**SPECIAL TRIBUNAL OF SOUTH AFRICA**

**Judgment summary**

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| ***Special Investigating Unit v Netshidaulu and Others*** |
| URL | [TBC] |
| Citations | [TBC] |
| Date of judgment | 16 May 2024 |
| Keyword(s):[[1]](#footnote-1) | Application, civil proceedings, Special Tribunal, interdict, interim interdict, procurement process, irregularity, unlawful, damages, double jeopardy, costs  |
| Case type[[2]](#footnote-2) | Application  |
| Result | Dismissed with costs  |
| Flynote[[3]](#footnote-3) | **Civil Remedies – Injunctions and interdicts – Interim Interdict**  |
| Legislation and International Instruments[[4]](#footnote-4) |  Tribunal Rule 12(3) |
| Cases cited as authority[[5]](#footnote-5) |  Re: Several Matters on the Urgent Court Roll 2013 (1) SA 549 (GSJ) East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd 2011 JDR 1832 (GSJ) Motloung and Another v South African Revenue Services [2023] JOL 59916 (FB) Setlogelo v Setlogelo 1914 AD 221 at 227; National Treasury and Others v Opposition to Urban Tolling Alliance and Others (CCT 38/12) [2012] ZACC Webster v Mitchell 1948 (1) SA 1186 (W) |
| Facts[[6]](#footnote-6)  | The Special Investigating Unit, the applicant (**SIU**), applied for an urgent interim interdict to interdict Netshidaulu, the first respondent (**Netshidaulu**), and Alexandra Forbes Retirement Fund, the second respondent, from accessing and paying Netshidaulu’s pension benefits, pending the outcome of an action the SIU intended on instituting against Netshidaulu. The SIU’s alleged cause of action against Netshidaulu related to his involvement in alleged irregular procurement processes for a dam project.  |
| Summary[[7]](#footnote-7) | The Special Tribunal (**Tribunal**) was required to determine whether an urgent interdict ought to be granted, and whether the requirements for such interdict had been met. Netshidaulu also raised the following preliminary points, namely double jeopardy, and the failure to first review the decision appointing the consultants in the dam project.  |
| Decision/ Judgment[[8]](#footnote-8) | The application was dismissed with costs on the attorney and client scale.  |
| Basis of the decision[[9]](#footnote-9) | The Tribunal found that the SIU had failed to provide full and sufficient explanation for the circumstances that would render the application urgent, and that the urgency relied upon was self-created. SIU also failed to establish that it would not be afforded substantial redress in due course. The Tribunal dismissed the preliminary points raised by Netshidaulu, as the double jeopardy ground was only available for persons charged with a criminal offence, and nothing prevented the SIU from instituting action against Netshidaulu relating to the consultant’s irregular appointment. The Tribunal also found that the requirements for an interdict had not been met, as a *prima facie* right had not been established, no reasonable apprehension of harm was established, the balance of convenience did not favour the SIU, and the question of alternative remedy did not arise.  |
| Reported byDate | African Legal Information Institute ([AfricanLII](https://africanlii.org/))16 May 2024 |

1. Clarify the type of issues that come up in the case. [↑](#footnote-ref-1)
2. Whether Trial, Application or Appeal. [↑](#footnote-ref-2)
3. **Area of law** - topic – subtopic. [↑](#footnote-ref-3)
4. Legislation/ International instrument title and section numbers. [↑](#footnote-ref-4)
5. List of cases considered to be important precedent (case name and citation). [↑](#footnote-ref-5)
6. Brief facts about the case (max 150 words). [↑](#footnote-ref-6)
7. Summary of the determination of legal questions and/or grounds of appeal (between 150-250 words). [↑](#footnote-ref-7)
8. A brief summary of the ruling/judgment of the court (max 100 words). [↑](#footnote-ref-8)
9. A 1-2 sentence summary of the basis of the decision (i.e. which legal rules were relied on). [↑](#footnote-ref-9)