

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, JOHANNESBURG)

Case No: 29219/2021

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: YES / NO.
(2) OF INTEREST TO OTHER JUDGES: YES / NO.
(3) REVISED.

DATE:

SIGNATURE:

In the matter between:

JOHAN CHRISTIAAN BEER

Applicant

and

**THE SOUTH AFRICAN INSTITUTE OF
CHARTERED ACCOUNTANTS**

First Respondent

**THE DISCIPLINARY COMMITTEE OF THE
SOUTH AFRICAN INSTITUTE OF
CHARTERED ACCOUNTS**

Second Respondent

JUDGMENT

Todd AJ

1. This is an application for leave to appeal against a judgment that I handed down on 20 September 2022.
2. The Applicant seeks leave to appeal on the grounds, first, that an appeal would have a reasonable prospect of success as contemplated in section 17(1)(a)(i) of the Superior Courts

Act, and in the alternative, that there is a compelling reason why the appeal should be heard as contemplated in section 17(1)(a)(ii).

3. In relation to the second of these grounds the Applicant contends that an appeal would serve to establish important or useful principles regarding the manner in which members of regulated professions conduct themselves in the course of their work in another role or office other than the office in which they are specifically accountable to a professional body. Mr Rossouw, who appeared for the Applicant, referred to this as a situation in which a professional person wears “two hats”. In the case of the Applicant one of these was in his capacity as a registered chartered accountant subject to the professional codes applicable to that profession; and the other was in his capacity as a business rescue practitioner appointed under the Companies Act.
4. In considering the grounds on which Mr Rossouw contends that the Applicant has a reasonable prospect of success I have, as submitted by Mr Rossouw and agreed by Mr Smit, who appeared for the First Respondent, applied the traditional test for assessing prospects of success and not any possibly higher or more onerous test that might conceivably have been introduced by the introduction of the word “would” in the relevant section. In this regard Mr Rossouw referred to the decision of the SCA in *Ramakatsa and others v African National Congress and Another* [2021] ZA SCA 31 at para 10, and I follow the approach described there.
5. I have carefully considered the submissions of Mr Rossouw regarding prospects of success on appeal. I am not persuaded that an appeal would have reasonable prospects of success. As regards the alternative submission regarding a compelling reason why the appeal should be heard, I am similarly unpersuaded that the issues raised by the Applicant are compelling or would have application outside the relatively narrow ambit of the facts and the particular circumstances in which the Applicant faced disciplinary action at the instance of the First Respondent, the professional body of which he is a member.
6. For those reasons, the application for leave to appeal is dismissed, with costs.

C Todd

Acting Judge of the High Court of South Africa

REFERENCES

For the Applicant:	Adv. A B Rossouw SC
Instructed by:	Jaco Roos Attorneys
For Defendant:	Adv. D J Smit
Instructed by:	Webber Wentzel
Hearing date:	17 November 2022
Judgment delivered:	21 November 2022