

Reportable:	YES/NO
Circulate to Judges:	YES/NO
Circulate to Magistrates:	YES/NO
Circulate to Regional Magistrates:	YES/NO



**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION – MAHIKENG**

CASE NO: 6451/24

In the matter between:

TUMELO LETLOJANE

APPLICANT

and

RATLOU LOCAL MUNICIPALITY

FIRST RESPONDENT

RATLOU LOCAL MUNICIPALITY COUNCIL SECOND RESPONDENT

**RATLOU LOCAL MUNICIPALITY
MANAGER (MR LLOYD LEOKO)**

THIRD RESPONDENT

**RATLOU LOCAL MUNICIPALITY
EXECUTIVE MAYOR
(MR MATLHOMOLA JAFTA**

FOURTH RESPONDENT

**RATLOU LOCAL MUNICIPALITY
SPEAKER OF COUNCIL
(MS GLORIA LEEPO)**

FIFTH RESPONDENT

**THE MEC FOR COOPERATIVE GOVERNANCE
HUMAN SETTLEMENT AND TRADITIONAL
AFFAIRS NORTH WEST PROVINCE**

SIXTH RESPONDENT

**SOUTH AFRICAN LOCAL GOVERNMENT
ASSOCIATION (SALGA)**

SEVENTH RESPONDENT

AUDITOR -GENERAL SOUTH AFRICA

EIGHTH RESPONDENT

DATE OF JUDGMENT

3 FEBRUARY 2025

This judgment was handed down electronically by circulation to the parties' representatives *via* email. The date and time for hand-down is deemed to be **03rd February 2025 at 10h00.**

ORDER

- (i) The application is struck from the roll for the lack of urgency.
- (ii) The applicant to pay the costs.

JUDGMENT

REDDY J

Introduction

- [1] On 13 December 2024, this application was struck from the roll for lack of urgency with the applicant to pay the cost. Central to this finding was that the applicant failed in convincing this Court that he will not be afforded substantial redress in due course. The reasons that follows are pursuant to a Notice within the purview of Rule 49(1) (c) of the Uniform Rules of Court, (the Rules) which was served before me on 20 January 2025.

The parties

- [2] The applicant is Mr Tumelo Letlojane, (Letlojane) the former Chief Financial Officer of the Ratlou Municipality.
- [3] The first respondent is the Ratlou Local Municipality, a municipality as contemplated in section 2 of the Local Government: Municipal Systems Act No: 32 of 2000. The second respondent is the Ratlou Local Municipal Council, the Municipal Council of the first respondent established in terms of section 12 of the Local Government: Municipal Systems Act:32 of 2000. The third respondent is Mr Lloyd Leoko, (the Municipal Manager) of the Ratlou Local Municipality. The fourth respondent is the duly elected Mayor of Ratlou Municipality Local

Council, (the mayor). The fifth respondent is the duly elected Speaker of the Ratlou Municipality, (the Speaker). The sixth respondent is the MEC: Cooperative Governance Human Settlements and Traditional Affairs, North West Province. The seventh respondent is the South African Local Government Association, (SALGA). The eight respondent is the Auditor-General South Africa, (the Auditor General). The Auditor General is joined as an interested party and no relief is sought. The application was opposed by the first to fifth respondents.

Background facts

- [4] The applicant sought urgent relief in two parts. The Notice of motion provided as follows:

'1. The time periods and requirements pertaining to service as prescribed in the Uniform Rules of this Court be abridged and this application be heard as one of urgency as contemplated in Rule 6 (12) of the Uniform Rules of Court;

2. Ordering that pending the finalisation of the review application: -

2.1. The Third Respondent be interdicted from implementing the unilateral unlawful and invalid decision to dismiss the Applicant as the Chief Financial Officer of the First Respondent without a valid resolution.

2.2 The Third Respondent is interdicted from implementing any Council Resolution whether valid or invalid that will seek to terminate the Applicant's contract of employment until he satisfies the above Honourable Court that he possesses requirements set out in Section 54A of the Local Government: Municipal Systems Act 32 of 2000 (Systems Act) of being a Municipal Manager, pending Part B.

2.3 The Third Respondent is interdicted from implementing any Council Resolution whether valid or invalid that seeks or will seek to terminate Applicant's contract of employment until he satisfies the above Honourable Court that he possesses requirements of being appointed as a Municipal Manager in terms of the Local Government: Regulations on appointment and conditions of Employment of Senior Managers published under GN 21 in GG 37245 of 17 January 2024(the Regulations), pending Part B.

2.4. The Third Respondent is interdicted from implementing any Council Resolution whether valid or invalid that seeks or will seek to terminate the Applicant's contract of employment until he satisfies the above Honourable Court that he possesses requirements of being appointed as a Municipal Manager in terms of the Local Government : Municipal Regulations on Minimum Competency Levels that accounting, chief financial officers, senior managers, supply chain management officials and other financial officials in municipalities and municipal entities must meet to comply competency requirements of the Local Government : Municipal Finance Management Act 56 of 2003 pending Part B.

2.5. That the unlawful unilateral decision taken by the Third Respondent to terminate the Applicant's contract of employment on 29 November 2024 be suspended pending finalisation of Part B of this application.

2.6 Directing that the First to Fifth Respondents pay the costs of this Application.

2.7. Further and/or alternative relief be granted.'

- [5] Part B encompasses the review application that reference is made to in Part A and bears no significance for this exercise. Resultantly it deserved no further consideration.

- [6] A brief material factual background of the matter will be relevant to understand the relief sought. On 29 November 2024 Letlojane received a communiqué, from the Municipal Manager advising Letlojane that his employment contract was terminated with immediate effect. Moreover, Letlojane was to vacate his office instantaneously.

- [7] On perusal of this communiqué Letlojane confronted the Municipal Manager requesting him to produce the full council minutes and resolution which purportedly took a resolution to terminate his employment contract. To this end, the Municipal Manager retorted that there were no minutes of the meeting. What occurred was a voting process which culminated in a show of hands by majority vote of the

council members. Given the fractious relationship between him and the Municipal Manager accompanied by a threatened forced removal which would involve security personnel, Letlojane vacated the offices at Ratlou Municipality.

- [8] After this alteration with the Municipal Manager, Letlojane became cognisant that on 27 November 2024 there was a scheduled council meeting. The agenda of the said special council meeting was attached to the council notice. Rule 10 & 11 of the Standing Rules prescribe that the speaker is duty bound to attach the Agenda Items of issues to be deliberated at the special council meeting at least forty-eight (48) hours before the scheduled special meeting. The special council meeting that allegedly took place on 28 November 2024, did not include the termination of Letlojane's contract of employment on the Agenda Items. Hence, there was no discussion relating to the dismissal of Letlojane at the special council meeting on 28 November 2024. Furthermore, the Municipal Manager and the Speaker were not enjoined with the statutory powers to have dismissed Letlojane without a council resolution. It follows so the version progressed that the termination letter is invalid and unenforceable as the decision to terminate the employment contract was *ultra vires*. The nub of Letlojane's dissatisfaction was the irregular process that was followed rendered the ultimate decision to have his employment contract terminated did not conform with legal prescripts.
- [9] In so far as the vexed question of urgency, Letlojane devoted eighteen paragraphs in his founding affidavit to this crisp issue. The contents of which traipsed from a flagrant disregard for the law by the Municipal Manager and the Speaker, a personal dislike of him, ongoing illegality

which is affront to general principles of public administration which is enshrined in the Constitution of the Republic of South Africa, being rendered unemployable, reputational damage and so forth.

[10] The legal principles governing urgency is set out in Rule 6(12) of the Rules of Court. The Courts have over the years provided guidelines as to the application of this Rule. Rule 6(12) (a) confers a discretionary power on a court seized with an application of this nature to dispense with the forms and service envisaged in the Rules, and to dispense of the application at such time and place and in a manner and to prescribe the procedure as it deems appropriate. The preliminary enquiry is aimed at the determination of whether there must be a departure at all from the usual process. *Luna Meubel Vervaardigers v Makin and Another* 1977 (4) SA 135 (W) at 136H-137F.

[11] The import thereof is that the procedure as set out in Rule 6(12) is not there for the taking. An applicant must set forth explicitly the circumstances which he avers render the matter urgent. To this end, Letlojane has complied. More importantly, the applicant, must state the reasons why he claims that he cannot be afforded the substantial redress in due course. The question of whether a matter is sufficiently urgent to be enrolled and heard as an urgent application is underpinned by the issue of the absence of substantial redress in the application in due course. The rules allow the court to come to the assistance of a litigant because if the latter were to wait for the normal course laid down by the rules, it will not obtain substantial redress. *East Rock Trading 7 (Pty) Limited and Another v Eagle Valley Granite (Pty) Limited and Others* 2011 ZAGPJHC 196, at para [6], *SARS v Hawker Air Services (Pty) Ltd* [2006] ZASCA 51; 2006(4) SA 292(SCA).

[12] If an applicant cannot be afforded substantial redress at a hearing in due course, then the matter qualifies to be enrolled and heard as an urgent application. It matters not if there is some delay in instituting the proceedings, an applicant must explain the reasons for the delay and why, despite the delay their claims, cannot be afforded substantial redress at a hearing in due course.

[13] What is deserving of emphasis, is that in a democratic state, where the supremacy of the Constitution and the rule of law are unimpugnable, the right to approach the Court for urgent relief is subsumed in section 34 of the Constitution. In *Chief Lesapo v North West Agricultural Bank and another* [1999] ZACC 16; 2000 (1) SA 409 (CC) at [13], the following was posited:

"[a]n important purpose of s 34 is to guarantee the protection of the judicial process to persons who have disputes that can be resolved by law..."

[14] The apex court continued at paragraph [16]

"... s 34 and the access to courts it guarantees for the adjudication of disputes are a manifestation of a deeper principle; one that underlies our democratic order."

[15] It further held at paragraph [22]

"[t]he right of access to court is indeed foundational to the stability of an orderly society. It ensures the peaceful, regulated and institutionalised mechanisms to resolve disputes, without resorting to self-help. The right of access to court is a bulwark against vigilantism, and the chaos and anarchy which it causes. Construed in this context of the rule of law and the principle against self-help in particular, access to court is indeed of cardinal importance. As a result, very powerful considerations would be required for its limitation to be reasonable and justifiable."

[16] It is against this legal backdrop that the question of substantive relief in due course should always be measured. Letlojane's application did not receive this Court's *imprimatur* on the overarching issue of urgency. An overview of this application exposed that the urgency was self-created. Letlojane had not made out a case for urgency which entitled him to cut across the whole procedure governing applications.

[17] Of relevance to the issue of substantive redress in due course is the communiqué dated 29 November 2024, which was addressed to Letlojane. It provides as follows:

'DISMISSAL NOTICE FROM THE EMPLOYMENT BY RATLOU LOCAL MUNICIPALITY

The Municipality acknowledged receipt of the Chairperson's report regarding the disciplinary outcome wherein it communicated the sanction of dismissal to you as per report dated 20 November 2024.

The Municipality would like to bring to your attention that the Municipal Council on its sitting of 28 November 2024 had resolved as per resolution number 82/2024 to dismiss yourself from employment due to acts of serious misconduct levelled against you.

You are advised to submit all municipal assets allocated to you for operational purposes upon receipt of this letter and make necessary arrangements with Human Resources Unit regarding your pension and other employment benefits.

You have the right to appeal or refer a dispute against the disciplinary finding or sanction imposed to you at a disciplinary hearing to the Bargaining Council, Commission for Conciliation, Mediation and Arbitration or an accredited agency in terms of section 133 of the Labour Relations Act 1995(Act No.66 of 1995).

Furthermore, be advised that your appeal must be lodged within 30 days of receipt of written notification of the findings and sanction of the disciplinary hearing.

Find attached Council resolution for ease of reference.

Kindly acknowledge receipt of this letter by signing a copy hereof.

I trust you will find the above in order' (my emphasis)

[18] What stands out from this communiqué is that Letlojane is afforded the right of appeal within the timelines set out. To have approached the urgent court was unjustifiable. The urgency was self-created.

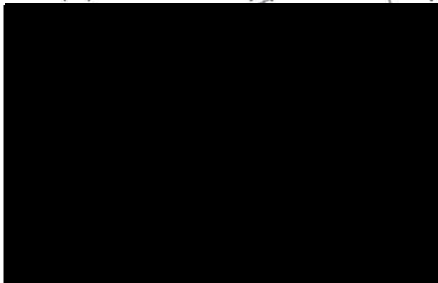
[19] In the premises the application was struck from the roll for lack of urgency, accompanied by the usual order that the applicant pay the costs. Having concluded this, I expressed no view on the merits.

Order

[20] Consequently, I reiterate the order handed down:

(i) The application is struck from the roll for the lack of urgency.

(ii) The applicant to pay the costs.



A REDDY

JUDGE OF THE HIGH COURT OF

SOUTH AFRICA NORTH WEST DIVISION,

MAHIKENG

APPEARANCES

Date of Hearing:	13 December 2024
Date of Order	13 December 2024
Date of request for reasons	19 December 2024
Date of request served before Presiding Judge:	20 January 2025
Date judgment handed down	3 February 2025
Attorney for Applicant	Mr Moribe C/O Sehlabo TA Attorneys Inc 14 Tillard Street Mahikeng
Counsel for the First- Fifth Respondents:	Advocate Moretlwe
Attorneys for Respondents:	Modiboa Attorneys 10 Tillard Street Mahikeng

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REDDY J

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2.5. That the unlawful unilateral decision taken by the Third Respondent to terminate the Applicant's contract of employment on 29 November 2024 be suspended pending finalisation of Part B of this application.

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council members. Given the fractious relationship between him and the Municipal Manager accompanied by a threatened forced removal which would involve security personnel, Letlojane vacated the offices at Ratlou Municipality.

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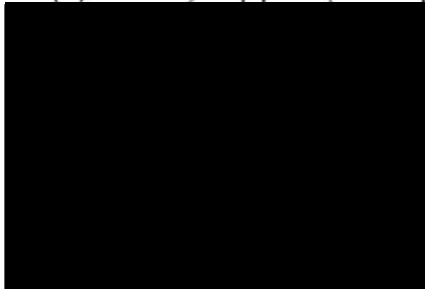
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A REDDY

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Counsel for the First- Fifth Respondents:	Advocate Moretlwe
Attorneys for Respondents:	Modiboa Attorneys 10 Tillard Street Mahikeng