HIGH COURT OF SOUTH AFRICA,

GAUTENG DIVISION, PRETORIA

Case No.: 48140/21

In the application between:

TAX FACULTY NPC Applicant

And

SOUTH AFRICAN INSTITUTE OF TAXATION NPC Respondent

JUDGMENT

DE VOS AJ:

[1] The applicant seeks leave to appeal against this Court's order in terms of section 17(1)(a)(i) of the Superior Court's Act 10 of 2013. The applicant is a non-profit company. The respondent is a Controlling Body in terms of section 240A of the Tax Administration Act 28 of 2011.

[2] The applicant sought to review the respondent's decision to de-accredit the applicant. The applicant's case presumed its accreditation. However, the respondent disputed that it took a decision to de-accredit the applicant.[1] The respondent contends it never accredited the applicant, in the first place.

[3] The Court found, on the facts, that there was no decision taken by the respondent to de-accredit the applicant. The applicant failed to bring itself within the definition of administrative action as it failed to show the respondent had taken a decision. The Court dismissed the review application.

[4] The applicant invites the Court to grant leave to appeal. This requires the Court to consider whether another Court might come to a different conclusion. The Court does not believe that another Court will come to a different conclusion as the core finding of the Court is premised on the common cause history of the matter and the undisputed facts. The Court will set these out first before dealing with the grounds of appeal.

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[1] The respondent pleads:
3.1 The respondent provided recognition to the applicant's continuous professional development ("CPD") programs in terms of a service level agreement ("SLA") concluded between the applicant and the respondent.
3.2 the respondent lawfully cancelled the SLA and is no longer obliged to recognise the applicant's CPD programs.
3.3 The cancellation of the SLA did not constitute administrative action as contemplated in PAJA and cannot form the subject of a review as contemplated in Rule 53 of the Uniform Rules of Court."

History of the matter

[5] The respondent provided Continuous Professional Development ("CPD") services in-house. It does so as part of its duties as a controlling body which requires it to maintain relevant and effective continuing professional education requirements for persons who provide advice on the application of the Tax Act. To provide these CPD services, the respondent had a dedicated CPD department.[2] After some time, the respondent decided to create a separate entity to undertake the respondent's CPD services.

[6] The applicant did not have any assets, employees, or income, nor did it have the ability to secure any form of finance.[3] It "fell wholly" to the respondent to "provide finance, infrastructure, assets, and support necessary to establish the applicant" and enable the applicant to "commence with its business."[4] The respondent provided funding to the applicant of over R 4 million.[5]

[7] In addition, the employment contracts of key personnel, such as the staff of the CPD department were transferred to the applicant.[6] Provision was made for the applicant to limit its operating costs by sharing the resources, services, and infrastructure of the respondent, such as IT services, insurance, rentals, communication services, accounting services, advisory services and leases.[7] The respondent also transferred the entirety of its CPD activities, with a revenue stream of approximately R 11.6 million at the time, to the applicant.[8]

[2] CL 9-12, AA para 11.2; CL 10-21, RA para 67 (admitted)
[3] CL 9-14, AA para 13.1; CL 10-22, RA para 72 (admitted)
[4] CL 9-14, AA para 13.2; CL 10-22, RA para 72 (admitted)
[5] CL 9-15, para 13.3.1; CL 10-22, RA para 73 (admitted)
[6] CL 9-15 para 13.3.3; CL 10-22, RA para 73 (admitted)
[7] CL 9-15, AA para 13.3.4; CL 10-22, RA para 73 (admitted)
[8] CL 9-15, AA para 13.3.5; CL 10-22, RA para 73 (admitted)

[8] The applicant commenced commercial activities in January 2016 and made use of the respondent's infrastructure. The services it provided were regulated by an informal agreement.[9]

[9] The applicant provided the services, in terms of the informal agreement, from January 2016 without any decision on accreditation. This informal agreement was then, after negotiations, formalised in a written agreement on 18 August 2018.[10]

[10] It is common cause that services in terms of the written agreement concluded in August 2018 were the same as those provided by the applicant in terms of the informal agreement. The applicant pleads that the 2018 written agreement "recorded the pre-existing contractual relationship that was established between the parties since 2016"; was "limited to the services rendered by the applicant" and "unrelated to the accreditation that is the subject of this application".[11]

[11] In terms of the written agreement, the applicant would provide certain services to the respondent. In particular, the applicant would provide the respondent services such as CPD seminars and webinars. The agreement was the entire agreement and no other written or oral understanding or agreement between the parties existed. Clause 2.1 provided that any party was entitled to terminate the agreement (whether or not there was any breach) by giving the other party 3 months' notice of termination.

[12] It is common cause that the respondent terminated the written agreement. The respondent relied on clause 2.1 which permitted termination on three months'

[9] CL 9-16, AA para 14.1; CL 10-23, RA para 76 (admitted)
[10] CL 9-16, AA paras 14.4 and 14.5; CL 10-24 para 80 (admitted)
[11] CL 10-24 para 80.

notice. The respondent gave notice to the applicant on 29 June 2021 that it would terminate the written agreement on 31 September 2021 - adhering to the 3 months' notice period.[12] On 31 September 2021, the respondent wrote to the applicant and confirmed the termination of the written agreement - as the three-month period had lapsed.

[13] The respondent contends the 31 September 2021 letter confirmed the expiration of the three months' notice period in terms of clause 2.1 of the written agreement. The respondent frames the 31 September 2021 letter as the exercise of a contractual right to terminate.[13]

[14] The Court concluded that the decision to terminate the applicant's ability to provide the services was the exercise of a contractual right to terminate the written agreement on three months' notice. This Court does not believe that another Court faced with the common cause history of the matter will come to a different conclusion.

[15] The common cause facts are that the applicant was created with the clear and express intention to take over the respondent's CPD offerings. The nature of the relationship between the applicant and the respondent was, from the outset, governed by consensus and not the exercise of a public power. The respondent did not assert power over the applicant in deciding whether or not the applicant could provide the CPD offerings. Instead, the applicant was set up with the clear business plan to conduct the respondent's CPD offerings.

[12] CL 9-32, AA para 25.2; CL 10-44 para 157 (not disputed)

[13] The respondent contends -

> 25.3 When it decided to terminate the SLA, the respondent did not act from a position of superiority or authority or performed a public duty or implemented legislation. It exercised a contractual right founded on the consensus of the parties.
>
> 26.2 I pause to mention that at no time did the respondent consider or make any decision to terminate and/or revoke the applicant's alleged CPD accreditation. As far as the respondent was (and is) concerned, the applicant had never been accredited as a service provider in terms of the respondent's CPD policy.

[16] The applicant's CEO was - for a long time - the CEO of the respondent. Thereafter, the applicant's CEO served on the respondent's Board of Directors and held office as the respondent's CEO from December 2010 until December 2015.[14] The decision to create a separate entity was not one forced on the applicant or its CEO. It was premised entirely on negotiation and consensus.

[17] The relationship was not one marked by independence. It was never a relationship akin to an organisation seeking accreditation from a controlling body exercising a public power. The respondent essentially set up the applicant through finance and every other practically possible way. This relationship is not comparable to the relationship between an independent third-party organisation that has applied for and been granted accreditation in terms of the respondent's accreditation policy.

[18] The applicant and the respondent were intertwined from the very genesis of the applicant. The initial formulation of the applicant was as a subsidiary of the respondent.[15] The respondent, therefore, set up the applicant. In short, the start-up money, the staff and the ability to provide the services were transferred to the applicant. The respondent did not accredit the applicant. Rather, the parties had informally agreed that the applicant would provide these services. The applicant was created and empowered to conduct the respondent's CPD services.

[19] The CPD services the applicant provided were initially provided in terms of an informal agreement. This contractual arrangement flowed naturally from the

[14] CL 9 - 12, AA para 11.1; CL 10-20, RA para 66 (common cause save for the fact that the deponent states he commenced as CEO as of the respondent from as early as December 2007)
[15] CL 9-13, AA para 11.5; CL10-21, para 69 (admitted)

intention behind the applicant's creation. Thereafter, the relationship was governed through a formal agreement.

[20] The history of the matter shows that the applicant provided the services through an agreement without being accredited for years. The applicant's ability to provide services was a result of the contractual history between the parties and was not based on the requirement that it be accredited.

[21] The applicant's ability to provide the services was premised on consent and not the result of the exercise of a statutory power by the respondent. The applicant was not on the receiving end of the exercise of power by the respondent. To the contrary, the parties agreed that the applicant could provide the services and then the respondent did everything in its power to assist the applicant to provide the services.

[22] The respondent’s denial that the applicant at any time enjoyed accreditation in terms of a policy and was only ever contractually empowered to provide services, is borne out by the common cause facts. As the premise of the finding is based on the common cause facts relating to the nature of the relationship between the parties, this Court does not believe that another Court will come to a different conclusion in this regard.

[23] I pause to mention that the lawfulness of this contractual arrangement is not before this Court and no party has challenged it. It appears that the respondent did have concerns regarding the institutional independence of the applicant from the respondent - in light of the history of the creation of the applicant. However, this is not the issue the Court was tasked to consider.

[24] The Court turns to the basis on which it rejected the applicant's version that the respondent took a decision to de-accredit the applicant.

Will another Court find that there was a decision to de-accredit the applicant?

[25] In 2018 the applicant asked the respondent how it could apply for accreditation. The answer from the respondent was, categorically, that the applicant could not apply for accreditation in terms of the respondent's accreditation policy. The applicant, nonetheless, wrote to the respondent requesting to be accredited. The applicant's case is that in response to this request, it was accredited in terms of a letter written by Ms Laubscher dated September 2018. The 2018-letter is what the applicant contends is its accreditation.

[26] Ms Laubscher works for the first respondent. Ms Laubscher filed an affidavit confirming that she did draft a version of the letter. However, she pleads in detail, she drafted the letter, under threat, from the applicant's CEO, Mr Klue. Ms Laubscher said that she expressed her discomfort to Mr Klue, but that Mr Klue dictated a draft of the 2018 letter to her and said if she did not do as he told her to "there would be consequences".[16]

[27] The specific allegations are that Mr Klue "effectively dictated the contents of the letter (in response to the application for accreditation) to her under the implied threat that, should she refuse, there would be consequences".

[28] It must be recalled that Mr Klue, the deponent and CEO of the applicant, was the CEO of the respondent before setting up the applicant. It must also be recalled that Mr Klue had taken over the entire staff complement of the respondent dealing with CPD services. It is also common cause that Mr Klue remained in a position of power at the respondent as he held the position as

[16] CL 9 - 40, AA para 33.1

Special Advisor to the respondent and remained on its Board for quite some time.

[29] The respondent's CEO certainly saw the 2018 letter as being the result of Mr Klue commanding Ms Laubscher to draft the letter on terms he dictated. The respondent's CEO also alludes to the applicant's CEO overstepping his authority. The respondent's CEO writes to Mr Klue that he is aware of the 2018- letter and that -

> "We are also fully aware of the 2018 accreditation document to which you refer. Our investigation revealed that this accreditation never went through the formal process an approval normally requires. . .
>
> It is patently evident that you once again acted contrary to policy and outside of your scope of authority (if any). **The SAIT staff operated under your instruction and implicit understanding that they had to act as you commanded**."

[30] The letter is dated 17 September 2021. It predates the present review application. It is apparent that even before litigation was commenced the respondent's CEO states clearly that the 2018-letter was not one borne of a decision by the respondent, but rather the consequence of the applicant's CEO, Mr Klue instructing the drafting of the letter and the understanding that the SAIT staff had to do as Mr Klue demanded.

[31] This Court concluded that the allegations concerning the creation of the 2018 letter were serious and cried out for a considered and detailed response by the applicant. It weighed with the Court that these serious allegations received a bare denial.[17] The Court held that the 2018 letter was therefore never a decision by the respondent to accredit the applicant, but the consequence of a letter dictated under threat by Mr Klue. This Court does not believe that

[17] CL 9-40, AA para 33.1; CL 10-51, RA para 194.1 ("These allegations are denied.")

another Court would come to a different conclusion as this finding is premised on the detailed allegations by the respondent in this regard - which were not seriously disputed by the applicant.

[32] The pleadings show that the respondent pleaded a bare denial in relation to the allegation of a threat and the allegation that the letter was dictated by Mr Klue. There is no detailed denial of the allegations concerning the creation of the 2018 letter. The allegations regarding Ms Laubscher's expression of discomfort met with a threat by Mr Klue and Mr Klue dictating the letter to Ms Laubscher receives the following - "These aversions are denied".

[33] In fact, in response to these allegations, the respondent pleads that it received the final letter from Mrs Laubscher in an email on 27 August 2018. The denial goes to the transmission of the document to the applicant, not the way it was created.

[34] The applicant's deponent, Mr Klue, is the CEO of the applicant and the person Ms Laubscher accuses of having threatened her. Mr Klue receives these allegations regarding the 2018 letter in the answering affidavit confirmed by Ms Laubscher. Yet, he pleads a bare denial and refers to the fact that he had received a final version of the draft by email. At no stage does he deny he threatened Ms Laubscher or that he dictated the letter to her. He seeks to side-step these allegations by pleading that he received the final version of the letter by email.

[35] The ability to dispute the allegations falls in Mr Klue's power. Yet, he does not do so. One would expect Mr Klue to plead in detail that he never contacted Ms

Laubscher or that she misunderstood or at least to deny that he dictated the letter to her. None of this happens.

[36] The Court is therefore left with a bare denial of the serious allegation that the 2018 letter is not what it purports to be - a decision on accreditation. The 2018 letter is not an authentic document and certainly was not a decision by the respondent to provide the applicant with accreditation.

[37] The applicant has not seriously disputed that the letter it relies on as the basis for its alleged accreditation was dictated by its CEO under threat of repercussions. Whatever happened to this letter afterwards, it could never be an authentic document and it cannot be relied on by the applicant as the basis for its accreditation.

[38] The applicant's CEO, Mr Klue also did not deny the allegations in the CEO's letter of 17 September 2021 accusing him of commanding the drafting of the 2018 letter. Again, these allegations cry out for a response, yet Mr Klue did not respond to the allegations. It is also of note that the 17 September 2021 letter predates the litigation in this matter.

[39] The court, therefore, on the facts, rejected the applicant's contention that it ever enjoyed accreditation. The Court held at paragraph 28 that -

> "There is thus only one version before the Court regarding the process through which the [2018-letter] was drafted: under threat from the applicant's CEO to Ms Laubscher. Had this allegation been false it would have attracted a serious dispute from the applicant. The severity of the allegation invites a detailed and comprehensive denial, yet, the applicant provides none. The absence of a detailed denial is made worse by the fact that the person Ms Laubscher accuses of threatening her and dictating the letter to her - is the applicant's deponent."

[40] The Court does not believe another Court will come to a different conclusion in this regard. In *Wightman t/a J W Construction v Headfour (Pty) Ltd*[18] the Court summarises the test on disputes of fact -

> "Recognising that the truth almost always lies beyond mere linguistic determination the courts have said that an applicant who seeks final relief on motion must in the event of a conflict, accept the version set up by his opponent unless the latter's allegations are, in the opinion of the court, not such as to raise a real, genuine or *bona fide* dispute of fact or are so far-fetched or untenable that the court is justified in rejecting them merely on the papers: *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* [1984] ZASCA 51; 1984 (3) SA 623 (A) at 634E-635C."

[41] The test is that the respondent's version is to be preferred if there is a dispute of fact. Here, there is no dispute of fact concerning the creation of the document.

[42] The applicant contends that the version of Ms Laubscher is far-fetched and therefore the Court ought to reject it. However, the applicant can only assert this test once there is a dispute of fact. Concerning the creation of the 2018 letter, there is no dispute of fact before this Court. There is thus no need to investigate whether Ms Laubscher's version in this regard is far-fetched. But even if the Court were to engage with this exercise, Ms Laubscher's version is not far-fetched.

[43] Ms Laubscher's version is not far-fetched when considered in context. First, Mr Klue held sway with the staff of the respondent - in light of the position he historically held as CEO of the respondent and the position of Special Advisor and member of the Board of the respondent. Second, the CEO of the respondent accused Mr Klue of abusing his authority (if any) over the staff of

[18] (66/2007) [2008] ZASCA 6; [2008] 2 All SA 512 (SCA); 2008 (3) SA 371 (SCA) (10 March 2008) para 12

the respondent. In the letter of 17 September 2021, the respondent's CEO takes Mr Klue on for abusing his power - to the extent he had any. Third, before litigation, the respondent's CEO writes to Mr Klue accusing him of commanding the drafting of the letter. Ms Laubscher's version of events has therefore been consistent - even before the commencement of litigation. Fourth, the contents of the letter from the respondent's CEO are never denied. At no stage during correspondence or in the papers before this Court did Mr Klue take on the respondent's CEO and say the contents of the 17 September 2021 letter are false. Fifth, after drafting the 2018 letter Ms Laubscher sends it to the applicant "for input". It would be extremely curious for decision-maker to ask an applicant for input in such a letter. It does however make complete sense in circumstances where the contents of the letter were dictated to her by the applicant. Sixth, it is common cause that none of the usual processes was followed in making an "accreditation decision". This accords with Ms Laubscher's version of events that the 2018 letter was dictated to her over the phone by the applicant's CEO. Seventh, the application for accreditation comes on the back of Ms Laubscher telling the applicant, categorically, that accreditation was not available to it. All of these facts indicate that Ms Laubscher's version is not far-fetched or untenable.

[44] The Court does not believe that another Court will come to a different conclusion in this regard. For another Court to come to a different conclusion, it would have to conclude that it is sound for the applicant to rely for its accreditation on a document that its CEO dictated under threat to an employee of the respondent to type. On this basis also, the Court refuses leave to appeal.

Did the court engage in a collateral review?

[45] The applicant invites the Court to consider granting leave to appeal on the basis that the Court impermissibly engaged in a collateral review. The applicant raises as a ground of appeal that there was no counter application to review the decision to accredit the applicant in 2018. The applicant contends that this Court indirectly and impermissibly set aside the decision to grant the applicant accreditation in 2018.

[46] The Court concluded that, factually, the applicant was never accredited. The Court rejected the applicant's version that its rights to accreditation were terminated in September 2021. The Court accepted the respondent's version that the September 2021 letter was one informing the applicant of the end of the 3-month notice period set out in the written agreement.

[47] The Court did not deal with the lawfulness of the "accreditation decision" in 2018. The Court rejected, on a factual basis, that any de-accreditation decision was taken in 2021. It preferred the respondent's version. The Court also rejected the applicant's assertion that it was accredited in 2018. The Court did not find that the accreditation was unlawful, the Court found factually that there never was accreditation.

[48] In this case, the true question is the existence of a decision (which turns on whether the 2018 letter is what it purports to be) not the lawfulness of the decision.

[49] The Court finds that another Court will not come to a different conclusion in this regard. This Court clearly and repeatedly held that it was deciding based on the

authenticity of the 2018 letter - whether it was what it purported to be - a decision. The Court held that -

> "the accreditation document is not a valid document created by the respondent as it was drafted under threat and dictated by Mr Klue. The applicant's case has not been proven as it has failed to show it enjoyed accreditation in terms of the accreditation document".[19]

[50] The Court is not persuaded that another Court will agree with the applicant's characterisation of the Court's reasoning. The applicant's ground of appeal is premised on a misreading of the Court's reasoning.

[51] In addition, to succeed on appeal the applicant has to persuade an appellate Court that the respondent took a decision to de-accredit the applicant. This Court does not believe that another Court will find that the respondent made an administrative decision in 2021 to de-accredit the applicant, based on the legal principles on what constitutes a decision for purposes of administrative law.

[52] In *Mzamba Taxi Owners' Association v Bizana Taxi Association*[20] a unanimous Supreme Court of Appeal held that the endorsement of an agreement between minibus taxi associations by a provincial taxi registrar did not amount to administrative action under PAJA. Although the relevant regulations envisaged agreements between taxi associations at the request of a registrar, the Court found that there has been no request in this case and that the agreement had been entered into voluntarily by the two associations. Thus the Court held that there was no administrative action "because there was no decision".[21]

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[19] Judgment para 31
[20] 2006 (2) SA 154 (SCA)
[21] Id para 28

[53] In *Bhugwan v JSE*[22] the Court identified some of the steps required to show a decision had been taken. These are -

1. A final application had to be addressed to the authority to exercise its public power.
2. All relevant information must have been gathered and placed before the authority.
3. There must have been an evaluative process in which the information was considered.
4. A conclusion must have been reached by the authority on how its powers should be exercised; and
5. There must have been an exercise of the power on the conclusion reached.

[54] When these are considered it is apparent that the respondent did not take a decision - as no conclusion was made based on an evaluative process and no power was exercised. On the contrary, the applicant being informed it cannot be accredited then dictated a letter under threat, which it now relies on as the basis of a decision of the respondent. This is not a case where the respondent has applied its mind - it is a case where the applicant forced his mind on the respondent's staff.

[55] The Court does not believe that another Court will come to a different conclusion in this regard, as the conclusion is a factual one based on facts that are not seriously disputed and supported by the legal test for what constitutes a decision.

[56] Moreover, there was no decision in 2021 which adversely affected the applicant's rights. The requirement that a decision must have a direct and external legal effect conveys that "administrative action is action that has the

[22] 2010 (3) SA 335 (GSJ) para 10; referred to with approval in Mobile Telephone Networks (Pty) Ltd v SMI Trading CC 2012 (6) Sa 638 (SCA)

capacity to affect legal rights".[23] As the Court concluded on the facts that the applicant was never de-accredited, the respondent did not affect the applicant's legal rights.

[57] For these reasons, the Court does not believe another Court will come to a different conclusion on the merits

Did the Court make a finding of fraud?

[58] The applicant invites the Court to grant leave to appeal as the Court erred in finding that Mr Klue dictated the letter to Ms Laubscher as this is "tantamount to a finding of fraud". An appellate Court will not come to a different conclusion in this regard, as the court made the only finding available on the undisputed facts - that Mr Klue dictated the contents of the letter to Ms Laubscher.

[59] The Court did not make a finding of fraud. Fraud requires proof of intention and a finding on intention. The Court made no such finding and therefore no finding "tantamount to fraud".

[60] The applicant's ground of appeal is premised on a misreading of the Court's reasoning.

Error in finding a bare denial concerning the creation of the 2018 letter?

[61] The applicant contends that the Court erred in finding that there is a bare denial concerning the creation of the 2018- letter.

[62] The Court concludes no other Court would come to a different conclusion in this regard as the applicant conflates the facts relating to the creation of the 2018-letter with the facts about the dispatch of the 2018 letter. The applicant did not dispute how Ms Laubscher contends the 2018 letter came to be. It only

[23] Grey's Marine Hout Bay (Pty) Ltd v Minister of Public Works 2005 (6) SA 313 (SCA) para 23

disputed that Ms Laubscher stated she had never seen the final 2018 letter. The basis on which the applicant disputes this allegation is its receipt of the final 2018 letter from an email address from Ms Laubscher. There is a dispute about whether the 2018 letter was sent to the applicant by Ms Laubscher or whether she saw the document. However, how the letter came into being - is not subject to a dispute.

[63] For an appeal Court to come to a different conclusion would require wishing away these serious allegations and ignoring that they are not disputed.

Conclusion

[64] A decision to de-accredit an organisation, taken by a controlling body created by statute (the Tax Administration Act), appears at first blush to be a quintessential administrative act. However, the respondent denies that it ever took a decision to de-accredit the applicant. The respondent contends the decision the applicant seeks to review was never taken and in fact, the applicant could not be de-accredited as it was never accredited in the first place.

[65] The decision the Court grappled with was therefore not whether a decision to de-accredit is an administrative act. The Court had to determine the factual question of whether there had been a decision to de-accredit the applicant in the first place.

[66] It may also be tempting to consider that an administrative decision had been taken to accredit the applicant in terms of the respondent's accreditation policy, and this was then regulated through the conclusion of a contract. This is often how administration decisions are given effect practically between parties.

However, this is not the applicant's case. The applicant contends that the decision to accredit it and the agreement are separate issues that do not overlap.

[67] The Court concludes that the grounds on which the applicant hinges its application for leave to appeal are without merit. The Court also weighs that the applicant's case of accreditation was valid for 5 years.[24] The accreditation period - had the applicant been accredited - would come to an end in July 2023. The parties had agreed that pending the finalisation of this matter, the status quo would remain – i.e. the applicant is permitted to continue as matters were. The respondent had raised the issue of mootness at the hearing of the matter. Now, in May 2023, the issue of mootness is more pertinent. The Court is not persuaded that an application for leave to appeal bears any prospects of success. In addition, in light of the end of the applicant's alleged accreditation period, the Court does not believe it would be in the interest of justice to grant leave to appeal.

[68] Accordingly, I make the following order:

1. The application for leave to appeal is dismissed with costs

I DE VOS
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION: PRETORIA

[24] CL 19-12, Application for leave to appeal, para 12.5

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on Caselines. The date for hand-down is deemed to be 15 May 2023.

APPEARANCES:

FOR THE APPLICANT:	EB LABUSCHAGNE SC
INSTRUCTED BY:	JOHAN VICTOR ATTORNEYS
FOR THE RESPONDENT:	BC STOOP SC
INSTRUCTED BY:	VAN DYK & HORN ATTORNEYS
DATE HEARD:	15 FEB 2023
DATE OF JUDGMENT:	15 MAY 2023