

IN THE HIGH COURT OF LESOTHO

In the matter between:-

**PELA-TŠOEU NO.10 CONSTITUTUENCY  
COMMITTEE OF THE BASUTOLAND  
CONGRESS PARTY**

APPLICANT

AND

**BASOTHO CONGRESS PARTY  
EXECUTIVE COMMITTEE OF THE  
BASOTHO CONGRESS PARTY**

1<sup>ST</sup> RESPONDENT

2<sup>ND</sup> RESPONDENT

**JUDGMENT**

**CORAM** : HON. MR JUSTICE S.N. PEETE

**DATE OF HEARING** : 29<sup>TH</sup> MARCH 2010

**DATE OF JUDGMENT** : 22<sup>TH</sup> JUNE 2011

**Headnote**

**Political Party – Constitution of Basotho Congress Party – Clause 13.2 – Manner of convening a Special Conference – Limits of powers of – Section 12 – Supreme Power of Annual General Conference over policy, election of the National Executive Committee in December or January after every two years. – Mixing of names “Basotho” and “Basutoland” – effect of – Court cannot assume oneness *mero motu*.**

*Where the term of office of the National Executive (NEC) comes to an end, under clause 12.00, only the Annual General Conference has power and sole prerogative to elect the NEC of party in December or January when the incumbent NEC goes out of office. A Special General Conference convened under clause 13.2 has no power or authority under the Party Constitution to elect a National Executive Committee and no relief can therefore be granted to an application seeking such a Special General Conference.*

*Where the words “Basotho” and “Basutoland” are conscientiously used to describe a single (but divided) political party, a court of law cannot and should not **mero motu** assume oneness in the face of an **ex facie** factionalism. It is not for the Court of law to mend a political party torn and rent asunder by its own factions, because that can in essence compromise the hallowed independence of the courts and also adversely affect freedom of association guaranteed by the Constitution of Lesotho.*

## **Annotations**

### **Reported cases**

- *Stadium Area Constituency No.31 vs Molapo Qhobela* 1999-2001 LLR 998;
- *Mokhotlong Constituency vs National Executive Committee of the BCP – CIV/APN/86/96;*
- *Takatso Ramakhula vs Makhetha Mosotho – CIV/APN/906/09*
- *BCP vs Pakalitha Mosisili – CIV/APN/84/96*
- *Molapo Qhobela vs Basutoland Congress Party – C of A (civ) No.8 of 2000;*
- *National Executive Committee of BCP vs Mbuli CIV/APN/80/01;*
- *Rodebby vs NEC of BCP – CIV/APN/159/98*

### **Statutes**

- **Constitution of Lesotho 1993;**
- **National Assembly Election (No.1) (Amendment) Act No.16 of 2001;**

- **Societies Act No.20 of 1966;**
- **National Assembly Election Order No.10 of 1992.**

### **Books**

**Bamford BR – Law of Partnerships and of Voluntary Associations in South Africa.**

**Hoffman & Zeffert – South African Law of Evidence 4<sup>th</sup> Ed**

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**Peete J.:**

*Notion of Motion – (nomenclature in)*

- [1] The originating papers in this application were filed with the office of the Registrar of the High Court of Lesotho way back on the 15<sup>th</sup> October 2008. In its heading the Applicant is cited as “**PELA TSOEU NO.10 CONSTITUENCY COMMITTEE OF THE BASUTOLAND CONGRESS PARTY**”<sup>1</sup> and the 1<sup>st</sup> respondent is cited as “**THE BASOTHO CONGRESS PARTY**”. I will assume that the nomenclature was conscientiously used by the parties.
- [2] *Ex facie*, it appears to a reasonable court that we are here dealing with two distinct political parties and probably registered in different names under the *Societies Act No.20 of 1966* and at the offices of **Independent Electoral Commission**. Further, it is also probable that their respective constitutions differ on one aspect or another. This court is not qualified to take judicial notice of an apparent split of the

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<sup>1</sup> Historically **Basutoland Congress Party (BCP)** was formed in 1952 while Lesotho then existed as a **British Protectorate of Basutoland**.

BCP and assume the oneness of the party without becoming biased in favor of one faction over the other.

- [3] It is important to note – despite the paragraph’s inelegance – that the applicant is described as –

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*“...Pela-Tsoeu No.10 Constituency Committee of the Basutoland Congress Party located at Pela Tšoeu in the district of Leribe ...”*  
and 1<sup>st</sup> respondent is described as *“...the Basutoland Congress Party, a political party registered in terms of the Laws of Lesotho with its head Offices in the Maseru City in the Maseru district...”*  
(my underline)

This must be contrasted with the heading “**THE BASOTHO CONGRESS PARTY**”! in describing the second respondent.

- [4] Where the words “**Basotho**” and “**Basutoland**” are conscientiously used to describe a single (but divided) political party, a court of law cannot and should not **mero motu** assume singularity in the face of an **ex facie** factionalism. It is not for the Court of law to mend a political party torn and rent asunder by its own factions, because that can in essence compromise the hallowed independence of the courts and also adversely affect freedom of association guaranteed by the Constitution of Lesotho.

[5] The applicant makes no effort or attempt either in his founding affidavit or in his reply to respondents' opposing papers to state (i) who are the members of the Applicant, (ii) when and by whom the mandate or resolution was made. These papers were drawn up by **Mr Matooane** - an attorney of great experience and intellect! A piece of paper "PTI" has been attached and it reads:-

**"RESOLUTION OF THE CONSTITUENCY  
OF PELA TŠOEU NO.10**

*Committee resolves that:-*

- (a) An application be launched in the High Court to compel the National Executive Committee to convene a special National Conference for the purpose of electing a new National Executive Committee of the party in terms of the Constitution.*
- (b) That Mr Abel Sello Molati, chairman of the Constituency committee launch the proceedings in his own names and sign all relevant papers to put this resolution into effect.*
- (c) That Attorneys T. Matooane & Co be instructed to represent the applicants.*

**DATED AT LERIBE THIS 18<sup>TH</sup> DAY OF AUGUST 2008.**

Signed: \_\_\_\_\_  
**SECRETARY"**

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## Political Parties in Lesotho<sup>2</sup>

- [6] Political parties (duly registered) are important elements in the democratic governance of Lesotho. For example, a leader of a political party that commands a majority in the National Assembly after general elections can be invited to form a government of His Majesty.<sup>3</sup> Under the new *Mixed Members Proportional Model*, political parties that have been registered under law and have contested general elections are entitled to be allocated some seats in the National Assembly.<sup>4</sup> (“...ntsoepelele...”)
- [7] In order to contest for elections political parties have to be registered as associations under the **Societies Act No.20 of 1966**<sup>5</sup> and as political parties at the offices of the **Independent Electoral Commission**.<sup>6</sup>
- [8] Political parties have constitutions which have to comply with certain requirements for their governance.<sup>7</sup>
- [9] It is my firmly held view that, being the pillars of democratic governance, the constitutions of the political parties must essentially have democratic and practices, processes and procedures that support

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<sup>2</sup> The history of political parties in Lesotho began in earnest when the Basutoland Congress Party (Basutoland African Congress) was formed in 1952.

<sup>3</sup> Section 87 of the Constitution of Lesotho.

<sup>4</sup> Section 92A of the National Assembly Election (N0.1) (Amendment) Act No.16 of 2001.

<sup>5</sup> A political party is legally speaking an association and is defined the Societies Act and under the National Elections.

<sup>6</sup> Section 35 of National Assembly Election Order No.10 of 1992.

<sup>7</sup> Societies Act.

a democratic culture<sup>8</sup> – otherwise it would be difficult to expect a political party with undemocratic tendencies and practices, to practice democracy once it forms a government. I can only commend thus far and avoid being unwittingly drawn into a bottomless political quagmire!

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[10] A cursory look at the letters annexed to the founding affidavit of one **Abel Sello Molati** indicate that he purported to be “**a representative**” (*moemeli oa Lekhotla la Mahatammoho BCP NO.10*). He claims no cognizable or official status as an elected member of the Constituency of Pela-Tšoeu Committee of the BCP; neither has he relied on any resolution-until quite belatedly – mandating him to initiate these proceedings was been attached.

[11] In its Notice of Motion (dated 15.10.2008) the following relief is sought by applicant:

- “(a) Directing the second respondent to call a Special Annual General Conference of the Basutoland Congress Party for the purposes of electing a New National Executive Committee of the party.*
- (b) Declaring that the term of office of the present office-bearers of second respondent has expired.*
- (c) Directing the respondents to pay costs of this application (only) in the even of opposition.*

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<sup>8</sup> *Radebby v NEC of BCP – CIV/APN/159/98* per **Peete J.** at page 98.

***(d) Granting applicants further and/or other alternative.”***

[12] In his founding affidavit the deponent **Sello Molati** states:-

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*“At all material times to this application I was mandated by the members of the applicant (Pela-Tšoeu No.10 Constituency Committee of the BCP) to request the holding of a general conference of the first respondent to enable elections of a new executive committee.*

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*I duly wrote a letter to second respondent and it is annexed herewith with its fair translation and it is marked “SMI”. The said letter is self explanatory”.*

[13] The letter reads:-

*“Pela – Tšoeu No.10  
P.O. Box 185  
Khabo’s 460*

*14/06/08*

*Secretary General  
Basotho Congress Party (B.C.P.)  
Maseru 100*

*Sir,*

**RE: SPECIAL NATIONAL CONFERENCE**

*I am hereby authorized by members of Basotho Congress Party (B.C.P.) Pela-Tšoeu No.10 to ask you to convene a Special National*



*Conference within 14 days upon receipt of this letter as per clause 13.2 of the Constitution of Basotho Congress Party (B.C.P.)*

*This Special National Conference is convened for the purposes of electing a new National Executive Committee as the term of office of the present National Executive Committee expired in January 2007 as per clause 30.3 of the Constitution of Basotho Congress Party (B.C.P.) and the meeting which was convened in January 2008 in the presence of (B.C.P.) constituencies during that time failed to reach any resolutions thus the meeting was dismissed.*

*Yours faithfully,*

SELLO MOLATI (Mr)

*REPRESENTATIVE OF BASOTHO CONGRESS PARTY (BCP)*” (my underline)

[An original handwritten letter has not been handed in or nor its photocopy reflecting a party stamp indicating receipt was attached.]

- [14] Let it be noted that assuming deponent was duly mandated by the No.10 Pela-Tšoeu Constituency Committee, what was being requested was

**“...SEBOKA SE KHETHEHILENG...”**

(A SPECIAL CONFERENCE)

in terms of clause 13.2 of the Constitution of the BCP and that the purpose for the special conference “*was to elect the National Executive Committee of the BCP*” because, so it was alleged, the then incumbent National Executive Committee’s term of office had expired in January 2007 as per clause 30.3 of the Party Constitution.

[15] It seems that an Annual Conference of the Party had been convened in January 2008 had aborted due to a fatal lack of quorum.

[16] Whilst it is quite clear that both of the urgent requests written by deponent Sello Molati were either simply ignored or were not responded to by the 2<sup>nd</sup> respondent for one reason or another, it is also very clear that the NEC of the second respondent did not officially recognize the Pela-Tšoeu Constituency No.10 Committee – The legality of this non-recognition is not here relevant.

[17] Clause 13.2 of the Constitution of the BCP reads (as fairly translated by applicant) -

“ .....

*13.2 A Special General shall be called followed a request from the Constituency or constituencies directed to the Secretary General such request shall detail the grounds upon which it is necessary to call a Special General Conference and why it is urgent or important so as not to await the Annual General Conference. [such request must be supported by at least ten constituencies]*

*13.3 When the Secretary General receives such a request he shall examine it at once with the leader of the party, and immediately put it before the Working Conference.*

*13.4 The Working Conference shall examine such a request, and if satisfied with the importance and urgency of the conference, it will call the National Executive at once.*

13.5 *When the national Executive is satisfied with the need to call in the conference, it will send notices to the Constituencies in which it should also choose a date or dates as well as set out the agenda for deliberation at the conference.”*

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### **Annual General Conference of BCP**

[18] As in most political parties, the Annual General Conference of the BCP is the highest and supreme body at which major decisions are made on party policy including election of party leadership and of the National Executive Committee and confirmation or reversal of decisions taken at other party structures. Under clause 12, the Annual General Conference meets annually in December or January.

[19] Clause 12.00 regulates the manner and the times at which the Annual General Conference shall be convened (e.g. notices of the Conference to be made to the Secretaries of the Constituencies and of Provinces (in the *Republic of South Africa*) at least a month before the date of Annual General Conference.

### **Special General Conference**

[20] A Special General Conference however is by its very nature an *ad hoc* forum or conference assembled specially to deliberate on a specific agenda and cannot exceed its mandated agenda.

- [21] A Special General Conference can be convened at the instance of the National Executive Committee *“if there is an issue which the National Executive Committee considers sufficiently important and urgent so as not to await the Annual General Conference.”*
- [22] The Special Conference can also be convened at the request from the constituency or constituencies *“directed to the Secretary General ...such request shall detail the grounds upon which it is necessary to call a Special General Conference and why it is urgent so as not to await the Annual General Conference. Such request must be supported by at least ten constituencies.”* (my underline)

This crucial support is lacking in this application and fatally so!

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### **The NEC (2005-2007)**

- [23] It is common cause that the National Executive Committee of the BCP whose legality or legitimacy was being challenged had been elected on the 30<sup>th</sup> January 2005 – and that its term of office had expired two years later in 2007. And, as already alluded to, the Annual General Conference of January 2008 had aborted and fizzled for organizational reasons.

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***Locus standi***

- [24] Although the court *mero motu* called for the *viva voce* evidence of Sello Molati and ‘Mateboho Noko the current chairman of BCP, their evidence confirmed that no formal and official links had existed for some time between the Pela-Tšoeu Constituency No.10 and the BCP NEC. The receipt of the letters written by Sello Molati to the Secretary General were either hand delivered, received but simply ignored because of the severed links. The *onus* was primarily on the applicant to establish receipt of the two letters, and which receipt categoriacally ‘Mateboho Noko denies.

If they were received, the main question is simply whether without the support of ten constituencies was the secretary General of BCP obligated to take up action as per Art.13 of Constitution towards assembling the Special Conference? All these questions to be answered in the negative and do not support the applicant’s claim as it stands in its papers.

- [25] It seems to me that the issue of lack of *locus standi* raised by the respondents must be dismissed summarily on the only ground that *clause 13.2* of the BCP Constitution, though rather vague, confers a measure of *locus standi* to a constituency because it states-

“13.2 *A Special General Conference shall be called following a request from a constituency ...*”

The clause does not say the request must specifically emanate from a Constituency Committee.

Thus since it is not in dispute that whereas the very clause 13.2 of the BCP Constitution vests “*a right to request the convening of a Special General Conference*” in a constituency, in our law it is trite principle that “*where there is a right ... there is be a remedy... – “...ubi res ubi remedium... ”*

[26] It seems to me therefore that even though the Pela-Tšoeu Constituency No.10 seemingly had a right to make a request under clause 13.2. that is not the end of the saga. First, the request must be supported by “*...at least ten constituencies...*”, and that after receiving such request the Secretary General of the NEC must then examine the request and place the request before the “*Working Committee*” which in turn shall examine the same and “*if satisfied*” with the importance and urgency of the Special Conference, the Working Committee shall call the NEC which if satisfied with the need to call the conference the NEC shall sent notices to all party constituencies setting down the date of the conference and also the agenda for deliberation.

[27] It is quite clear that at the material time, much rancour reigned in the ranks of the BCP rank and in fact it is quite clear that the Pela-Tšoeu No.10 Constituency Committee – if such existed – was not recognized by the BCP NEC. In her answering affidavit ‘Mateboho Noko, the then Secretary General of the 2<sup>nd</sup> Respondent states:-

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*“I deny that the deponent has been authorized by the Pela-Tšoeu No.10 Constituency Committee of the Basotho Congress Party to depose to the affidavit as alleged or at all. There is no Constituency Committee for the Party for Pela-Tšoeu constituency. I am the custodian of the record of the First Respondent and there is no record of a Constituency Committee for Pela-Tšoeu Constituency.”*  
(my underline)

[28] At once it becomes crystal clear that whereas applicant calls itself “**PELA-TŠOEU NO.10 CONSTITUENCY OF THE BASUTOLAND CONGRESS PARTY,**” it refers to 2<sup>nd</sup> respondent as “**THE EXECUTIVE COMMITTEE OF THE BASOTHO CONGRESS PARTY.**” (my underline)

There is a clear historical difference between “**BASUTOLAND**” and “**BASOTHO**” whenever these words are used. It is quite probable that the Second Respondent did not officially recognize a committee calling itself “**PELA-TŠOEU NO.10 CONSTITUENCY COMMITTEE OF THE BASUTOLAND CONGRESS PARTY**” – There certainly, existed therefore two political parties – one describing itself as *Basutoland* Congress and another as *Basotho* Congress.

[29] It is quite clear to this Court that in the BCP constitution, an election of a National Executive Committee – a most supreme organ of the Party – is a “*...Rubicon...*” step – and it is a step taken only biannually and only in December or a January of the second year in terms of *clause 12* of the Constitution. In my view, it is an election of

NEC that cannot be made at a Special Conference<sup>9</sup> - but only at the Biannual General Conference.

[30] It seems to me also that whereas a BCP constituency is or constituencies are entitled under *clause 13.2* of the Constitution to request the convening of the Special Conference, the incumbent NEC is likewise vested by the constitution a wide discretion and choice over the convening of such a Special Conference. There is therefore local remedy process in this regard in the constitutional structure of the party.

[31] But as my **Brother Monapathi J.** quipped in **Basutoland Congress Party v Molapo Qhobela** -<sup>10</sup>

*“...we (courts) try as much as possible to avoid being involved in the administration of parties...”*<sup>11</sup> –

because, I should add, “...to be involved would tarnish the essential impartiality of the courts....”

[32] It is common knowledge that the often acrimonious and vitriolic struggle for the party leadership in the BCP has sadly been a perennial one and the fragile democratic governance in the party ranks has forever been on edge. The battle has been either between factions or

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<sup>9</sup> **Takatso Ramakhula vs Makhetha Mosotho** – CIV/APN/406/09 where **Peete J** held that the constitution of LABA (a boxing association) the election of the executive Committee was the domain and prerogative of the Ordinary Congress at its meeting after every focus years and not of a special congress.

<sup>10</sup> CIV/APN/410/99

<sup>11</sup> **Stadium Area Constituency No.31 v Molapo Qhobela** – 1999-2001 LLR 998; **Mokhotlong Constituency v National Executive of the BCP** – CIV/APN/86/96 (held than a branch of an association could sue.



between a constituency and the NEC.<sup>12</sup> Our law reports are replete with such cases for all to see. This internal squabbling has gone from one decade to another and from one generation to another.

[33] The Court of Appeal of Lesotho has later held that Special Conference can be called at the request of a Constituency in terms of *Article 13* of the Constitution provided the procedure laid down in it is followed. Constituency Committees have to go through the Secretary General and their request has to be referred to the Working Committee only then can the National Executive Committee call the Special Conference.<sup>13</sup>

[34] The dilemma that faced the applicant was a self created one in that they described their party quite differently. They acted at cross-purposes, that is why the Pela-Tšoeu No.10 Constituency Committee members were not in the records of second respondent because it described itself as “*Basutoland Congress Party*” and 2<sup>nd</sup> respondent called its party “*Basotho Congress Party*”. Two factions clearly existed and it is all there for the court to see; but not for the court to settle.

[35] It is trite law that a constitution of a political party in law embodies the consensual contractual relationship between the party and its members.<sup>14</sup> Members have rights under the constitution and certain procedures must be followed for the enforcement of these rights. A

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<sup>12</sup> **BCP v Pakalitha Mosisili** – CIV/APN/84/96.

<sup>13</sup> **Molapo Qhobela v Basutoland Congress Party** C of A (CIV) No.8 of 2000.

<sup>14</sup> **Bamford BR** – *Law of Partnerships and Law of Voluntary Associations in South Africa*.

pertinent question is: was the Secretary General of the second respondent obligated to recognize a request for a Special Conference from persons whose party's name was different from that of the second respondent? I venture to say, the Secretary General had no obligation to follow procedures under *clause 13*.

[36] I am not going to decide the question whether a Special Conference, if later convened had capacity and authority to elect a National Executive Committee or whether that is the sole prerogative of the Annual General Conference at its December/January biannual meeting for that purpose. Suffice it to state that clause 12.1 of the Constitution of BCP is mandatory in its provisions. It states:

*“12.1. The Annual General Conference of the Party **shall** be held in December or January on the date and at the venue that shall be determined **including the election of the National Executive Committee.**”*<sup>15</sup> (my emphasis)

[37] In his letter dated 14/06/08 the deponent for applicant states –

*“...This Special National Conference is convened for the purposes of electing a new National Executive Conference as the term of office of the present National Executive expired in January 2007 as per clause 30.3 of the Constitution of Basotho Congress Party (BCP)”.* (my underline)

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<sup>15</sup> See also *National Executive Committee of the BCP vs Mbuli and others* – CIV/APN/80/01 at p.96

- [38] Although applicant as a constituency has *locus standi* – the relief it sought cannot be granted because its granting would be in complete violation of Clause 12.1 of the Constitution of the Basotho Congress Party. The proper *forum* for the election of a National Executive Committee is the biannual General Conference and not a Special Conference.<sup>16</sup>
- [39] It is not in dispute that the deponent *Sello Molati* is a long standing member – and is in fact a stalwart in the BCP. What seems to be the crux of the problem is that the two letters purportedly written by him, were thus written by him not as chairman or secretary of the Pela-Tšoeu No.10 Constituency but by him as “*representative*” of the BCP members in Pela-Tšoeu.
- [40] The original letters written or authorized by him were not handed in indeed to indicate and demonstrate their receipt on the 16<sup>th</sup> June 2008. The stamp dated 16/06/08 is neither reflected in the copies presented and annexed to the founding affidavit – were these letters hand-written or type-written and their receipt date-stamped?
- [41] Assuming in favour of the applicant that in fact the letters were in fact written, could they have been written by *Mr Sello Molati* in an official capacity? Was the Secretary General of the respondent obligated to reply them under the Constitution of the respondent? The answer is in the negative.

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<sup>16</sup> See footnote 8 (*supra*)

- [42] If *Mr Sello Molati* was ever authorized in person to request the holding of a Special Conference to elect the National Executive Committee of the respondent, according to the resolution he was to do so “*in his own name*” and stand. In these proceedings the applicant is the No.10 Pela-Tšoeu Constituency and is acting so as an organ of the BCP. *Mr Molati* is not suing respondents in his own name!
- [43] It may be the letters were written or typed. Their service was by hand and not by registered post. There is no convincing evidence that these two letters were in fact received. The receipt cannot be presumed where a letter has not been transmitted by registered post.<sup>17</sup> The primary *onus* rested on applicant that they were received.
- [44] Assuming the letters were in fact received but were simply ignored by the Secretary General as being non-official, the request for a Special Conference has to follow the specific provisions of the BCP Constitution under *clause 13.2*.<sup>18</sup>
- [45] It is apparent that the BCP in 2008 was going through severe organizational “*doldrums*” which aborted the holding of the annual general conference in 2007. It was the impasse that prompted *Mr Molati* to initiate process towards election of a new National Executive Committee.

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<sup>17</sup> **Hoffman & Zeffert** - *SA Law of Evidence* (4<sup>th</sup> Ed. P 546-547)

<sup>18</sup> See para [24] (*supra*)

- [46] Even assuming that the request officially emanated from the Pelatšoeu constituency No.10, the request was not supported by other 10 BCP constituencies. The request was “...*a voice in the wilderness...*”<sup>19</sup> It was ignored and went unheeded even though it could have been a “...*voice of reason...!*”
- [47] I will assume in favour of the applicant that the two letters of the 14<sup>th</sup> June 2008 and 7<sup>th</sup> July 2008 were in fact hand-delivered to the office of the Secretary General, but I hold that standing on their own and not in compliance with *Article 13.2* of their constitution and acutely lacking the minimum support of ten constituencies, the Secretary General of the BCP was not obligated to take up steps as stipulated under *Art.13.3* to *13.5*. In other words, their otherwise noble request could be ignored.
- [48] Before concluding this judgment, it would be remiss of this Court to fail to express its deep concern and disquiet at the disharmony within the political parties in Lesotho. “...*Ke lehesheshe...(scramble)*” for party leadership positions – some or many constituencies and the National Executive Committees have “...*bad blood...*” flowing between them. Candidature for seats in Parliament is controlled under rigid party patronage. I state categorically that without a basic democratic culture in their own constitutional infrastructures, the now many political parties in Lesotho shall totally fail to sustain democracy and good governance in Lesotho.

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<sup>19</sup> Matthew 3.3 (*Holy Bible – New Testament*)

[49] The Court notes with grave concern, that some if not most or all of the constitutions of political parties in Lesotho have disturbing and alarming undemocratic features which tend to promote autocratic rule by the political elite and to sideline the basic principles of natural justice, rule of law and simple fairness. This has a rippling effect which prejudices the stability and good governance of the country at large.

[50] In our democratic era in Lesotho of the *New Millenium*, all these undemocratic tendencies must be uprooted and be replaced by virtues of true justice, of accountability, of transparency, of good governance, of fairness, of meritocracy and other good attributes. The Basotho are a peaceloving and homogeneous people with common aspirations and it would be wise for the “*now too many political parties*” in Lesotho to engage with all good sense and maturity towards finding a common ground, common vision, common policies and manifestoes geared at achieving a national vision and goal. They should patriotically sideline petty rivalries both within and between each and one another. The voting patterns in Lesotho would then assume rational democratic trends for the good of Lesotho.

### **Conclusion**

[51] The Honourable Judges in the courts of His Majesty are continuously being inundated with “political disputes” which truly deserve “political solutions”. When the Judges do give their judgments, the victorious litigants praise Judges as being most righteous and the label vanquished the Judges as partisan and corrupted. This must stop – and

stop now! It is the most sacred duty of the courts to warn, caution and advise! We exhort all leaders in the world politic to take heed and respect the people and their Constitution.

[52] The people of Lesotho, homogeneous and peaceloving as they are, deserve to live in peace, to develop, and to express their maximum talents in all spheres to life without being torn asunder by petty party politicking that cuts the strings that have held the Basotho people together such that things have fallen apart!

[53] For all reasons stated in this judgment, I dismiss the application as being without merit.

[54] Costs – The issue of costs to stand over till a later date.

**S.N. PEETE**

**JUDGE**

For Applicant : **Mr Teele, KC**

For Respondents : **Mr Mahlakeng**