



CONSTITUTIONAL COURT OF SOUTH AFRICA

*Ngaka Modiri Molema District Municipality v Chairperson of the North West
Provincial Executive Committee and Others*

CCT 186/14

Date of judgment: 18 November 2014

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 case involving the decision of the North West Provincial Executive Council to dissolve the Ngaka Modiri Molema District Municipality (Municipality) and to appoint Mr Nair as administrator of the Municipality.

The Municipality applied to the North West High Court in Mahikeng to review and set aside the decision to dissolve it. The Municipality also sought a temporary interdict to prevent the administrator from interfering in the Municipality's affairs and for a suspension of the decision to dissolve it pending finalisation of the review application. Relying on this Court's decision in *National Treasury and Others v Opposition to Urban Trolling Alliance and Others* [2012] ZACC 18, the High Court dismissed the temporary interdict application. It found that the Municipality, as distinct from individual Municipal Councillors, suffered no harm, let alone irreparable harm. The review application is still pending in the High Court.

The Municipality appealed directly to this Court against the decision of the High Court not to grant the temporary interdict application and for direct access for the review application. The Municipality justified this direct appeal and access to this Court on the ground of urgency. In its judgment, this Court emphasised that the urgency lies in ensuring the immediate provision of basic sanitation, water and other services to the affected communities and not in restoring the status of Municipal Councillors to the position from which they complain they have been unjustly removed. If the review application in the High Court is successful they may be re-instated. Thus the Court held that the Municipality or its Councillors will suffer no irreparable harm if the interdict is not granted.

The Court noted that the effect of the dismissal of the application for leave to appeal against the High Court's order refusing temporary interdictory relief is that – pending the finalisation of the review application – Mr Nair will effectively be provided with the legal authority to assist him in the discharge of his responsibilities. Therefore, at this stage, it is not necessary for this Court to make any further order to facilitate Mr Nair's efforts to restore services in the Municipal area. Accordingly, the Court dismissed the Municipality's application for leave to appeal and direct access.