



## CONSTITUTIONAL COURT OF SOUTH AFRICA

**Electoral Commission of the Republic of South Africa v Inkatha Freedom Party**

**Case No.: CCT 33/11**

**Date of Hearing: 6 May 2011**

**Judgment date : 10 May 2011**

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### MEDIA SUMMARY

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*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.*

On Tuesday 10 May 2011 the Constitutional Court gave judgment in a case concerning whether the provisions of the Local Government: Municipal Electoral Act requiring the submission of relevant electoral documents “to the office of the Commission’s local representative” is complied with if the documents are delivered to another office of the Electoral Commission.

This case arises because the Inkatha Freedom Party found itself unable to deliver its documentation for participation in the Umzumbe local government elections to the Umzumbe local office of the Commission. The IFP then requested the Durban office to accept the documents. This request was declined.

The Electoral Court held, without hearing submissions from the Commission, that the Commission was obliged, in the circumstances, to accept the documents at its Durban office.

In an urgent application for leave to appeal to the Constitutional Court, Ngcobo CJ writing for a unanimous Court, held that there was a difference between the payment of a deposit in respect of local government elections and the submission of documents. There were important processing considerations that require documents to be submitted at the local office. Delivery of the documents to another office was therefore not compliance. The application for leave to appeal was accordingly granted and the appeal upheld.

Ngcobo CJ also concluded that it was inappropriate for the Electoral Court to determine the case without hearing the Commission.