

# **IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA**

## **Liberal Party v The Electoral Commission and Others**

**CCT 10/04**

**Decided on 5 April 2004**

### **Media Summary**

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

This is an application for direct access to the Court and for leave to appeal against a decision of the Electoral Court. The applicant, the Liberal Party, originally approached this Court but was sent to the Electoral Court because its complaint fell within that court's jurisdiction. The Electoral Court dismissed the application, and the matter returned on an urgent basis to this Court, which dealt with it expeditiously.

The complaint centres on the refusal of the Electoral Commission to register the Liberal Party as a political party and to accept its candidate list because the applicant sought to submit such list 21 minutes after close of business on 27 February 2004, the final day for submission. It is common cause that the applicant did not comply with the requirements laid down in s27 of the Electoral Act. However, the applicant claims that the Commission allowed two other parties to register after the deadline, thus curing their non-compliance with the section. The complaint was dismissed by the Electoral Court.

In this Court, the applicant sought wide-ranging relief, including the opportunity to contest the elections, to be issued with a registration certificate, postponement of the elections, and exemption from and amendment of several statutory provisions applicable to the elections.

This Court found that the only possible manner for registering the applicant at this stage would be for the Commission to change the election timetable. The election date itself cannot be changed by the Commission because it is set by the President. Changing the timetable would contract the time prior to the elections, put the Commission under increased strain, and possibly jeopardise other parties' election build-ups. It would not be conducive to free and fair elections.

Furthermore, even if it could be contended that the Commission exceeded its powers by permitting another party after the peremptory time limit, to correct a list that had been submitted timeously, this could at most ground a challenge to that party's candidacy, it could not afford the applicant the right to be registered.

The Court unanimously held that the application had no prospects of success and should be dismissed.