



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF
APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 9 April 2024

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Centre for Child Law and Others v South African Council for Educators and Others (1289/2022) [2024] ZASCA 45 (9 April 2024)

Today the Supreme Court of Appeal (SCA) handed down judgment in the matter. The appeal was upheld and the Court held that the South African Council for Educators (SACE), in disciplinary proceedings against two educators, who assaulted children in the school environment, acted in contravention of several sections of the Promotion of Administrative Justice Act 3 of 2000 (PAJA).

In terms of s 6(2)(c) of PAJA the decisions were procedurally unfair as the learners and their families were not given an opportunity to be meaningfully heard or participate in the proceedings. In terms of s 6(2)(e) the decisions were materially influenced by an error of law, in that SACE did not take into consideration any of the provisions of the Constitution and Children's Act relating to the best interests and protection of the rights of children.

The decisions were also taken capriciously and arbitrarily as envisaged in s 6(2)(e)(vi) as no discretion was allowed when the sanctions were imposed. The 2016 Mandatory Sanctions unlawfully fettered the discretionary powers of the disciplinary committee. The Court held that there was no undue delay in the launching of the review application in terms of s 7(1) of PAJA, as no reasons were provided for the decisions. The clock only begins to run once reasons are provided.

It was held that the appeal was not moot and the Court held that if the decisions are reviewed, set aside and remitted to SACE, it would have practical effect. SACE would be obliged to reconsider the sanctions. Seeing that the educators have partially complied with the sanctions the matter is remitted on a limited basis, and SACE is to consider the imposition of rehabilitative and corrective sanctions against the educators. The court of first instance correctly acknowledged the need for compliance with SACE'S constitutional and statutory obligations in the systemic relief granted.

~~~~ends~~~~