



CONSTITUTIONAL COURT OF SOUTH AFRICA

Urmilla Roshnee Devi Mansingh v General Council of the Bar and Others

CCT 43/13

Date of hearing: 22 August 2013
Date of judgment: 28 November 2013

MEDIA SUMMARY

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

Today the Constitutional Court handed down judgment in a matter regarding the President's power to confer honours in terms of section 84(2)(k) of the Constitution.

Ms Mansingh, a practising advocate, launched proceedings in the North Gauteng High Court for an order declaring that section 84(2)(k) of the Constitution does not authorise the President to confer the status of senior counsel (also known as "silk") on advocates. The High Court upheld the challenge and found that the Constitution does not retain for the President what was once the royal prerogative of awarding silk status to advocates.

The General Council of the Bar and the Johannesburg Society of Advocates appealed to the Supreme Court of Appeal. That Court concluded that the President's power to confer honours is wide enough to include the conferral of silk status.

Before the Constitutional Court, Ms Mansingh sought leave to appeal against the decision of the Supreme Court of Appeal.

In a unanimous judgment written by Nkabinde J, the Constitutional Court held that the Supreme Court of Appeal was correct in finding that the phrase "conferring honours" means something conferred or done as a token of respect or distinction. The Court held that Ms Mansingh's argument – that since the award of silk does not share the same general characteristics as the current list of national orders, it does not fall within the President's honour-conferring power – ignores the wide meaning of the word "honours". It concluded that the wording of section 84(2) is both permissive and broad, affording a wide discretion to the President to confer honours on

any category of persons. This reasoning, it held, is supported by a contextual and purposive interpretation of the Constitution. The Court concluded that the President's power to confer honours includes the authority to confer silk status on advocates. It therefore granted leave to appeal but dismissed the appeal, with no order as to costs.