



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No: 17608/2015

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES:
NO
(3) REVISED.

1 December 2023

EI

In the matter between:

3030 MOTORBIKE SCHOOL CC

Applicant

and

GAUTENG DEPARTMENT OF COMMUNITY SAFETY

First Respondent

THE GAUTENG MEC FOR COMMUNITY SAFETY

Second Respondent

JUDGMENT

FRANCIS J

1. This is an application by the applicant for leave to appeal to the full bench of this court, alternatively to the Supreme Court of Appeal against the whole of my judgment and order, delivered on 9 May 2023. This was after I had dismissed the applicant's action with no order as to costs on the grounds that the services rendered went beyond the five day period referred to in the

purchase order that was granted to the applicant after it was a successful bidder for services to be rendered.

2. The applicant has raised 23 grounds for leave to appeal contained in its application for leave to appeal dated 30 May 2023. It is unnecessary to repeat those grounds for leave to appeal save to indicate that the application for leave to appeal centres around my decision to dismiss the applicant's claim on the basis that the applicant had failed to prove that the written agreement was amended.
3. The parties were instructed to file heads of arguments and were informed that the application for leave to appeal would be decided on the documents that were so filed. These were duly filed.
4. I do not deem it necessary to deal with the grounds for leave to appeal since I have dealt with all of the issues that is raised in my comprehensive judgment. The applicant has been selective in quoting some portions of my judgment which suits it in support for its leave to appeal. What should be remembered is that the purchase order that was accepted was the entire agreement between the parties.
5. I deem it necessary to quote portions 46 to 50 of my judgment:

“46. It is also significant that the oral agreement was pleaded in the alternative. I simply do not know how there could be a written agreement and at the same time an oral agreement concluded in November 2012 when the plaintiff had given a quotation for the services that it was going to render. The plaintiff could not indicate when exactly the oral agreement was entered into and what the precise

terms of the oral agreement was. There was a threshold of R500 000 and if the amount exceeded R500 000 it had to go out for a tender. The plaintiff's quotation was the lowest amongst the three bids that the defendants had received hence their appointment as service providers.

47. *The plaintiff was on the data base of the first defendant. It is of no moment for the plaintiff to contend that it was not aware of the process to be followed. The purchase agreement was the basis of the agreement. I find it rather astonishing that the training would have commenced without the purchase order. No plausible explanation was given why the training had to proceed without the purchase order. I also find it odd that after the purchase order was handed to the plaintiff on 13 December 2012 and after training had proceeded that it did not stop with the training until the entire issue was dealt with.*
48. *It is clear from the documentary evidence that the training of 30 officers by the plaintiff was quoted to be R300 549.60. What should be kept in mind is the evidence of the defendants namely that three quotations were obtained and the work was given to the company that had provided the lowest quotation namely the plaintiff. The quotation is annexure MS1 and comprises of 2 pages. The date of the plaintiff's quotation is dated 1 November 2012 and it makes it clear that the full package of 30 officers is a unit price of R3 500.00 totalling R105 000.00. There is MRC2 (motorcycle rider course) advance beginner and on road riding for a quantity of 30 at a unit price of R1 200.00. It then sets out MRC3 company bike on road riding and K53 grounds for 30 at a unit price of R1 200.00. It also provides for advance riding course due after one month of riding for 30 at R1 400.00. There is a learners issuing fee for 30 officers at a unit price of R60.00 and drivers issuing fee for 30 officers at R228.00. This quotation makes it clear what the plaintiff was bidding for. In other words the document or quotation speaks for itself.*
49. *The purchase order was generated by the first defendant based on the quotation of the plaintiff and is dated 27 November 2012 and is annexure MS2 and it comes to R300 549.60. Clauses 9 and 12 states that "The CPG does not accept over-deliveries and only pays for goods supplied and/or services rendered according to the PO. The CPG is not liable toward the Supplier for any amount exceeding the price for goods or services specified in this PO. Clause 12. This PO forms the entire agreement between the CPG and the Supplier and any variation to this PO must be done in the form of a Change Purchase Order issued by the CPG".*
50. *It is unclear why the plaintiff had commenced with the training before it had received the purchase order. It is clear from clause 12 of the purchase order that the variation of the purchase order must be in writing- and could only be varied in terms of a change of the purchase order. There is no such change of purchase order."*

6. The applicant's application for leave to appeal is on the grounds of the provisions of section 17(1)(a)(i) and (ii) of the Superior Courts Act 10 of 2013 (the Superior Court Act). The aforesaid section provides that leave to appeal may only be given where the judge or judges concerned are of the opinion that the appeal would have a reasonable prospect of success and that there is a compelling reason why the appeal should be heard including conflicting judgments on the matter under consideration.
7. The applicant has raised nothing new in its application for leave to appeal. All the issues that it raised were dealt with by me in my judgement. There are no prospects of success on appeal.
8. I am not persuaded that a proper case has been made out by the applicant for leave to appeal.
9. In the circumstances the following order is made:
 - 9.1 The application for leave to appeal is dismissed with costs.

FRANCIS J

JUDGE OF THE HIGH COURT

FOR APPLICANT : N MORWASEHLA OF MORWASEHLA
ATTORNEYS

FOR RESPONDENTS : N ALLI INSTRUCTED BY STATE
ATTORNEY

DATE OF HEARING : 1 DECEMBER 2023

DATE OF JUDGMENT : 1DECEMBER 2023

This judgment was handed down electronically by circulation to the parties' and/or parties' representatives by email and by being uploaded to caselines. The date and time for hand-down is deemed to be 14h00 on 1 December 2023.