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IN THE LABOUR COURT OF SOUTH
AFRICA HELD AT JOHANNESBURG

CASE NO: **2026-169267**

In the matter between:

**Public Servants Association of South
Africa**

Plaintiff / Applicant

and

**Registrar of Labour Relations, Minister
of Employment and Labour, Department
of Employment and Labour**

Defendant / Respondent

Urgent Judgment handed down by Whitcher J

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ELECTRONICALLY SIGNED BY:

**Registrar of The Labour Court,
Johannesburg**



- (1) Reportable: No
(2) Of interest to other Judges: No

Signature

24 August 2026

Date

IN THE LABOUR COURT OF SOUTH AFRICA

Case No: 2026-169267

In the matter between:

PUBLIC SERVANTS' ASSOCIATION OF SOUTH AFRICA

and

REGISTRAR OF LABOUR RELATIONS

First Respondent

MINISTER OF EMPLOYMENT AND LABOUR

Second Respondent

DEPARTMENT OF EMPLOYMENT AND LABOUR

Third Respondent

Heard: 11 August 2026

Judgment Delivered: 24 August 2026 (By uploading on *CaseLines* and/or circulation to the parties' legal representatives by email)



Applicant

JUDGMENT

WHITCHER J

Introduction

- [1] This is an application by the applicant (the 'PSA') for interim interdictory relief against the first respondent (the 'Registrar'). The application has been brought on an urgent basis. The application is opposed by the Registrar.
- [2] In essence, the PSA seeks an interim interdict to stay the operation of a Notice of Intention to cancel the registration of the PSA as a trade union published on

29 June 2026 in terms of section 106(2B) of the Labour Relations Act, 1995. The PSA seeks to interdict the Registrar from acting in terms of and/or enforcing the Notice pending the final determination of an Appeal it filed on 7 July 2026 against the Decision of the Registrar made on 23 June 2026 to refuse to approve, certify, and register amendments to the PSA's constitution in terms of section 101(3)(a) of the LRA.

Trade Unions: the statutory framework

- [3] Section 95 of the Labour Relations Act, 1995 (the 'LRA') regulates the 'Requirements for registration of trade unions and employers' organisations'.
- [4] Section 95(5) lists mandatory provisions that must be included in the constitution of any trade union applying for registration under the LRA.
- [5] Section 95(7) provides that the Registrar must not register a trade union unless the Registrar is satisfied that the applicant is a genuine trade union.
- [6] Section 101(3) provides that the Registrar must register the changed or new constitution if it meets the requirements for registration.
- [7] Sections 98, 99 and 100 concern the duty of registered trade unions to maintain audited accounting (financial) records, records of its members and elected office-bearers and to provide same to the Registrar within stipulated time periods every year.
- [8] Section 106(2A) provides that the Registrar may cancel the registration of a trade union if the Registrar (a) is *satisfied* that the trade union is not, or has ceased to function as, a genuine trade union; or (b) has issued a written notice requiring the trade union to comply with sections 98, 99 and 100 within 60 days of the notice and the trade union has, despite the notice, not complied with those sections.
- [9] Section 106(2B) provides that the Registrar may not act in terms of section 106(2A) unless the Registrar has published a notice in the Government Gazette at least 60 days prior to such action giving notice of the Registrar's intention to cancel the registration of the trade union and inviting the trade union or any interested parties to make written representation as to why the registration should not be cancelled.



- [10] Section 106(3) provides that when a trade union's registration is cancelled, all the rights it enjoyed as a result of being registered will end.
- [11] Section 111(5) provides that an appeal from any decision of the Registrar does not suspend the operation of the Registrar's decision.
- [12] In 2018, the Minister of Labour in terms of s95(8) published Guidelines which must be applied by the Registrar in determining whether a trade union is a genuine trade union.
- [13] The Guidelines are extensive, 22 in all, and require an obligation to consider all relevant factors, including an analysis of the actual operation of the trade union, its purpose (whether its principal purpose is to regulate the relations between its members and their employers), how the constitution was drafted, the history of the trade union, whether it is affiliated to a federation of trade unions, whether it is under the control or influence of an employer and various other factors.
- [14] Clause 4 of the Guidelines provides that the guidelines are not concerned with evaluating whether the constitution of a trade union complies with section 95(5).
- [15] Many significant statutory rights contained in various labour statutes are only available to registered trade unions.



Background

- [16] The PSA is a registered trade union in terms of s 95 of the LRA. It has been so registered since 1993. Further, the PSA has been incorporated as a non-profit company (NPC) since 1942. As such, the PSA's dual registration (both under the LRA and the Companies Act¹) has subsisted for approximately 29 years.
- [17] The PSA enjoys the membership of over a quarter of a million public service employees, it is a party to the Public Service Co-ordinating Bargaining Council and other public bargaining councils, it is a party to collective agreements and enjoys organisational rights in the workplaces it operates.

¹ Act 61 of 1973.

[18] On 1 December 2021, the PSA submitted to the Registrar an amended constitution for approval, certification and registration. The Registrar refused to do so on the grounds of the PSA's dual registration.

[19] In a written decision, the Registrar stated that:

'In light of this dual registration which PSA enjoys in terms of the LRA and a Company in terms of the Companies Act which is in direct contrary (sic) to the provisions of the LRA, this Office will not be in a position to certify any application for amendment/replacement of the Constitution in terms of section 101 of the LRA with this dual registration under the LRA and as a Company under the Companies Act still in place.

You are hereby informed that your application for replacement of the Constitution in terms of the LRA is refused with effect from 31 March 2022.



[20] On 31 May 2022, the Registrar furnished further written reasons for rejecting the amended constitution, premised essentially on the fact that the PSA's past annual financial statements were audited in compliance with the Companies Act; this, as will be demonstrated, in the absence of any notices in the past or at the time in terms of section 106(2A)(b).

[21] The PSA subsequently launched an appeal against the entire decision of the Registrar to this Court in terms of Section 111(3) of the LRA. The appeal was upheld, but the Registrar launched an appeal against that judgment, providing *then* further reasons for his decision, which the LAC found permissible.

[22] The Labour Appeal Court² stated:

[7] The decision of the Registrar was predicated on the basis that the respondent was operating in terms of a Memorandum of Incorporation of a company. He concluded that the amended constitution did not meet the requirements of s95(5) of the LRA. Furthermore, the Registrar was of the opinion that since the respondent is also a registered non-profit company in terms of the Companies Act, it was not a genuine trade union as envisaged in s.97(1) of the LRA and was not independent because it operated by means of a Memorandum of Incorporation of the company. He opined that in view of its dual registration as both a company and a trade union

²Department of Employment and Labour Relations v Public Servants' Association of South Africa JA12/25.

this dual registration was contrary to the provisions of the LRA. Its audited financial statements for the year ended on 31 March 2021 were submitted in terms of the Companies Act. He accordingly refused to replace the constitution.

...

[31] The real issue in the appeal was whether the Registrar was entitled to refuse the replacement of the constitution of the respondent. If regard is had to the amended constitution submitted by the respondent for registration it does not align itself with the provisions of s 95 of the LRA.³ The Registrar is empowered to refuse to register a constitution which does not comply with the provisions of s95.

[32] In my view, one need not even go to the question of whether the respondent is a genuine or independent trade union because what was before the Registrar was a request for the replacement of the existing constitution of the respondent. The Registrar had already decided the genuineness and/or independence when the respondent was registered as such in 1993. In my opinion the submitted document, referred to by the respondent as the 'statute'...is not a constitution of a trade union. It is the statute of the NPC.



Clause 3 thereof defines the document to mean the constitution of the PSA as provided for in terms of the Act and the Memorandum of Incorporation as provided for in the Companies Act.

...

[34] The contention by the respondent overlooks the fact that a company is a separate entity from a trade union. A trade union is an association of employees whose principal purpose is to regulate relations between employees and employers, including any employers' organisations. Therefore, the contention is at odds with the provisions of s.95. In terms of the statute the activities of the NPC will be managed by a board of directors of a company who owe a fiduciary duty to the company. The respondent failed to submit audited financial statements of a trade union in terms of ss96(1)(b) and 98 of the LRA.

[35] It is manifest from the [constitution] submitted by the respondent for approval by the Registrar that it belongs to a company not to a trade union for the following reasons: ...

³ Section 95(5) lists *inter alia* the mandatory provisions that must be included in the constitution of any trade union applying for registration under the LRA.

[23] After the judgment, the PSA wrote to the Registrar advising him that the PSA has taken note of the judgment and is in the process of amending its constitution accordingly. Significantly, the PSA stated therein that the PSA is willing to engage constructively with the Registrar in relation to the amended constitution.

[24] Pursuant to the above, on 15 May 2026 the PSA submitted an amended constitution to the Registrar for approval and registration. According to the PSA, in amending the constitution, it took account of the reasons the LAC listed for its finding that the previous constitution did not align itself with the provisions of s 95(5) of the LRA and sought to remedy that.

[25] The Registrar, however, again, refused to approve and register the amended constitution.



[26] In a written decision dated 23 June 2026 (**'the Decision'**) he stated:

The union was registered on the basis that it was a genuine trade union for the purposes of section 95(7) which states that the registrar must not register a trade union unless the registrar is satisfied that the union is a genuine trade union. As per section 95(2) of the LRA, a trade union is independent if it is not under the direct or indirect control of any employer or employer's organisation and it is free of any interference or influence of any kind from any employer or employer's organisation. The trade union is controlled by the Board of Directors under the Companies Act, as amended.

[27] The Decision was not coupled with any indication as to why the proposed amendments are deficient in terms of s95(5). The sole basis for the Decision was, once again, an alleged non-independence and non-genuineness of the PSA.

[28] On 29 June 2026, that is shortly after the above decision, the Registrar issued in the Government Gazette (Regulation Gazette 732 No. 54911, R.7626) a Notice of Intention to cancel the registration of the PSA as a trade union, recording therein the following reasons for the notice: [set out verbatim]:

The organization is not a genuine trade union as envisaged in the LRA.

The organisation cannot function in terms of a constitution as per the LRA.

The organisation failed to comply with the provisions of section 98, 99 and 100 of the LRA.

[29] The Notice, as required, stated that PSA and all interested parties are invited to make written representation as to why the registration of the PSA should not be cancelled and that any representations must be lodged within 60 days of the date of the notice.

[30] A copy of the Notice was not sent directly to the PSA. It was left to the PSA to happen upon it in the Gazette.

[31] Following the Notice, the PSA sent written communiques to the Registrar, essentially asking for further written particulars for the Registrar's Decision and Notice, advising the Registrar that these would assist the union in considering remedial measures, and that it is committed to constructive engagement with the Registrar on the issues.



[32] There was written response to these communications.

[33] On 7 July 2026, the PSA filed an Appeal in terms of s111(3) of the LRA against the whole of the Decision of the Registrar issued on 23 June 2026.

[34] In broad summary, the PSA's submissions on appeal are:

- (i) *As is evident from the Registrar's decision (23 June 2026), he disqualified the PSA from registering its amended constitution on his view that the PSA is not a genuine trade union.*
- (ii) *The Registrar erred in regarding as relevant whether the PSA is an independent and genuine trade union in circumstances where the LAC⁴ had already determined that issue in paragraph [32] of the judgment (supra). In summary, it was the finding of the LAC that a decision to refuse to register the PSA's constitution had to be made upon a consideration of the provisions of the constitution in terms of s95(5). An alleged non-genuineness or non-independence of the PSA does not feature – it is an irrelevant consideration - because this had already been*

⁴*Department of Employment and Labour Relations v Public Servants' Association of South Africa JA12/25 (FA: Annexure FA10 p.002-83 to 101).*

established when the PSA was initially granted registration as a trade union in the first place.

- (iii) *The registrar erred in its consideration of whether the PSA is independent and genuine trade union, by not examining the actual operation of the PSA, the manner in which the PSA was formed and section 95(2) of the LRA, read with the Guidelines issued in terms of s95(8) of the LRA by the Minister of Employment and Labour. A failure to have applied the dictates of the Guidelines in considering the PSA's genuineness as a trade union is fatal to the enquiry.*
- (iv) *The Registrar erred in failing to afford the PSA the benefit of a hearing in considering its independence and genuineness as set out in section 95(2) of the LRA, read with the Guidelines (supra).*



Preliminary points raised by the Registrar

Locus standi

[35] The Registrar contended that the deponent to the founding affidavit has no *locus standi* and no authority to bring these proceedings and to depose to a founding affidavit because he is not an elected office-bearer of a trade union. He is the General Manager of the NPC (*supra*), employed under a contract of employment. This application is brought by a company manager in the name of a trade union that does not, in substance, exist as a genuine trade union under the LRA.

[36] The PSA also has no *locus standi* because it is not a genuine trade union within the meaning of section 213 of the LRA, and therefore it cannot claim the rights, protections and remedies that the LRA confers on genuine trade unions, including the right to bring this application and to interdict the Registrar's statutory processes.

[37] The LAC's statement in paragraph [32] regarding the genuineness of the PSA and its relevance in deciding whether to register a constitution is *obiter* and does not preclude him from still considering genuineness of the PSA in the separate and distinct context of a *section 106 cancellation process*.

[38] The *locus standi* points are rejected. The party bringing this urgent application is the PSA – the PSA is the applicant - and the application is about alleged infringements of its rights under the LRA and its right to protect same.

[39] The SCA in *Four Wheel Drive Accessory Distributors CC v Rattan NO*⁵ reiterated:

The logical starting point is *locus standi* – whether in the circumstances the plaintiff had an interest in the relief claimed, which entitled it to bring the action. Generally, the requirements for *locus standi* are these. The plaintiff must have an adequate interest in the subject matter of the litigation, usually described as a direct interest in the relief sought; the interest must not be too remote; the interest must be actual, not abstract or academic; and it must be a current interest and not a hypothetical one. The duty to allege and prove *locus standi* rests on the party instituting the proceedings. The rule that only a person who has a direct interest in the relief sought can claim a remedy, is no more clearly expressed than in the judgment of Innes CJ in *Dalrymple*:

The general rule of our law is that no man can sue in respect of a wrongful act, unless it constitutes a breach of a duty owed to him by the wrongdoer, or unless it causes him some damage in law.'

[40] In the broad sense, *locus standi* asks the following question: "Does this applicant have a sufficient legal interest or right affected by the dispute to ask the court for relief?" It focuses on the connection between the actual litigant and the dispute in the case.

[41] The authority point is also rejected; and is petty. There is no rule that requires affidavits delivered on behalf of an applicant to be deposed to by its office bearers. All that is relevant is whether the deponent has personal knowledge of the facts to which they attest. Nor is a deponent required to be authorised to give evidence.

[42] The Supreme Court of Appeal held in *Ganes and Another v Telecom Namibia Ltd*⁶ that:

⁵ 2019 (3) SA 451 (SCA).

⁶ 2004 (3) SA 615 (SCA).

The deponent to an affidavit in motion proceedings need not be authorised by the party concerned to depose to the affidavit. It is the institution of the proceedings and the prosecution thereof which must be authorised..... In any event, rule 7 provides a procedure to be followed by a respondent who wishes to challenge the authority of an attorney who instituted motion proceedings on behalf of an applicant. The appellants did not avail themselves of the procedure so provided.

Urgency

- [43] The Registrar's claim of self-created urgency is also rejected. On the evidence, the PSA did not unduly delay in bringing this application. It attempted to resolve the dispute with the Registrar before launching this application, and the direct issue in this matter did not arise in March 2022, as claimed by the Registrar. The matter is about his decision made on 23 June 2026.



Premature application and no right to interdict the exercise of his statutory powers

- [44] The Registrar contended that the application stands to be struck from the roll because it has been brought when no final decision under the s 106(2B) process has been made. The process is not a foregone conclusion. Representations may persuade the Registrar that cancellation is not warranted. A court is required to be slow to interdict the exercise of statutory powers, particularly at a pre-decision stage. If an adverse decision is ultimately made, the applicant has adequate remedies. Section 113(3) of the LRA provides a right of appeal to this Court. The Applicant may, in conjunction with such an appeal, apply for a stay of the cancellation pending the determination of the appeal. In *NEWU v CCMA and Others*⁷, this Court confirmed that a deregistered trade union is entitled to approach the court to have the decision to deregister it stayed pending the outcome of the appeal against the decision of the registrar.

- [45] These last points are tied up in the merits of the application and will be addressed there.

The relief sought and the applicable test

- [46] As indicated, the PSA seeks an interim interdict to suspend the operation of the Notice of Intention to cancel the registration of the PSA as a trade union. The

⁷ [2011] 2 BLLR 180 (LC) at para [12].

PSA seeks to interdict the Registrar from acting in terms of and/or enforcing the Notice pending the final determination of the Appeal it lodged against the Decision of the Registrar made on 23 June 2026 to refuse to approve, certify, and register amendments to the PSA's constitution in terms of section 101(3)(a) of the LRA.

- [47] The requirements for an interim interdict are well settled. The applicant must show a right, clear or *prima facie* though open to some doubt; a well-grounded apprehension of irreparable harm if the interdict is refused and the final relief is later granted; that the balance of convenience favours the interdict; and the absence of another satisfactory remedy (see *Setlogelo v Setlogelo* 1914 AD 221 at 227, and *Webster v Mitchell* 1948 (1) SA 1186 (W) as qualified in *Gool v Minister of Justice* 1955 (2) SA 682 (C)).



- [48] In terms of *Economic Freedom Fighters v Gordhan and Others; Public Protector and Another v Gordhan and Others* 2020 (6) SA 325 (CC), the interdict may properly be granted only where the court is convinced that the appeal is likely to succeed. In *Eskom Holdings SOC Ltd v Vaal River Development Association (Pty) Ltd and Others* 2023 (5) BCLR 527 (CC) the majority judgment referred to a viable review [appeal].
- [49] In *Eskom Holdings SOC Ltd v Vaal River Development Association (Pty) Ltd and Others* 2023 (5) BCLR 527 (CC) the majority judgment referring to the holding in *National Treasury and Others v Opposition to Urban Tolling Alliance and Others* 2012 (6) SA 223 (CC) (*OUTA*) below, held that an application for interim relief may be decided on some separate consideration of violated rights unrelated to the claim for final relief.

- [50] In *OUTA* it was stated:

"[T]he *prima facie* right a claimant must establish is not merely the right to approach a court in order to review an administrative decision. It is a right to which, if not protected by an interdict, irreparable harm would ensue. An interdict is meant to prevent future conduct and not decisions already made. Quite apart from the right to review and to set aside impugned decisions, the applicants should have

demonstrated a prima facie right that is threatened by an impending or imminent irreparable harm.”⁸

[51] According to *OUTA*, a court must also keep in mind that a temporary restraint against the exercise of statutory power well ahead of the final adjudication of a claimant’s case may be granted only in the clearest of cases.⁹ The majority judgment in *Eskom*, held that this factor must apply on a sliding scale. The more policy laden or polycentric the decision, the more the role this factor must play in influencing the court’s determination. The lesser the policy-ladenness or polycentricity, the lesser the influence of this factor. The ultimate question is: what is the outcome dictated by the balancing exercise? The nature of rights violations at issue is an important consideration in the balancing exercise



Is the PSA a genuine trade union?

The Registrar’s submissions

[52] The Registrar contends that the PSA is an NPC and not a trade union. It is managed and controlled by the Board of Directors of the NPC. Only a trade union can be regarded as an association of employees formed with the sole purpose of regulating relations between its members and employers, not a company. The Constitution of the trade union entity within the PSA is drafted and adopted by the Board of Directors of the Company. The company director posing as office-bearers of the trade union. In short, the drafting and adoption of the constitution including the election of the office bearers is not conducted in terms of the provisions of the LRA. The Board of Directors of the company are regarded as the office-bearers of the trade union. An entity that is incorporated as an NPC, governed by a Board of Directors, managed by an employed General Manager, reporting under the Companies Act, and amending its constitution through company-law resolutions, is not a genuine trade union.

[53] The above affairs, demonstrates, and “*confirms [his] view*” that the PSA is not a genuine trade union.

The PSA’s submissions

⁸ *OUTA* above n **Error! Bookmark not defined.** at para 50.

⁹ *Ibid.*

- [54] The Registrar focuses exclusively on the dual registration of the PSA, whilst disregarding other relevant facts on which he has never engaged the PSA.
- [55] There is no provision of the LRA which implies that a trade union cannot hold dual registration as a non-profit company. The PSA has operated in this manner for decades and was registered by the Registrar's office in expressly this form.
- [56] The use of the descriptor "statute" has historically been no more than a label.
- [57] The 'directors' of the PSA are democratically elected and are proper office bearers. The PSA holds an annual congress in September each year. A national congress is held biennially. Prior to every congress, the PSA's branches are issued with a circular calling for them to nominate candidates for election. Nominated candidates are vetted, following which a list of nominees is issued to the PSA's branches via a further circular. Each of the PSA's branches who attend at congress are thereafter issued with ballots in respect of voting for candidates who are nominated to the PSA's board of directors. The voting process at congress is conducted through an independent service provider, the Electoral Institute for Sustainable Democracy, who oversees and ensures a free and fair vote. The same entity also tallies the ballots case, with the results of the vote announced on the same day as the voting at congress.
- [58] This procedure accords with a democratic process as envisaged under the LRA. The Registrar's primary assumption about the governance of the PSA is consequently false.
- [59] The same is as regards the PSA's financial statements, which have been submitted to and received by the Registrar's office every year without demur. The Registrar's complaint in this regard seems to include the innocuous reference to 'the Companies Act' on the face of some of the PSA's financials, which elevates form over substance. This is because section 98(1) of the LRA merely requires the PSA to keep its books and records of its income, expenditure, assets and liabilities "*to the standard of generally accepted accounting practice, principles and procedures.*"



- [60] The manner of audit of the PSA's books means that they are audited annually, to the standard of the International Financial Reporting Standards, in fact a higher standard than that required under the LRA.
- [61] The Registrar has never contended or shown that the PSA's books are not audited to "the standard of generally accepted accounting practice, principles and procedures".
- [62] The PSA cannot change the financial statements submitted in the past, but it had every intention to comply with the observations made by the LAC in the future, which statutory time-period had not come by the time of the Registrar's Decision and Notice.
- [63] The Registrar has never sent the PSA a section 106(2A)(b) notice. His claim he sent one in 2022, tellingly is not proved, despite the ease with which that could have been done. Further telling, it was not claimed in response to the PSA's pointed correspondence before this case, nor in the previous court proceedings. Significantly, in the interim (since 2022), at least three sets of financial documents were submitted to the Registrar. No contemporaneous complaint regarding these financials was ever raised by the Registrar or notice sent. This failure is not explained.
- [64] The Guidelines clearly contemplates a consultative enquiry – a request for information, enquiries and the like. Prior to making his Decision and issuing the Notice, the Registrar had not requested information from or requested the PSA to make representations to him as to the trade union's genuineness and has produced no evidence of any analysis conducted in terms of the Guidelines. This is not cured by the Notice because it already assumes the non-genuineness of the trade union.

Findings

- [65] In my view the PSA is entitled to the relief it seeks.
- [66] The very basis for refusing to register the amended constitution – that the PSA is allegedly not a genuine trade union – also formed the foundation for the Notice of Intention to deregister the PSA. The Appeal concerns this common denominator and is thus highly critical to the dispute about the Notice.

- [67] Given the pronouncement in the LAC judgment regarding the genuineness of the PSA, the context in which it was stated, which was in direct response to a ground relied upon by the Registrar in the appeal, the extensive list of factors stipulated in the Guidelines (*supra*) read with the opposing submissions about the genuineness of the PSA, and clause 4 of the Guidelines, I am satisfied that the PSA has demonstrated a viable case for purposes of the intended Appeal.
- [68] Self-evidently, the Registrar has far-reaching statutory powers – he has the power to cancel the registration of an old-established trade union if he is satisfied that the trade union is not, or has ceased to function, as a genuine trade union. Given this far-reaching power, the Registrar's 'satisfaction' must be based on all relevant facts and a rational objective basis. In the absence of any engagement with the PSA on the matter or any communication requesting relevant information, it is safe to say no proper analysis was conducted. The Registrar clutched onto (and remains so clutched) on only certain aspects of the PSA (which appear to have no sinister implications) to make a far-reaching decision.
- [69] I am also convinced that the deregistration of the PSA is inevitable, any written representations notwithstanding.
- [70] This is evident from the high-handed manner the Registrar treated the PSA before issuing his Decision and the Notice. In issuing both, he proffered no evidence that properly applied his mind by conducting a consultative analysis of the scope envisaged by the Guidelines to support his scant *conclusions*. A decision does not escape review merely because it is preliminary. A preliminary administrative decision attracts the *audi* principle and fair dealing where it lays the foundation for a possible decision of grave consequences.¹⁰ The absence of an express statutory rule of engagement may not be used strategically.
- [71] After the Decision and Notice, the Registrar further spurned the PSA's requests for further particulars to clarify same.
- [72] The PSA's submissions on the section 106(2A)(b) notices convincingly indicates that the Registrar issued none prior to any of his decisions.



¹⁰ *Van Wyk NO v Van der Merwe* 1957 (1) SA 181 (A) at 188A-D.

[73] Finally, the Registrar has evinced a mulish determination that the PSA is not a genuine trade, despite no evidence of a proper consultative enquiry under the Guidelines.

[74] If there was any doubt about the Registrar's inevitable stance, this was fortified by his stance under oath that the PSA is to be afforded no rights at all – even attacking its locus standi – based on his categorical view that it is not a genuine trade union. This approach bordered on malice and is telling that the PSA will not get a fair hearing.

[75] It goes without saying that the deregistration of the PSA will have a profound effect on the prosecution of its Appeal. The contention that the PSA can bring another stay application and appeal in the event it is deregistered does not assist an efficient prosecution of the PSA's core dispute with the Registrar. The PSA will be forced to become embroiled in multiple applications, all ultimately dealing with the same issues.

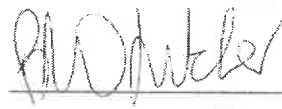


[76] As to the balance of convenience, there is nothing before me that suggests it would not be in the interest of the PSA's members to suspend the operation of the Notice pending the outcome of the appeal. The basis for the Notice and de-registration does not rest on the need to protect union members from maladministration of union finances or from officials using the resources of the union for improper purposes or chronic dysfunctional organisational structures or the like. The Registrar's own interest in ensuring compliance with the LRA will not be jeopardised if interim relief is granted. On the other hand, given the profound effect de-registration will have on the PSA's structures, its organisational rights, formalised recognition agreements, pending disputes on behalf of their members and various other rights of its substantial membership, the value of any ultimate success it might obtain on appeal, will be worth little if it is not granted the interim relief it seeks.

[77] In the premises, I make the following order:

1. Pending the final determination of the Appeal instituted in this Court under Case number 2026-158790:

- 1.1 The First Respondent's Notice of Intention to Cancel the Registration of the Applicant as a trade union published in the Government Gazette under R7626 on 29 June 2026 is suspended.
- 1.2 The First Respondent is interdicted and restrained from acting in terms of and/or enforcing the Notice.
2. The costs of this application shall be costs in the Appeal.



B Whitcher

Judge of the Labour Court of South Africa



Appearances:

For the Applicant:

L M Malan, SC with R Bosman, instructed
by Bowman Gilfillan Inc

For the Respondents:

MM Mojapelo SC, with EB Ndebele,
instructed by the State Attorney, Pretoria.