provides that an appointing authority in relation to a teacher in a public school is the Commission, while in the case of an independent school, is a school board. A school is to be governed by a school board.[14] The

[12] S144(1) of the Constitution of Lesotho ,1993.
[13] s144(2) of the Constitution of Lesotho ,1993.
[14] Section 23(1) of the Act.

functions of a school board are to:(a), manage and administer the school for which it has been constituted; (b), oversee the management and the proper and efficient running of the school; (c), in a public school, recommend to the appointing authority the appointment, promotion, demotion or transfer of a teacher; (d), in an independent school, appoint, promote demote or transfer a teacher.[15]

[17] The Teaching Service Regulations, 2002, provide for appointment and promotion of teachers. If a vacancy occurs, or be expected at a known future date, the Principal must report the vacancy to the Commission and the School Board at the earliest opportunity, using a form designed by the Commission. If such promotion is to a leadership post, it must be implemented only when a suitable leadership vacancy is available, and the teacher is selected for it in accordance with the procedures of regulation 18.[16] The applicant must submit his application to the Commission through the School Board. The School Board submits its recommendations to the Commission.[17] If the Commission accepts the recommendation of the School Board, and the teacher is serving, the Commission allocates him to the school and if the teacher is not serving, the Commission must first appoint the teacher to the Teaching Service, and then allocate the teacher to the school.

[15] Section 25 of the Act.
[16] Reg. 17(5) of the Teaching Service Regulations,2002
[17] A "leadership post" means the post of a Principal or Deputy Principal in the case of primary schools.

[18] The purpose of the recommendation by the School Board is to furnish the decision-maker (the Commission) with a basis for its opinion, one way or the other. The Commission must, however, assess and be satisfied of these issues itself. It is not expected to accept without more the proposal of the School Board. Nor is it expected to infer from the word "recommend" that none of the disqualifying factors will be triggered. The Commission does not merely rubber stamp the recommendation of of the School Board. The Commission is required to apply its mind to the recommendation and make a decision whether to accept such recommendation.

[19] Regulation 18(13) provides that, if the vacancy is for a leadership post, the Commission may require and take into consideration an assessment by the Inspectorate of the teacher's work before deciding whether or not to accept the recommendation of the School Board.

[19] This clearly indicates that, the Commission has a discretion to decide whether or not to accept the recommendation of the School Board. It may be argued that, the discretion conferred on the Commission is highly circumscribed because the decision taken is reliant upon the antecedent opinion of the School Board reached. However, if the purpose of the recommendation by the School Board is merely to inform the Commission of the School Board's attitude or view on the approval, as argued by the applicant's counsel, it is difficult to imagine why the recommendation is made a jurisdictional fact, when the

Commission can investigate on its own, matters relating to compliance with requirements and the disqualifying factors. It is equally difficult to find the reason why the legislature would oblige the Commission to consider the recommendation before forming an opinion as to whether to appoint or not, if the recommendation was not intended to be the primary source of information leading to the decision to promote or appoint. The recommendation therefore is the proper means by which information on disqualifying factors is placed before the Commission.

[20] With the aforegoing principles in mind, I now turn to consider the appeal before us.

EVALUATION OF THE APPEAL

Principles governing the inquiry in this case

[21] It must be borne in mind that since these are motion proceedings we must accept the version of the respondents unless they are shown to be farfetched.[18] On the facts before this Court, it is common cause that the appellant recommended six names to be considered by the Commission for appointment to the position of deputy principal. These candidates had been listed in order of preference. There was only one post into which only one of the contestants could be appointed. As should be apparent from my summary of the evidence, the applicants did not show that the Commission did not, as a fact, consider each and

[18] Plascon-Evans Paints Ltd v Van Riebeeck Paints Ltd1984 (3) SA 623 (A).See also The Director on Corruption and 3 others v Tseliso Dlamini (C of A (CIV) 21/2009), para 17 (Delivered on 23 October 2009).

every one of the candidates beginning with the first before arriving at the last. This could have very easily been achieved by placing the record of proceedings of the Commission before the court a quo in terms of rule 50 of the High Court Rules 1980.

[22] There is also no evidence that any of the formalities that needed to be followed were not followed. Indeed, under the presumption of regularity, if an official purports to have exercised a power which is effective upon compliance with certain formalities, it will be presumed that all the necessary formalities have been observed.[19] In the absence of evidence to the contrary there is room for the presumption that the formalities required to be carried out in terms of the Regulation have been satisfied.

[23] The relevant question for rationality is whether the means (including the process of making a decision) are linked to the purpose or ends. Rationality necessarily includes some evaluation of process. The denouement is that, the process leading to a decision must be rationally related to the achievement of the purpose for which the power is conferred.[20] The means for achieving the purpose for which the power was conferred must include everything that is done to achieve the purpose. The decision employed to achieve the purpose as well as everything done in the process of taking that decision, constitutes means

[19] See Rex v Naran Samy, 1945A.D 619.
[20] *Democratic Alliance v President of the Republic of South Africa* 2012 (12) BCLR 1297 (CC) (*Democratic Alliance*)at para 36.

towards the attainment of the purpose for which the power was conferred.[21]

[24] On the issue of irrationality, the first issue is whether there is evidence before this Court on which it can be determined that the means (including the process of making the decision) were not followed by the first respondent. This is a factual inquiry based on the evidence before court. There must be a basis upon which this Court can evaluate the process by which the Teaching Service Commission arrived at the decision to appoint the sixth respondent and not any of the other candidates.

Consideration of the grounds of appeal

[25] The first ground of appeal is that, the learned judge erred in holding that the first respondent acted within its powers in ignoring the order of preference as contained in the recommendation of the appellant to the first respondent. In addressing this ground of appeal, advocate Rafoneke argued that, regard being had to the provisions of section 42 of the Education Act, there is no contemplation of an exercise of a discretion which would entitle the Commission to disregard the processes that have been put in place in terms of the law. Section 42 of the Act provides that:

> 42. (1) The functions of the Commission are to appoint, promote, demote, transfer and remove from office teachers whose salaries are paid by government.

[21] Id.

[26] The learned Counsel further submits that, that section should be read along with Regulation 18 of the Teaching Service Regulations, 2002. He specifically refers to Regulation 18(6), (7), (8), (9) and (13) which he submits inform the first respondent on the processes to be undertaken in the exercise of its functions in appointing teachers. He contends that, Regulation 18(6) of the Teaching Service Regulations creates an instrument in terms of which the appellant submits a list of recommended candidates and this instrument specifically makes reference to the order of preference as the means upon which candidates are to me recommended. He further argued that, there must have been a reason for this order of preference and the first respondent would not be justified in ignoring such order of preference without justification. The appellant further submits that since the School Board is the one that conducts the ground work and recommends to the first respondent, the first respondent cannot ignore the recommendation of the Appellant and just do as it pleases.

[27] In reaction to this submission, Advocate Tšoeunyane for the first to the fifth disagreed with the submission. She referred the Court to the remarks by Hefer JA in ***Minister of Law and Order v Dempsey***[22] that:

> " unless a functionary is enjoined by the relevant statute itself to take certain matters into account, or to exclude them from consideration, it is primarily his task to decide what is relevant and what is not, and, also, to determine the weight to be attached to each relevant factor. (Johannesburg City Council v The Administrator,

[22] 1988 (3) SA19 (A).

Transvaal, and Mayofis 1971 (1) SA 87 (A) at 99A). In order not to substitute its own view for that of the functionary, a Court is, accordingly, not entitled to interfere with the latter's decision merely because a factor which the Court considers relevant was not taken into account, or because insufficient or undue weight was, according to the Court's objective assessment, accorded to a relevant factor. A functionary's decision cannot be impeached on such a ground unless the Court is satisfied, in all the circumstances of the case, that he did not properly apply his mind to the matter."

[28] She thereon submitted that, the School Board is the one enjoined with to use the schedule 18 form, not the Commission. She further submitted that, while it is correct that Regulation 18 (6) provides in the case of a teaching post, the School Board must use a form similar to Schedule 18. That form is meant for use by the School Board in submitting its recommendation to the Commission, not that the Commission has to follow the Schedule 18 in considering the candidates submitted through that form and in order of preference. I agree with this submission by Advocate Tšoeunyane.

[29] In the Supreme Court of Zambia's decision in, ***The Minister of Information and Broadcasting Services and Another v Fanwell Chembo, on His Own Behalf and on Behalf of Other Members of The Media Institute of Southern Africa and Others***[23], an *Adhoc* Appointments Committee duly selected persons to be appointed to two Boards. Subsequently, the

[23] *The Minister of Information and Broadcasting Services and Another v Fanwell Chembo, on His Own Behalf and on Behalf of Other Members of The Media Institute of Southern Africa and Others SCZ JUDGMENT NO. 11 OF 200 7 .*

Committee made recommendations to the Minister. The Minister in turn questioned some of the persons recommended. She insisted that she had power to do so. Consequently, she rejected some of the persons recommended. As a result, the Minister did not forward the names to Parliament for ratification in terms of the relevant Acts. Hence, the applicants commenced proceedings in the High Court leading to the appeal before the Supreme Court (apex court).

[30] Before the Supreme Court, the appellants complained that the trial Judge erred in law and fact in quashing the decision of the Minister on inter alia, the ground of irrationality, taking into account extraneous grounds, and also ordering mandamus, and not recognizing that the Minister was not bound by the recommendation of the *Adhoc* Appointments Committee. The Court endorsed the argument that the word "recommendation" according to the ordinary English in **the Oxford Pocket Dictionary and the Collins English Dictionary, Millennium Edition,** and even in the ordinary common sense understanding, is merely a "suggestion", it is also an "advice as to what course of action to be taken." It further endorsed the submission in that case, that a "recommendation," "suggestion" or "advice" can never be binding to a person to whom it was made. It consequently further endorsed the submission that, the Minister to whom certain members of the Board were recommended, was at liberty to accept or reject, ask for further information or even make suggestions. After considering various Dictionaries, the Court held that:

> We are satisfied that the word "recommendation" in the context of the two sections connotes or implies a discretion in the person to whom it is made to accept or reject the "recommendation". We agree with the submissions of the learned Attorney-General *in toto* that the Minister cannot be a rubber stamp or a conveyor belt in the process of appointments of members to the two Boards.
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> … For the foregoing reasons, We are satisfied that there was no illegality in the Minister vetting certain names recommended to her, Her decision could not be said to have been outrageous or irrational.[24]

[31] I share the above view that, a "recommendation" is a "suggestion" or "advice" and can never be binding to the Teaching Service Commission. The Commission was at liberty to accept or reject or ask for further information or even make suggestions. The School Board merely plays an advisory role. The Commission is not by any means a rubber stamp or conveyor belt. All that was required was that, the Commission must exercise its discretion to appoint a candidate who had been recommended by the Appellant. What the first respondent could not do, was to select for appointment, a person outside the list of candidates provided by the Appellant. There was no legal requirement for the Commission to follow the order of precedence of the candidates as tabled by the School Board. I would therefore dismiss this ground.

[32] The second ground of appeal by the appellant is that, the judge below erred in holding that the first respondent had a discretion to exercise in appointing the sixth respondent despite the later

[24] Ibid, 43-44.

ranking last on the list of recommended candidates. In my opinion, the Commission is given broad powers in permissive language to appoint, promote, demote, transfer and remove from office teachers whose salaries are paid by government. This power should be construed as making it the duty of the Commission to exercise that power when the conditions prescribed as justifying its exercise have been satisfied (See ***Schwartz v Schwatz*** [25]). I reiterate that the Commission had a discretion to exercise regarding which of the candidates to appoint. So the existence of the conditions prescribed cannot be taken as unduly fettering the master's discretion, because the Commission only has a discretion to exercise in accordance with the Act and Regulations.

[33] In the case before us, there is no proof, *inter alia*, that the Teaching Service Commission misconceived the nature of the discretion conferred upon it and took into account irrelevant considerations or ignored relevant ones; or that its decision was so grossly unreasonable as to warrant the inference that it had failed to apply his mind to the matter in the manner aforestated.

[34] The third ground of appeal is that, the judge a quo erred in holding that the first respondent committed no gross irregularity that could have entitled the court a quo to intervene. The grounds for any review as well as the facts and circumstances upon which the applicant wishes to rely have to be set out in the founding affidavit. These may be amplified in a supplementary founding

[25] *Schwartz v Schwatz* 1984 (4) SA 467 (A) at 473-474.

affidavit after receipt of the record from the presiding officer, obviously based on the new information which has become available.

[35] In paragraph 4.9 of the founding affidavit, the deponent deposes that "the first respondent's decision is both irrational and irregular." In my opinion, this averment failed to appreciate that irrationality is an outcome standard while gross irregularity is a process standard.[26] Irrationality is an outcome standard while, gross irregularity is a process standard. As will appear in due course, there is no factual basis for any of these attacks. However, that should not matter because, in law, if an act can only be lawful after the performance of some prior act, due performance of that prior act will be presumed. Therefore, how it could be said, in these circumstances, that the Teaching Service Commission had committed a gross irregularity is incomprehensible.

[36] The reasons for these are first, there is no evidence that the appointment process was infected by some unlawfulness. Second, there is no evidence that a number of mistakes have been made by the Commission. Third, there no questions raised about the adequacy of the process. I therefore do not agree that the Commission both exceeded its powers and committed a gross irregularity in appointing the sixth respondent. Indeed, I am of the view that the law permitted the Commission to do what it did. However, on the facts before us, the Teaching Service Commission

[26] Telcordia Technologies INC v Telkom SA LTD 2007 (3) SA 266 (SCA) at para 42.

considered and appointed the sixth respondent who had been recommended by the Appellant.

[37] The fourth ground of appeal is that, the judge erred in holding that the first respondent had the power to disregard the regulations in its decision-making process. There is no such a holding in the learned judge's judgment. It goes without saying that, the judge did not err in holding that the sixth respondent was properly and legally appointed.

Disposition

It is clear from the aforegoing reasons that this appeal cannot succeed. I agree with Advocate Tšoeunyane for the 1st-5th respondents and Advocate P. Libe that this appeal should be dismissed with costs.

Costs

I now turn briefly to deal with the argument relating to costs. The respondents have been successful and therefore they are entitled to their costs of appeal in this Court. Fairness will best be served if the appellant is ordered to pay the respondent's costs.

Order

(a) The appeal is dismissed with costs.
(b) The decision of the court a quo is confirmed.

DR K E MOSITO

PRESIDENT OF THE COURT OF APPEAL

I agree:

DR P. MUSONDA

ACTING JUDGE OF APPEAL

I agree

T N MTSHIYA AJA

ACTING JUDGE OF APPEAL

FOR APPELLANTS: ADV. M. RAFONEKE

FOR 1ST-5TH RESPONDENTS: ADV. M.E. TŠOEUNYANE

FOR 6TH RESPONDENTS: ADV. P. LIBE