



CONSTITUTIONAL COURT OF SOUTH AFRICA

**HBR (Hola Bon Renaissance) Foundation v President of the Republic of South Africa and
10 others**

**Case No: CCT 11/11
Date of Hearing : 10 February 2011
Date of Judgment : 31 March 2011**

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.

On 31 March 2011 the Constitutional Court delivered judgment in an urgent application by HBR (Hola Bon Renaissance) Foundation (Foundation) on the 9 February 2011.

The applicant sought to interdict the President from announcing the date of local government elections in his State of the Nation Address, which was to be delivered on 10 February 2011. The Foundation also sought an order directing the respondents to set up a tribunal to investigate the removal of members of the Municipal Demarcation Board from office and that a freshly constituted Board be ordered to decide the Foundation's request to establish a local municipality for Soweto.

The matter was heard on 10 February at 08h15 and, after hearing the parties, the Court dismissed the request for an interdict. The balance of the relief sought was deferred to a later date.

The request to have a local municipality established for Soweto was central to the case. In October 2010 the Foundation applied to the Board for the establishment of a local municipality in Soweto. In its response, the Board pointed out that changes to municipal boundaries were suspended until the local government elections this year, and that such requests must be made through the Minister for Local Government, or the MEC, or a municipality. The Board advised the Foundation to approach one of these parties and have its request submitted through them. When its demand for the resignation of the Board was not met, the Foundation demanded that the President should remove its members from office. When this too did not happen it brought this application.

The Court refused to adjudicate the case because the Foundation failed to comply with the Court rules regarding direct access and that its request for the establishment of a municipality in Soweto could not be granted because the Board has no power to establish a municipality. The Court pointed out that the Constitution confers that power on provincial governments.

On the removal of members of the Board from office, the Court said that the Foundation failed to establish the grounds of misconduct, incapacity or incompetence which are the only bases upon which members of the Board can be removed from office. Consequently the Court held that there were no prospects of success in the Foundation's case. The application was dismissed.